



## Setting a Roadmap for a Feminist Green Transformation:

Using Economic, Social, Cultural and  
Environmental Rights as Guiding Tools  
for a Gender-Just Transition



The Global Initiative  
for Economic, Social and Cultural Rights

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**BRIEFING PAPER 3**

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## Using Economic, Social, Cultural and Environmental Rights as Guiding Tools for a Gender-Just Transition

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## 1. Setting the scene: developing a roadmap for a gender-just transition

**T**he human-made triple planetary crisis (climate change, loss of biodiversity, and pollution), rising global inequalities, shrinking democratic spaces, and the COVID-19 health and economic emergencies are interlocking crises that result from systemic failures in our economic and social structures. Single issue solutions that do not consider the links between unsustainability and inequality at the root of these structural problems will not be able to tackle the scale and complexity of current global challenges.

Measures that address one issue risk also exacerbating others. For instance, large-scale renewable energy projects that are developed to curb greenhouse emissions often cause a range of ills: land grabbing; denial of indigenous peoples' right to free, prior, and informed consent; or failure to distribute benefits equitably with local communities.<sup>1</sup> Similarly, social policies that aim to reduce inequalities by increasing economic productivity can do irreversible damage if they do not consider knock-on effects such as biodiversity loss or land degradation. This problem occurred in Kenya. A booming cut flower sector provided employment primarily to women but, because it ignored the effects on the local ecosystem, it caused long term biodiversity loss and harmed the livelihoods of many other local women in the region.<sup>2</sup>

In this context, stakeholders inside and outside mainstream policy debates have recognised that it is essential to promote sound eco-social approaches and give equal value to ecological and social concerns.<sup>3</sup> This is not a simple task, however. Economic growth has traditionally been created by allocating capital to extract resources and expand consumption: this has been understood to be the basis for social wellbeing and development. By contrast, environmental protection was traditionally presumed to restrict access to the natural resources on which economic growth depended.<sup>4</sup> Attempts to integrate environmental and social concerns in the past have often led to disagreements about what models could

create societies that are both socially just and sustainable.

In their search for such an eco-social agenda, several stakeholders and social movements have considered the concept of 'just transition'.<sup>5</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>6</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>7</sup>

Over time, the concept has evolved beyond workers' rights to encompass a 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 alternative eco-social approaches that address interlinked causes of unsustainability and inequality.<sup>8</sup>

Many proponents of just transitions fail to acknowledge, however, the deep power imbalances that some green policies and frameworks create between persons of different gender, due to male dominance of those sectors or the barriers that women must overcome to make their voices heard in decision-making.<sup>9</sup> Just transition policies tend at present to discount women's greater dependence on and unequal access to natural resources, public services and infrastructure, which expose them more acutely than men to environmental degradation. In addition, they often fail to take account of gender roles, which impact women's contributions in sectors and activities that are key to any sustainable transition, including energy use, food production, health services, ecosystem conservation, education, and care. Moreover, both care of the natural environment and the care and domestic work mostly shouldered by women and girls have been undervalued; both are often perceived to be unlimited and costless resources, though they are the foundation on which the economic system rests.<sup>10</sup> Despite the evidence of gender inequality, current green transition processes tend to leave gender hierarchies largely unchallenged.

A just transition framework that seeks to generate equitable and sustainable outcomes must, therefore, include gender in its analysis of socioeconomic and environmental injustice. A *gender-just transition* should adopt specific objectives that will help to transform the inequitable power dynamics between persons of different gender and the context-specific conditions that tend to leave women and girls behind. It is essential to address unbalanced power between genders not only to redress historical gender discrimination, but to reshape the future by

re-establishing more solid foundations for our social and economic institutions.

To this end, international human rights law and standards should be used to frame a gender-just transition. Understood as a body of obligations, standards and institutions, human rights reflect globally agreed values, framed in agreed language, and in principle permit referral to a body of internationally and regionally agreed norms that raise human dignity concerns to the level of entitlements for all.<sup>11</sup>

These entitlements do not translate unproblematically into fulfilled social demands. Nevertheless, the human rights framework does impose duties on States towards all individuals in their jurisdiction. Each State that has ratified international human rights treaties has a duty to “respect, promote and fulfil” the rights set out in those instruments.<sup>12</sup> The obligation to respect means that States must refrain from taking any action that may violate rights. The obligation to protect requires States to ensure that third parties, including private actors, do not breach or abuse recognised rights. The obligation to fulfil requires States to take positive steps to realise rights set out in the treaties they have agreed to uphold. From these obligations, the international human rights framework derives the measures that States (and others) must take, the social justice outcomes that should ensue, and the benchmarks that indicate whether policies are in accord with agreed principles and legal obligations.

A gender-just transition would entail a major transformation and would need to reconcile or overcome many competing interests. In that context, the human rights framework provides policy makers with tools to set priorities. It establishes clear negative parameters of action (policies or actions should not infringe rights) and guidance on positive objectives (protect and promote rights, advance sustainability, and equality).

Aligning the transition with human rights would thereby help to ensure that green transition policies would reduce deprivation and power imbalances while advancing measures to realise socio-economic rights, and the protection of the environment and the conditions that make life possible on our planet. Human rights and intersectional gender analysis provide tools that can ensure that the green transition delivers on its transformative potential, is gender-just, and meets essential social and ecological goals.

In sum, a gender-just transition can be understood as a set of collective efforts to shift societies in favour of a sustainable and just economy that prioritises

fulfilment of human rights and achievement of gender equality over time. This briefing paper starts to draw a roadmap towards such a transition. It explores how States and other stakeholders might use and mobilise the human rights framework, specifically economic, social, cultural, and environmental rights (ESCE rights), to address intersecting inequalities and environmental global crises, and thereby create a thriving future for all.







## 2. Economic, social, cultural, and environmental rights as guiding tools for gender-just transitions

**A**dopting an intersectional gender lens and human rights is not a matter of choice: these are legally binding obligations.

Human rights are a specific set of entitlements that every human being has regardless of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.<sup>13</sup> While they are shared values across the globe, they are also legal. They were first recognised in the Universal Declaration of Human Rights of 1948. Since then, they have been further developed in legally binding treaties and national constitutions and laws.

At the level of the United Nations, States have agreed several treaties that codify rights. They include the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Most States have signed and ratified these instruments and are legally bound by the obligations they assert. The two Covenants are complemented by other specialised human rights treaties, that affirm the rights of women, people with disabilities, migrants, and children; and rights that prohibit torture, enforced disappearance, racial discrimination, and gender discrimination.<sup>14</sup> Regional human rights systems are also in place in the Americas, Africa, and Europe.<sup>15</sup>

The rights set out in international and regional treaties have been interpreted and entrenched by the jurisprudence of global human rights monitoring bodies and regional tribunals. International organisations have also delineated human rights standards in the form of resolutions, principles, declarations, and guidelines.

While human rights are declared to be indivisible and interdependent, for historical reasons they are often divided into two categories: ‘civil and political rights’ and ‘economic, social, and cultural rights’. Civil and political rights include the right to life; the right to personal security; the prohibition of slavery

and of torture; the right not to be arbitrarily deprived of liberty; the right to vote and to participate in democratic political processes; and the freedoms of movement, expression, association, and religion. These rights entitle all persons to participate in a free, safe, and democratic society. Economic, social, and cultural rights include the right to work; the right to education; the right to join and form unions; the right to the highest attainable standard of health; the right to social security or social protection; the right to an adequate standard of living; and cultural rights.<sup>16</sup> These rights affirm that all persons should have access to indispensable basic material needs. Recognising that it may not be possible to meet all these obligations instantly, some are subject to “progressive realisation”, the obligation to progress towards their attainment by making continuous improvements in living standards.

Recently, a third category of rights has been recognised: environmental rights, which include the right to a clean, healthy, and sustainable environment.<sup>17</sup> These rights seek to provide a minimum level of environmental quality for all without discrimination; to guarantee access to information, and effective and meaningful participation; and provide recourse to justice on environmental matters. Although this is a more recent category of rights, its normative content is rapidly evolving at both regional and international level.

This paper focuses on the last two categories: economic, social, cultural and environmental (ESCE) rights. The term ‘ESCE rights framework’ establishes rights, with correlative obligations for States, that provide for foundations of human wellbeing (access to favourable conditions of work, food, shelter, education, health, culture, water, etc.), protect the environment (by ensuring a clean, healthy and sustainable environment for all), and guarantee access to the rights to information, to participate and obtain justice. In this way, ESCE rights bring together substantive and procedural ecological and social justice concerns to provide content to and drive a gender-just transition.

It remains the case that all human rights are interdependent, indivisible, inalienable and universal. This means that they mutually support each other and that every right is indispensable to ensure human dignity. A gender-just transition process must, therefore, recognise and respect the full range of legally acknowledged rights (civil, political, economic, social, cultural, and environmental).

In addition, each State has an obligation to “respect, protect, and fulfil” all human rights. As previously discussed, each right imposes a duty on States that

adopt it to: (i) abstain from taking measures that might hinder or encroach on recognised rights (the duty to respect); (ii) make sure that other actors, including non-State actors, respect the rights of all persons (duty to protect); and (iii) take positive and appropriate steps to realise the rights of all persons, which implies making gradual progress towards achieving rights and prioritising those who are at risk or most in need (the duty to fulfil). These obligations create powerful tools that can be used to redress abuse and unequal power relations and take steps to create a just and sustainable future.

The transition to a sustainable society must address unprecedented challenges for humanity. It will be necessary to reform how economies are organised, identify development pathways that will ensure access to goods and services for all, reconsider what is valued and how value is measured, determine which economic sectors should be supported and which closed down, and take urgent steps to nurture and remain within the ecosystem's capacities. Far-reaching decisions will have to be made about how resources are produced, consumed, and distributed, locally, nationally, and globally; as societies, we will need to fundamentally reconsider our social and economic structures. Human rights provide the roadmap to guide this process.

In an international context marked by the shrinking of democratic space and an escalation of war and conflict, it is also critical to underscore that the protections offered by the international human rights framework do not cease to apply in times of armed conflict.<sup>18</sup> During a gender-just transition, mass destruction of homes, deprivation of safe drinking water, exclusion from education, forcing people to work, or using methods of war that cause widespread, long-term environmental damage, are serious breaches of international law that should be brought to justice.<sup>19</sup> A gender-just transition shifting towards sustainability and social justice should be one that also creates conditions for long-lasting peace.

This section shows how the ESCE rights framework would establish thresholds and priorities to deliver a gender-just transition. Succeeding sections analyse the crosscutting ESC rights principles of equality and non-discrimination, progressive realisation, maximum available resources, and minimum core obligations; and the content of key substantive and procedural ESCE rights that are relevant to gender-just transition policies. By exploring ESCE principles and rights, the paper seeks to establish a broader conception of just transition that goes beyond worker's rights, as traditionally envisaged, and provide tools to implement a gender-transformative and human rights-aligned shift to sustainability.



## 2.1 Crosscutting principles

### 2.1.1. Non-discrimination

The principles of equality and non-discrimination are cornerstones of the human rights framework. There is a double obligation, not to discriminate on religious, gender, socioeconomic status, age, ethnicity, nationality, or any other ground; and to take ‘affirmative action’ to achieve substantive equality, recognising that there are differences between individuals.

The principles of equality and non-discrimination are affirmed in all major international human rights instruments.<sup>20</sup> Article 2 of the ICESCR states that each State party should “guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has noted that the reference to “other status” makes clear that the list is non-exhaustive. Discrimination on any ground is illegitimate.<sup>21</sup>

The principles of equality and non-discrimination are therefore a crosscutting obligation that applies to all rights including substantive and procedural ESCE rights. Interpretation of the principles has made clear that the State has a duty to address both direct and indirect discrimination: it must combat acts or omissions that discriminate against individuals, but it must also take steps to prevent laws, policies, and practices that appear neutral but that have (unintended) discriminatory effects.<sup>22</sup> The objective is to deliver substantive (*de facto*) as well as formal (*de jure*) equality, to remove discriminatory practices

and achieve effective equality in all legal and institutional contexts.<sup>23</sup> In contemporary terms, this means that States have a duty to banish and prevent harmful gender-based stereotypes, racial and ethnic discrimination, legacies of colonialism, criminalisation of poverty, homophobia, political and religious persecution, and other forms of systemic discrimination based on people's origins or identities.<sup>24</sup>

The principles of equality and non-discrimination must therefore remain cornerstones of a rights-compliant gender-just transition because, to ensure that inequalities are not replicated and power relations are rebalanced, the needs of people who live in vulnerable and marginalised conditions must be prioritised. Gender-just transition policies need therefore to give attention to the situations of groups of individuals who suffer the effects of historic and persistent prejudice and marginalisation. For these reasons, it is essential to adopt an intersectional approach (that considers the connected nature of ethnicity, class, nationality, sexual orientation, gender identity, and other factors that shape systemic discrimination and inequality) to ensure that transition policies leave no-one behind.<sup>25</sup>

#### Key questions:

- How can gender-just transition processes develop agendas shared by different sectors that encourage the shift to sustainability (in energy, health, education water and sanitation, transport, etc.)? How can these agendas be aligned with principles of equality and non-discrimination?
- How can principles of equality and non-discrimination be applied to manage or reconcile the competing interests of different groups?
- What temporary or permanent measures should gender-just transition frameworks introduce to rebalance power relations and ensure all groups are in a position to exercise their rights?
- How can policies associated with gender-just transition close the gap between formal (legal) prohibition of discrimination and discriminatory practices on the ground?



## 2.1.2 Gender equality

In addition to prohibiting all forms of discrimination, human rights treaties also recognise explicitly that women and men should enjoy rights equally and that States must take measures to ensure that all women can exercise all their rights.<sup>26</sup> The International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the main instrument that sets out women’s rights under international law. It establishes the core principle of “substantive gender equality”, which applies to all recognised human rights, including economic, social, cultural and environmental rights recognised in sister treaties such as the ICESCR.<sup>27</sup> The principle acknowledges that formal equality (or equality in law) is not enough to ensure women are able to exercise their rights in practice.<sup>28</sup> To enjoy equality in practice, women and girls need substantive equality, which removes disadvantages in outcome or result that women may face. Simply treating women and men equally might not address specific gendered disadvantages that obstruct women’s access to fundamental rights.

A substantive equality approach implies that States and societies need to set clear gender objectives, discard and avoid reproducing gender stereotypes, ban discriminatory social practices, and take account of gender differences.<sup>29</sup> Since substantive equality focuses on the *outcomes* of policies, laws, and other measures, not just their intentions and purpose, it may lead to the temporary adoption of special measures to rebalance gender hierarchies that produce inequitable outcomes.<sup>30</sup>

The principle of gender equality also requires States to adopt an intersectional lens. This approach recognises that women are not a homogeneous group. Many women experience multiple and overlapping forms of marginalisation

and inequality that exacerbate the gender discrimination they face.<sup>31</sup> The CESCR discussed this in its General Comment No. 20: “Some individuals or groups of individuals face discrimination on more than one of the prohibited grounds, for example women belonging to an ethnic or religious minority. Such cumulative discrimination has a unique and specific impact on individuals and merits particular consideration and remedying.”<sup>32</sup>

A gender-just transition framework or policy should have substantive gender equality at the heart of its route to sustainability. Complementing the prohibition of discrimination, it should promote substantive equality, by applying an intersectional gender lens, to ensure that the transition removes structural causes of gender inequality. Women face gender exploitation or disadvantage in many areas: they are over-represented in many forms of precarious, informal, and unpaid care and domestic work; they are under-represented in key sectors of the transition (energy, transport, construction, waste-management, etc.); they are generally paid less than men (for the same work); in some areas they experience occupational segregation. Women in impoverished rural and urban communities are particularly exposed to the effects of environmental degradation because their access to infrastructure, public services and resources is more restricted; they also rely more than men on the natural environment to sustain their livelihoods and those of their families and communities. Underlying gender inequalities mean that women and girls are more likely to die in extreme weather events, which are becoming more frequent and intense.<sup>33</sup>

Currently, at least 3.8 million people across the globe, most of whom are women and children, die annually from indoor air pollution as a result of using unclean energy for cooking and heating.<sup>34</sup> Due to systemic discrimination that hinders them from owning or acquiring title to land, women also tend to be the most common victims of land purchase and land dispossession in the context of large reforestation and renewable energy projects.<sup>35</sup> These expressions of gender inequality must be taken into account in the design, implementation and evaluation of transition policies.

The demand for just transition originated in the trade union movement. Its original goal was to help (mostly male) workers to move from fossil fuel and other polluting industries to new green forms of employment.<sup>36</sup> A gender-just transition needs to go beyond this: it should link substantive gender equality to social and economic justice and sustainability. Historically marginalised women must contribute to developing this agenda to deliver its potential for transformative change.

Taking this approach has many consequences. For example, it implies recognising the plurality of women and feminist movements; questioning restrictive binary gender models and tackling the root causes of gender inequality (the ideas, institutions, and interests that reinforce intersectional gender discrimination). Most important, a gender-just transition that places substantive gender equality at its heart will be care-led.<sup>37</sup> It will invest in the expansion of public services of high quality, will increase support to caregivers, and will redress the uneven distribution and quality of care and domestic work. It should equally create opportunities for women to lead and participate in key sectors, including renewable energies, sustainable food production, and conservation of land and natural resources. It should discard economic and development models that treat care and the environment as limitless and costless, and shift to a model that values and recognises their importance as the basis of our economic and social systems.

### Key questions:

- How can international human rights standards contribute to intersectional gender and feminist analysis of substantive gender equality?
- How can gender-just transition policies and frameworks factor in gender-specific risks and vulnerabilities caused by interlinked gender discrimination and environmental degradation?
- How can care-focused policies redefine economic goals, and reduce reliance on extractive practices and consumption? How do they align with the transition's gender, social and environmental objectives?
- How can sustainable housing, transport and other urban policies reshape cities in a manner that empowers women and realises women's rights?
- How can feminist movements connect better with environmental and social movements to deliver a gender-just transition?





### 2.1.3 Progressive realisation

The principle of progressive realisation is at the centre of an ESCE rights regime. The principle is affirmed in article 2(1) of the ICESCR.<sup>38</sup> Recognising that ESC rights cannot be realised immediately for resource and capacity reasons, it says that States must take continuous steps towards their full realisation. The objective is to secure a gradual and consistent advance.<sup>39</sup> The principle also says that States should set targets for fulfilling ESC rights, including priorities that reflect their human rights obligations.<sup>40</sup>

Interpretations of ‘progressive realisation’ make clear that it does not permit States to postpone implementation of their ESCE rights obligations; the obligation is to progress as “expeditiously and effectively” as possible towards their achievement.<sup>41</sup> Nor does the principle permit States to take deliberately “retrogressive measures”.<sup>42</sup> According to the CESCR, a “deliberately retrogressive measure” can be defined as any measure that implies a lowering of protection that is due to a member State’s intentional decision.<sup>43</sup> The presumption is that retrogressive measures are incompatible with the obligations imposed by the Convention and that, if retrogression does occur, the relevant State must show that it was unintended and unavoidable.<sup>44</sup>

In the context of just transitions, the principle requires States to make the transition in a manner that realises and advances ESCE rights over time and improves the access to them of marginalised groups and individuals. The notion of steady progress presumes that the provision and quality of goods and services associated with ESCE rights should improve; and that the biosphere should be progressively better protected over time. In addition, no measure associated with transition policies should reduce or imply a retrogression in the enjoyment of ESCE rights. In sum, gender-just transitions should ensure the

constant expansion and improvement of the conditions necessary to realise ESCE rights.

**Key questions:**

- How can States supply goods and services as required by the principle of progressive realisation without over-exploiting natural resources and overshooting the ecosystem's capacity?
- What economic models promoting the principle of progressive realisation should inform gender-just transition policies and frameworks?
- How can States respect progressive realisation during social and economic crises?



### 2.1.4 Maximum of available resources

Article 2(1) of the ICESCR links the principle of progressive realisation to a “maximum available resources” requirement.<sup>45</sup> To achieve the progressive realisation of ESCE rights, societies need to mobilise resources; States, as the main duty bearer, have a specific responsibility to do so. Resources include resources that States can raise within society, and resources provided through international cooperation and assistance. Interpretation of the article has confirmed that the obligation to raise the “maximum resources available” applies during economic crises or when there is a serious economic shortfall. A State is not permitted to breach the principle of progressive realisation because of resource constraints. Instead, States should make immediate and concerted efforts to ensure the “widest possible enjoyment of ESCE rights under the prevailing circumstances”.<sup>46</sup> In such situations, the needs of the most marginalised should be prioritised.

The human rights treaty bodies that monitor and interpret UN human rights treaties have also concluded that States are required not only to explore all potential sources of resources, but to address resource diversion (such as illicit financial flows, tax evasion and corruption). They have said that States which continue to tolerate resource diversion cannot claim they have insufficient resources to implement ESCE rights, and that there are strong grounds for asserting that States which fail to prevent tax abuse by multinational corporations are in breach of this obligation.

To understand whether a State is in fact devoting “maximum available resources”, one must therefore ask how and for what purposes public authorities invest in relevant activities or programmes, and who benefits from them. Worldwide, States currently invest about USD 400 billion in subsidies to sustain the prices of

fossil fuels and about USD 100 billion in subsidies to fossil fuel producers.<sup>47</sup> This distribution has benefited some but has significantly deepened inequalities and jeopardised the rights of present and future generations. Using public finances to sustain and develop fossil fuel-based energy systems in an era of climate emergency drives transition in the wrong direction and is incompatible with ESCE rights. In contrast, measures that invest in universal public services, social protection systems, expand the production of renewable energies, and make these resources accessible to marginalised populations, would comply with ESCE norms.

International assistance and cooperation for the realisation of ESCE rights to the maximum of available resources also merit attention.<sup>48</sup> It is widely recognised that developed countries are historically responsible for most of the greenhouse gas emissions that drive climate breakdown; and that developing countries suffer the worst impacts of climate breakdown, though they are less responsible for it and struggle to obtain the resources, technology and sometimes expertise to realise ESCE rights. On these grounds, the principle that States should make a “maximum of resources available” to achieve ESCE rights implies that wealthy countries should make significant financial contributions towards the realisation of ESCE rights in developing countries. This obligation is well recognised in international climate change law and is consistent with human rights norms.<sup>49</sup>

Recognising that the shift to sustainable and just societies and economies will imply unprecedented mobilisation of resources within and between States, the principle of “maximum available resources” underpins efforts to allocate resources in a manner that will fulfil ESCE rights and deliver a gender-just transition.

### Key questions:

- How can the principle of “maximum available resources” be mobilised to prioritise the allocation of resources towards the realisation of ESCE rights within gender-just transition frameworks?
- How can States avoid using the resources derived from extractive and other unsustainable practices and create wealth through alternative sustainable economic activities to invest in gender-just transitions?
- How can States optimise the tools they have (through taxation, budgets, international investment, trade, banking, etc.) to finance a gender-just transition?

- What steps can be taken to ensure that resource use is efficient and effective, and that the resources reach those most in need?
- How can an intersectional gender lens be mainstreamed in public financing to deliver a gender-just transition?





### 2.1.5 Minimum core obligations

The obligation to meet “minimum core obligations” complements the principles of progressive realisation and “maximum available resources”. According to this principle, States are required to provide minimum essential levels of each right.<sup>50</sup> The principle can be traced back to the provision of subsistence rights for all.<sup>51</sup> It sets a floor that States must attain immediately to fulfil ESCE rights. In effect, the principle of minimum core obligations establishes the baseline for the principle of progressive realisation as such progress is measured against this starting point.<sup>52</sup>

In this sense, States have a positive obligation to take appropriate measures, and to mobilise resources from within their borders and the international community as required, to satisfy minimum core obligations.<sup>53</sup> Treaty bodies, in particular the CESCR, have defined minimum core obligations in detail.<sup>54</sup> The CESCR has regularly included references to their substantive content in its General Comments.<sup>55</sup> The reports of Special Procedures also refer to the minimum core content of rights.<sup>56</sup> The consensus view is that a State would be in violation of its minimum core ESCE rights obligations if a significant number of people within its jurisdiction do not have access to and are deprived of, for instance, essential food staples or basic levels of primary education, shelter or health services.<sup>57</sup>

The obligation requires States to prioritise measures that reduce poverty and the most adverse forms of environmental degradation and lay a foundation of wellbeing that ensures minimum levels of subsistence. The minimum levels should be complied with immediately. The standard establishes a point of departure, from which gender-just transitions can progressively improve conditions for the realisation of ESCE rights. In this sense, the obligation is a core element of any transition that aims to achieve minimum (at the least) equitable and sustainable outcomes.

### Key questions:

- What would be the minimum floors that gender-just transitions should ensure immediately to meet their social, gender and environmental objectives?
- What are the most appropriate indicators for assessing rights-holders' subsistence needs?
- How can the principle of minimum core obligations help to address the worst forms of socio-economic deprivation and environmental degradation?



## 2.2 Economic, social, cultural, and environmental rights in gender-just transitions

This section describes the roles that substantive and procedural economic, social, cultural, and environmental rights play in gender-just transitions. As in the previous section, it begins by summarising the normative content of each right, before discussing their relevance to gender-just transition policies. In some instances, promising practices illustrate what gender-just transition policies might look like.

### 2.2.1. Labour rights

Labour rights engage three different rights: the right to work, the right to just and favourable working conditions, and the right to join and participate in trade unions. Several international instruments recognise the right to work.<sup>58</sup> It is affirmed most notably in article 6 of the ICESCR. This provision states that everyone has the right to earn their living by working and that the work must be chosen or accepted freely.<sup>59</sup> Technical and vocational guidance and training to advance economic, social, and cultural development are covered by this right because they are steps towards its fulfilment.<sup>60</sup> Article 7 of the ICESCR sets out the right to “just and favourable working conditions”, including remuneration and a safe and healthy working environment.<sup>61</sup> Finally, the collective dimension of labour rights is recognised in the right to form trade unions, including the right of individuals to freely choose and join them, and the right of unions to function freely.<sup>62</sup> The CEDAW fleshes out the meaning of the right to work in relation to workplace discrimination against women. It affirms, among other things, that women have an equal right to employment opportunities, vocational training, and retraining, social security, and remuneration.<sup>63</sup>



In the context of the gender-just transition, the International Labour Organization (ILO) has developed 'Guidelines for a just transition towards environmentally sustainable economies and societies for all'. This key reference tool sets out non-binding standards to address the scale and urgency of environmental and employment challenges and improve working conditions and the inclusion of all workers without discrimination in the shift towards sustainability.<sup>64</sup> These standards underline that just transition policies and programmes must consider the gender dimensions of environmental challenges and promote specific gender policies.<sup>65</sup>

Institutions and governments increasingly recognise that they must take urgent steps to decarbonise society. Many also understand that they need at the same time to protect the labour rights of people and communities who are highly dependent on the fossil fuel industry. We have already noted that the notion of 'just transition' took form when energy workers acted to counter the potential adverse social consequences of adopting green technologies,<sup>66</sup> and it has naturally gained traction in the labour rights and trade union movements.

Reflecting this history, most just transition policies and programmes have focused on compensating, retraining, and reskilling workers, providing working benefits, and compliance with labour standards as industries phase out fossil fuels and adopt sustainable sources of energy.<sup>67</sup>

This traditional approach assumed that workers' rights must be at the centre of just transition policies. It included workers in the informal economy, with the aim of further formalising the workforce. It foresaw that, as fossil fuel-based industries lost relevance, new and old green industries (renewable energy, trash collection and recycling, and also transport or healthcare) will play a more critical role in reducing emissions and building sustainable economies. Overall, it recognised that a wide range of jobs will need to be restructured, and employees from carbon-intensive industries will need to be retrained and transferred to new sectors that offer working conditions that respect human rights standards.

The ILO Guidelines make clear, however, that a just labour transition must take account of the environment, labour rights *and* gender justice. Globally, the majority of women still work in the informal economy, in small enterprises or for low wages.<sup>68</sup> A gender-just transition policy should create opportunities for women who have traditionally been marginalised economically, not least in male-dominated industries that are key to the transition, such as energy, building and transport. Women should be included in efforts to train and

reskill workers who are directly or indirectly associated with carbon intensive industries. They should equally be offered opportunities to take new jobs in the green industries of the future, on terms that are gender equal.

The environmental crisis will also have consequences for the millions of women who do unpaid care and domestic work, or low paid care and domestic jobs across the world. As access to natural resources tightens, health risks will rise, and livelihoods as well as food systems will be disrupted, increasing the burden on already strained care systems.<sup>69</sup> In addition, women, especially rural and indigenous women, and girls, tend to perform the bulk of critical activities such as sustainable agriculture, waste management, and preservation of local natural resources and ecosystems. If measures are not taken to redress gender inequality, the exclusion and precarious working conditions of such women will worsen in the face of climate-related risks.<sup>70</sup> In this sense, implementing international labour rights standards as part of a gender-just transition would ensure that phasing out fossil fuels will not erode jobs losses but rather widen the opportunities for women and others who historically have not had equal access to decent work.

## CASE STUDY

# Women working in salt fields in Gujarat

In Gujarat, India, the Self-Employed Women's Association (SEWA), a member-based organisation of impoverished self-employed women workers in the informal economy, launched the Hariyali campaign. The campaign sought to increase the efficiency of salt production in Little Runn of Kutch (LRK) by obtaining sustainable modern energy devices for its members.<sup>71</sup> The region produces three quarters of the salt consumed in India, but most workers have no regular income or benefits and work in hazardous and precarious conditions.<sup>72</sup> The Hariyali programme enabled women working in the salt fields to replace fuel-based with solar pumps, which created safer working conditions, improved sustainability, raised incomes and living standards, and reduced emissions of climate change pollutants.<sup>73</sup> Transition policies should look for integrated approaches like this one, which improved women's working conditions by pursuing both social and environmental goals.

### Key questions:

- How can clean energy and other initiatives to green the workplace ensure they provide just, favourable, and safe working conditions and help informal sector workers join the formal economy?
- What measures will ensure gender parity and equal representation in trade unions of women and groups that historically have been marginalised in key sectors of the transition, such as energy construction, waste management, and transport?
- What should be included in support packages to compensate, train, reskill and re-employ workers in fossil fuel industries and other associated economic activities to counter adverse social impacts of the shift to sustainability?
- What labour policies (for example, to reduce working hours or adopt a 4-day working week) could help to reduce emissions and create more sustainable economies?
- How can we envision care and domestic work as remunerated, recognised, and valued green jobs necessary for a gender-just transition?



## 2.2.2 The right to social security or social protection

Article 9 of the ICESCR affirms the right to social security or social protection.<sup>74</sup> It states that States Parties to the Covenant “recognize the right of everyone to social security, including social insurance”.<sup>75</sup> The right to social security includes the right to access and maintain benefits, in cash or in kind, that provide protection from (among other things): (i) loss of work-related income due to sickness, disability, maternity, employment injury, unemployment, old age, or the death of a family member; (ii) inability to afford health care; (iii) insufficient family support, particularly for children and adult dependents.<sup>76</sup> The ILO and several other international and regional treaties also assert this right.<sup>77</sup> Social protection frameworks therefore include a wide range of policies and programmes that address different forms of economic, social and environmental vulnerability. The right also defines criteria that should be applied in all social security contexts: for instance, it should cover specific risks and contingencies, be available to all, and be adequate and accessible.<sup>78</sup> Most important, social security should be recognised as a social good used to realise core human rights, not treated as an economic or financial instrument.<sup>79</sup>

The ILO ‘Guidelines on Just Transition towards environmentally sustainable economies and societies for all’ underline that, in compliance with their obligations under the ICESCR, States should establish social protection plans for those most likely to be affected by environmental degradation.<sup>80</sup> The CESCR has recognised that social security, “through its redistributive character, plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion”.<sup>81</sup> It has a critical role to play in managing the impacts of environmental breakdown and in gender-just transition policies.

As States pursue a green transition, social protection systems will need to be

extended to protect marginalised people and communities who suffer losses from climate breakdown and adverse effects of green policies. Economic and institutional responses to the transition policies should also ensure that social protection is not only sustained but increased to meet additional social needs that arise during the transition. A wide variety of such needs can be foreseen, including unemployment protection for workers whose workloads increase or who lose their jobs due to climate-related impacts, assistance to workers who transition from fossil fuel-based industries or integrate in emergent renewable ones, guarantee schemes to help communities rebuild after environmental catastrophes, and cash transfers to support individuals and communities that are particularly affected by climate change.

Social interventions in the context of just transitions can be categorised as protective, preventive, promotional or transformative.<sup>82</sup> Social protection programmes that provide cash or in-kind support *protect* households by helping them to obtain access to food and other basic consumption needs in the face of disasters. Other forms of intervention *prevent* drastic income or asset loss related to climate impacts. *Promotional* measures include measures that develop adaptive skills, or improve livelihoods or access to health, care, water and education services. *Transformative* interventions address structural causes of marginalisation and sustainability: they, for instance, empower rights-holders, reform unpaid care and domestic work, or challenge gender stereotypes.

A rights-aligned social protection scheme that fulfils all the above functions could reduce from 68 to 20 million the number of people who are expected to fall into poverty as a result of climate-related risks.<sup>83</sup> However, in 2020 only 46.9% of the world's population was covered by at least one social protection benefit.<sup>84</sup> It is therefore critical to expand social protection coverage, increase social protection benefits and strengthen social protection systems, to increase communities' resilience and capacity to adapt to the climate emergency, and to protect them from transition measures that harm their livelihoods. Social protection should be a central component in transition processes because robust social and community support and capacity will be needed to take the measures necessary to shift to sustainability.

In this endeavour, gender is again highly relevant. Social protection programmes will need to consider and address the gender differentiated impacts of the climate emergency. Social protection schemes should not be gender-neutral: they need to factor in gender and develop social protection benefits that

address the specific risks and discrimination that women face during the life cycle (in childhood, adolescence, adulthood, and old age). These include the burden of unpaid care and domestic work, discriminatory social practices, wage discrimination, and other forms of explicit gender discrimination, most of which are likely to be exacerbated by environmental degradation.<sup>85</sup> To diminish women's exposure to human rights abuses, social protection interventions need at minimum to recognise explicitly the contributions that women and girls make as caregivers and avoid gender stereotyping.

In sum, social protection systems play a fundamental role in gender-just transitions. They help to manage disaster risks, support people harmed by climate shocks, provide safety nets, and enable people to adapt to the effects of social and environmental uncertainty.

## CASE STUDY

# Financing social protection systems during the shift to renewable energy

The phasing out of fossil fuels and the shift to renewable energy will bring new opportunities for some but will put many at risk of poverty or marginalisation. An example of a promising practice occurred in Egypt, where the government removed subsidies on fossil fuels and reinvested 15% of the resources released for social protection through a twin cash transfer programme, including a universal old-age pension.<sup>86</sup> The benefits these programmes delivered were designed to cancel the impact of rising energy prices on the most marginalised, while addressing structural conditions of poverty.<sup>87</sup> The programme enabled the government to fill gaps in Egypt's social protection system, rather than just temporarily offset fossil fuel dependency. In addition, the government paired the subsidy with significant investments in renewable energies, thereby providing green sources of employment for marginalised populations and combating the climate emergency.<sup>88</sup> This eco-social policy simultaneously met several environmental and social objectives by phasing out use of fossil fuels and strengthening social protection systems that are relevant to a just transition framework.



### Key questions:

- How can social protection systems promote transformative livelihood changes that simultaneously reduce social and environmental risks and vulnerabilities?
- How can social protection programmes that pursue social and ecological objectives help tackle the uneven distribution of unpaid care and domestic work shouldered mostly by women and girls?
- What measures would incentivise and operationalise cross-sector coordination between different government institutions to simultaneously promote environmental protection and social security systems?
- How can social protection systems consider gender-differentiated environmental and social risks throughout women's and men's lifecycles?



### 2.2.3 The right to adequate food

Several human rights instruments affirm the right to adequate food.<sup>89</sup> It is articulated most comprehensively in article 11 of the ICESCR. The right is understood to be an independent right that is associated with “the right to an adequate standard of living”,<sup>90</sup> and the “fundamental right to be free from hunger”.<sup>91</sup> The right implies not only the absence of malnutrition but engages a range of qualities associated with food. Its quantity and quality must be “sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture”; the right also guarantees “the accessibility of ... food in ways that are sustainable and that do not interfere with the enjoyment of other human rights”.<sup>92</sup> The CESCR has recognised that the notion of sustainability is intrinsically linked to notions of adequate food and food security, implying that food needs to be accessible for present and future generations.<sup>93</sup> It has said that the concept of “adequacy” is to be determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while the idea of sustainability includes elements of long-term availability and accessibility.<sup>94</sup> States have a duty to ensure that people have access to food by managing its distribution as well as enabling its production on the land or via other natural resources.<sup>95</sup> The adoption of relevant legislation, strategies, and policies on food security and the eradication of hunger are also fundamental dimensions of the right to food.

In the context of a just transition, the right to food is relevant to concerns about the sustainability of food systems and food consumption. It is currently estimated that our food systems cause one third of the world’s greenhouse gas emissions, through land-use change and agricultural production as well as packaging, transport and waste management.<sup>96</sup> Some efforts to mitigate and adapt to climate change have also put food production systems under strain, in some

cases severely affecting small-scale farmers.<sup>97</sup> In recent years the production of biofuels (biomass-derived fuels designed to replace fossil fuels) has disrupted food prices and staple foods.<sup>98</sup> Their production on a large scale has changed land use patterns and displaced smallholder farmers and indigenous people, particularly in locations where land rights and tenure are weak.<sup>99</sup> Similarly, the diversion of water courses to produce renewable hydropower has sometimes displaced or harmed the food security of local populations.<sup>100</sup> Dam construction also often affects the supply of water for local agriculture. Other programmes (such as Reduce Emissions from Deforestation and Forest Degradation [REDD+]) that incentivise businesses and private corporations to grow forests as carbon sinks to reduce greenhouse gas emissions, have disrupted the livelihoods of local communities that live in and depend on the forests, often without respecting their right to free, prior and informed consent.<sup>101</sup> Green transitions that fail to consider unintended impacts on the right to food can ultimately increase inequality, violate human rights, and create resistance to the transition. The unsatisfactory and flawed nature of some mitigation and adaptation programmes should be recognised and rights-aligned programmes should be promoted instead.<sup>102</sup>

Traditional and indigenous science and food knowledge raise a further issue. Indigenous communities are often respectful of the local ecosystem and employ practices that contribute to biodiversity and render food systems more sustainable. However, the climate crisis is severely affecting many of their environments, threatening cultures that have historically relied on natural cycles.<sup>103</sup>

Women's right to food tends to be disproportionately affected by the climate emergency. Women are responsible for about half of food production and preparation around the world.<sup>104</sup> As farmers, sellers and unpaid care and domestic workers, women produce much of the food in many communities but, because of structural gender discrimination, they often lack access to finance, land and tenure rights, technology, and other resources they need to cope with environmental breakdown.

In any gender-just transition, approaches to food security and climate action must be mutually supporting and promote the empowerment and resilience of communities and marginalised peoples. Reducing large-scale agro-industrial practices in favour of agro-ecological production has generated promising sustainable practices. Agro-ecology is a "holistic and integrated approach that simultaneously applies ecological and social concepts and principles to the

design and management of sustainable agriculture and food systems".<sup>105</sup> It is at once a science, a set of practices, and a social movement that recognises it is no longer possible to manage food, livelihoods, and sustainable use of natural resources separately. Instead, it promotes new forms of production that are more climate-resilient, more productive and in balance with nature's cycles, making it possible to reduce poverty and realise the right to food.<sup>106</sup> Agro-ecology principles assert that nutrients and energy should be recycled on farms in place of fertilisers and external inputs; that diversifying species and genetic resources will improve diversity and productivity throughout the agricultural system; and that crops and livestock should be integrated.<sup>107</sup> A positive element of agro-ecology is that it integrates local and traditional knowledge with modern technology. These forms of food production should also be an integral part of gender-just transitions that promote food security and sustainability.

## CASE STUDY

# Synergies of afforestation and agroecology and realisation of women's right to adequate food

In West Bengal, India, cyclones frequently destroy agricultural land, harm mangroves, and significantly reduce soil fertility, putting at risk the food supply of local people.<sup>108</sup> In such contexts, efforts to increase community resilience are essential. A project of the All India Women's Conference Calcutta, a civil society organisation, mainly carried out by low-income indigenous women, provides information on agroecology and trains indigenous women to prepare seedlings and plant mangroves. This work prevents soil erosion, reduces the impact of storms, and empowers women economically via an organic farming programme that provides sustainable incomes and food security for the community.<sup>109</sup>

The project takes an integrated approach to addressing chronic poverty, deforestation, and unsustainable agricultural practices that exacerbate climate and socioeconomic vulnerability and have a disproportionate impact on women and girls. Gender-just transitions should ensure the right to food by reducing industrial agricultural practices and fostering agro-ecology that creates better conditions for all and promotes women's participation in food production systems. The shift could improve access to agricultural production techniques, diversify income opportunities, and promote climate-resilience led by women and with their active participation.

### Key questions:

- Threats to the right to adequate food will be felt disproportionately by marginalised women and communities who are not responsible for the climate emergency: how can gender-just transition strategies protect the rights of these women and these communities?
- What policies could realise the right to adequate food for all without causing pollution, land degradation and overexploitation of natural resources?
- How can new renewable energy technologies and agro-ecology reduce food insecurity and malnourishment and improve the resilience of rights-holders and communities to extreme weather events?
- Which safeguards need to be included in environmental policies (especially mitigation and adaptation measures) to ensure they do not breach the right to adequate food but improve synergies between food security and climate resilience strategies?



## 2.2.4 The right to adequate housing

The right to adequate housing is derived from the right to an adequate standard of living, set out in article 11 (1) of the ICESCR. It is the right of every person “to live somewhere in security, peace and dignity”, irrespective of their economic standing. This right is recognised in several treaties that address different dimensions of housing.<sup>110</sup> The concept of ‘adequacy’ is critical to the right: it delineates social, economic, ecological, cultural, and other factors that determine whether particular forms of shelter comply with international human rights law. According to the CESCR, “adequate housing” must meet (at least) the following tests: (i) it must provide legal security of tenure; (ii) it must be available; (iii) materials, facilities and infrastructure must be sound; it must be (iv) affordable, (v) habitable, and (vi) accessible; (vii) its location must meet the needs of the resident; and (viii) it must be culturally adequate (acceptable).<sup>111</sup> The CESCR has also recognised that, to meet tests (ii) and (iii), housing should have “sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services”.<sup>112</sup> The provision of energy services and access to natural resources are necessary to realise the right.

Under this right, States have an obligation to protect people from forced evictions and from arbitrary interference in the home, or with privacy and the family. The State must also uphold the right of people to choose their residence.<sup>113</sup> States are expected to adopt a comprehensive national housing policy and strategy. This should define conditions of shelter, identify available resources and the most cost-effective way to use them, set out a timetable for realising the right progressively, and prioritise those living in unfavourable housing conditions.<sup>114</sup>

Many women and girls live in undignified, insecure, or unsafe conditions and as a result are at increased risk of gender-based violence, dispossession, and homelessness. Taking a gender perspective, the right to adequate housing implies that women (in all their diversity) have the right to own, use and otherwise control housing, land and property; must have access to resources that are associated with the right to housing; and must be able to participate in decision-making processes that are relevant to exercise of the right.<sup>115</sup> Housing must also be safe; it should provide women and girls protection from domestic violence and other forms of violence, and should be a space where care and domestic work are fairly distributed between family members at household level.

With respect to the climate crisis, it has been recognised that the right to housing should be integrated into adaptation and mitigation strategies, giving priority to communities in disaster-prone areas and areas affected by climate change.<sup>116</sup> In addition, communities must be actively involved in the construction and planning of environmentally sound housing and its maintenance.<sup>117</sup> In 2020, the Special Rapporteur on the right to housing developed 'Guidelines for the implementation of the right to adequate housing'. Among other matters, these clarified the human rights housing obligations of States in the context of the climate emergency.<sup>118</sup>

In a gender-just transition, housing is a key area because the sector has the potential to achieve enormous energy savings, during construction, through insulation and heat management, the production of building materials, and adoption of renewable energy.<sup>119</sup> The construction sector consumes 36% of global final energy use and generates 39% of energy and process-related carbon dioxide emissions, 11% of which result from manufacturing building materials (such as steel, cement and glass).<sup>120</sup> Making construction and buildings greener, more energy efficient, and more sustainable is a core element of efforts to achieve sustainable urban and rural environments. According to the Special Rapporteur on extreme poverty and human rights, energy consumption in buildings could be cut by between 30% and 80% if energy efficiency and renewable energy technologies were implemented fully.<sup>121</sup> In practice, however, under climate adaptation and mitigation policies, many communities in vulnerable housing have seen their properties demolished and themselves evicted, often without adequate resettlement.<sup>122</sup> Modernisation and the adoption of efficient renewable energy technologies also frequently cause population displacement, eviction of poorer residents, and loss of community, as rents and property values rise with gentrification.<sup>123</sup> Policies to renovate and modernise housing (in response to climate change or for other reasons) should protect rather than



harm people who live in informal settings and in precarious housing conditions.

At the same time, rights-aligned housing services and renovation programmes can have significant social, health, gender, and economic benefits for lower-income households. If implemented with the participation of communities, such programmes can help lift people out of poverty, improve conditions in informal settlements, create local jobs in construction and housing, and support climate recovery and adaptation strategies.<sup>124</sup> This is particularly important because over 1.8 billion people are homeless or continue to live in informal settlements and inadequate housing. For these people, who are particularly at risk from climate-related impacts, access to adequate housing currently remains largely unattainable.<sup>125</sup>

Specific measures should also be taken to ensure that women and girls benefit from gender-just transition policies that strengthen climate-resilience, adopt sustainable building materials, and modernise housing services. They should enjoy land and property rights on the same terms as men and should have access to complementary services where the distribution of unpaid care and domestic work is uneven, or they have experienced domestic violence. In the face of climate-risk, gender-differentiated impacts should also be assessed to identify who will be affected most by environmental degradation and to establish early warning arrangements.

Safeguards against forced eviction should be implemented and all alternative options should be considered before resorting to resettlement. If resettlement proves necessary, it should comply with the right to adequate housing, and the communities who are affected must be involved in designing and implementing the resettlement process.<sup>126</sup>

As housing is a key sector for the transition to sustainability, all the above considerations aligned with the right to adequate housing must be an integral part of a gender-just transition.

## CASE STUDY

# Disaster-risk reduction to deliver on the right to adequate housing in Ixtepec, Mexico

An earthquake severely damaged the community of Ixtepec in Oaxaca in 2017. Cooperativa Comunitaria, A.C., a local organisation, coordinated local assemblies and, in association with members of the community, developed a reconstruction plan that will allow them to build back their houses and other essential infrastructure, and will also improve living conditions and enable residents to participate in the community's renovation.<sup>127</sup> As part of the strategy, traditional clay ovens were installed to provide clean cooking solutions and create economic opportunities for women in the community.<sup>128</sup> In addition, the community built a new sustainable community Arts and Trade Centre, reintroduced species of maize for local consumption, and ran workshops to improve residents' construction skills, disaster management, and use of sustainable local resources.<sup>129</sup> The campaign also set out to raise residents' awareness of the right to adequate housing, and give them the tools and resources they needed to exercise the right.<sup>130</sup> The initiative strengthened the social fabric of the community, developed strategies for disaster risk reduction, and improved the community's ability to adapt to climate-related catastrophes.

This initiative is a promising example of housing renovation and sustainable urban development that took steps to implement the right to adequate housing and simultaneously adopted more sustainable forms of living. In addition, women, and low-income residents of Ixtepec progressively improved their livelihoods.

### Key questions:

- How should the housing sector, including construction and maintenance, be reimagined? What measures should be taken to replace or discard polluting building materials? What measures will promote conversion and reuse of existing buildings, while making them safer, greener, and more accessible?
- What assurances can a comprehensive gender-just transition programme provide to avoid forced evictions of communities that live on hazardous sites that are threatened by environmental degradation?
- What measures should be taken, in the context of the transition, to ensure that women (in all their diversity) own, use, or control housing, land, and property rights on the same terms as men?
- How can a comprehensive gender-just transition programme ensure that cities and rural areas will remain habitable and that conditions of people in slums and informal settlements will improve?

## IN FOCUS

# A right to sustainable energy?

Enjoyment of an adequate standard of living often depends on access to energy sources. Energy is essential for everyday life, for cooking, water, light, for working and for learning. Though the right to energy is not yet internationally recognised as a human right, access to energy is evidently a pre-condition for realising the rights to housing, education, health, food, and water and sanitation.<sup>131</sup>

Yet many households are unable to meet their everyday energy needs. Energy poverty can have wide-ranging and harmful socio-economic and environmental consequences. Women and girls are disproportionately affected, because their situations are more likely to make them vulnerable, they are more likely to be poor, and they have more caring responsibilities.<sup>132</sup> Use of carbon-based fuels to meet domestic cooking and energy needs not only worsens the climate crisis but has devastating effects on health: indoor air pollution is a major cause of respiratory diseases and death among women and children.<sup>133</sup> Action to improve access to energy should focus on clean renewable energy, and should avoid carbon-based fuels.

Off-grid, small-scale, decentralised, gender-responsive and community-based clean energy technologies can enable households, communities, businesses, and individuals to reduce greenhouse gas emissions, meet local energy needs, and improve democratic control of new renewable energy systems.<sup>134</sup> Their small scale and participatory character can give communities a sense of control as well as improve their quality of life.

It may be time to discuss whether access to sustainable, safe, adequate, and reliable energy should be recognised as a self-standing right. Recognition would give impetus to a rights-aligned energy transition that must simultaneously end energy poverty, meet energy needs in a gender-transformative manner, and curb greenhouse gas emissions. It could also encourage the development of more participatory and locally-accountable energy systems.



### 2.2.5 The right to the highest attainable standard of health

Several human rights treaties affirm the right to health.<sup>135</sup> In particular, article 12 of the ICESCR recognises “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”. It is important to note that the Covenant attaches equal importance to mental and physical health; mental health is often neglected.

This right asserts that everyone is entitled to have access to timely, sufficient and appropriate healthcare services, goods and facilities; and it extends the right to include the underlying determinants of health, because health and a healthy life depend on a wide range of socio-economic factors, not just access to medical services.<sup>136</sup> They include access to safe food and nutrition; a healthy environment; clean water and sanitation; safe working conditions; adequate housing; and information and education on health matters, including sexual and reproductive health.<sup>137</sup> The CESCR has enumerated the criteria that must be met by health care services: they must be (i) available, (ii) accessible, (iii) acceptable, and (iv) of good quality.<sup>138</sup> From the perspective of gender, States must take measures, including provision of sexual and reproductive services, to prevent and treat diseases that especially affect women, and must remove all barriers that prevent women (in their diversity) from accessing adequate health services.<sup>139</sup> States also have a duty to address the ways in which gender roles affect determinants of health (for example, production of food, and access to water and sanitation), remove legal restrictions on reproductive health, and train health care workers adequately to treat women’s specific health issues.<sup>140</sup> CEDAW’s ‘General Recommendation No. 24 on women and health’ elucidates the specific measures that States must take to realise the right to health of women and girls.<sup>141</sup>

The right to health cannot be separated from ecosystem health. The burning of fossil fuels by industries, vehicles and power plants causes air pollution that is responsible for millions of premature deaths every year, as well as many other harmful effects on health. A recent study (2021) concluded that one in every five deaths worldwide is caused by fine particulate air pollution related to combustion of fuels such as diesel, petrol, and coal.<sup>142</sup> In addition, the increasing frequency and severity of extreme weather events (including heatwaves, flooding, and droughts), and the rise of vector-borne diseases, malnutrition, and mental ill-health, are putting pressure on health as well as healthcare services and infrastructure. The World Health Organization has estimated that between 2030 and 2050 the climate emergency is likely to cause approximately 250,000 additional deaths per year from malnourishment, malaria, diarrhoea, and heat stress.<sup>143</sup> Hospitals, health centres and vital health infrastructures are also threatened physically by extreme weather events, which can severely disrupt the provision of adequate health services.

Further, it is estimated that diseases caused by water pollution and inadequate sanitation causes the death of about 4,000 children every day, while toxins present in livestock, crops, and other food staples, that accumulate in the human body, also harm public health.<sup>144</sup> The COVID-19 pandemic is a reminder that there is a direct relationship between human health, animal health and ecosystem health. As habitats are destroyed, humans are increasingly exposed to unknown pathogens by the trade in wildlife, which is often poorly controlled. Zoonotic diseases like COVID-19, which spill over from animals to humans, are one of many ways in which environmental degradation and biodiversity undermine enjoyment of the right to health.<sup>145</sup>

The shift from fossil fuel-based economies to sustainable societies must therefore address the impacts of the climate emergency on health, including its social and environmental determinants, and differentiated gender effects. It will be necessary to design and finance integrated measures that promote health and protect the environment. In many instances, means are already available. Renewable electricity generation can significantly reduce air pollution and other environmental problems that harm public health. In regions that lack reliable access to an electricity grid, mini-grids and decentralised renewable energy networks have successfully combated energy poverty and curbed greenhouse gases and other harmful air pollutants.<sup>146</sup> Low-carbon energy solutions also improve access to public services that are essential to realise the right to health, not least in remote and impoverished areas where poor energy infrastructure impedes the provision of health care.<sup>147</sup>

Urban policies and investment in sustainable transport, energy efficient buildings, land use, waste management, and industry can also improve health and health determinants. Emissions have grown rapidly in the transport sector: adopting low carbon and socially inclusive public transport, and encouraging walking and cycling, simultaneously improve the environment, socioeconomic equality, and public health.<sup>148</sup> Promotion of walking and cycling as preferred modes of safe transport reduces air pollution and traffic-related injuries and deaths, while the exercise they require brings many general health benefits.<sup>149</sup> Public transport powered by sustainable sources of energy curbs emissions but also fosters social inclusivity, increases mobility, and improves the community's access to places of employment and essential goods and services.<sup>150</sup> Public transport, for instance, often plays a vital role in enabling marginalised groups to access health services.<sup>151</sup>

Managing the health of ecosystems should reduce the spread of diseases, including zoonotic diseases, by avoiding ecosystem degradation and restricting human-wildlife contact.<sup>152</sup> A healthy ecosystem brings many health benefits, including food security and nutrition; a safe water supply; clean air; and healing recreational spaces. More broadly, we depend on the planet's biodiversity for our survival, and it is also a source of numerous essential resources, including pharmaceuticals and traditional medicines.<sup>153</sup>

A gender-just transition will therefore integrate policies and lifestyles that promote both health and environmental protection. Placing the delivery of health at the centre of gender-just transitions can create several simultaneous benefits for general public health and for individuals and groups who experience structural discrimination, including women and girls.

## CASE STUDY

# Public transport solutions in Bogotá deliver health, gender equality and environmental benefits

TransMilenio, Bogotá's mass transportation system, runs a fleet of buses that serve 536 neighbourhoods and mainly benefit marginalised populations living in low-income and other remote areas.<sup>154</sup> Since 2001, the system delivers about 26% of all public transport trips in the city.<sup>155</sup> TransMilenio has been adapted and designed to be socially inclusive, has reserved seats for wheelchairs users, doors for people with disabilities, pregnant women and children, and gives priority to employing women, especially single mothers. In total, 62% of its employees are women.<sup>156</sup>

Average journey times have fallen by 40 minutes; traffic accidents are more than 50% lower and traffic-related injuries 80% lower; there is less noise pollution; and cases of harassment and gender-based violence in the public transport system have declined too.<sup>157</sup> In addition, TransMilenio is estimated to have reduced the city's carbon emissions by over 1.6 million tons in its 8 years of operation.<sup>158</sup> In sum, a single public transport intervention has significantly improved public health, reduced traffic accidents and air pollution, promoted environmental sustainability by reducing greenhouse gas emissions, and created employment for women in a sector traditionally dominated by men. Integrating initiatives across key sectors (in this case, health, transport, gender, and the environment) is critical to the success of gender-just transitions.



### Key questions:

- How can we create integrated approaches on health that consider human health and planetary health as interdependent and mutually supportive?
- What cross-sectoral measures promote sustainable urban and rural planning and realise the right to physical and mental health?
- How do gender roles and stereotypes affect determinants of health (food, water, sanitation, etc) and caregiving responsibilities? How can just transitions help to remove structural gender inequality?



## 2.2.6 The right to education

Several international human rights treaties affirm the right to education.<sup>159</sup> It is most clearly set out in articles 13 and 14 of the ICESCR. This fundamental right is an empowerment right because education is recognised to be a prerequisite for realising other rights. The CESCR has noted that it enables people living in vulnerable situations to lift themselves out of poverty, and allows all people to exercise their rights and participate in public life.<sup>160</sup> Education also plays a critical role in “empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth”.<sup>161</sup> Beyond the practical importance of the right to education, the CESCR has recognised that “a well-educated, enlightened, active mind, able to wander freely and widely, is one of the joys and rewards of human existence”.<sup>162</sup>

In terms of normative content, the right gives priority to primary education and requires States to make primary education compulsory and available without cost to all children without discrimination.<sup>163</sup> Higher levels of education, such as secondary and higher education and technical and vocational education, are also covered by the right, which addresses education throughout life.<sup>164</sup> In the view of the CESCR, education services must comply with four interrelated and essential criteria. They must be: (i) available in sufficient quantity; (ii) physically and economically accessible, without discrimination; (iii) acceptable (relevant, culturally appropriate, and of good quality); and (iv) adaptable (able to respond to the changing needs of society, students, and communities).<sup>165</sup>

The Convention highlights in addition the social roles of education and its contributions to citizenship, stating that education “shall enable all persons to participate effectively in a free society, [and] promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and

further the activities of the United Nations for the maintenance of peace”.<sup>166</sup> It adds that education should give attention to developing children’s respect for human rights and for the natural environment.<sup>167</sup>

A feature of the right to education is that, in most instances, States are principally responsible for providing it, and also have a duty to ensure that school curricula “reflect the contemporary needs of students in a changing world”<sup>168</sup> (which today must include climate and the environment).

From the perspective of gender, to realise this right, States should combat harmful practices that accord preferential treatment to boys and men in education systems, and ensure that curricula promote substantive gender equality and non-discrimination.<sup>169</sup> Creating favourable conditions for women and girls to attend school safely, including their journeys to and from school, is also a State responsibility, since young women and girls are especially at risk of sexual harassment and gender-based violence.<sup>170</sup>

The climate emergency creates risks for education facilities, including school buildings and access routes. In the future, extreme and slow onset weather events are likely to cause widespread population displacement, which will affect school attendance and disrupt education programmes. Groups that experience discrimination or are marginalised in other ways are disproportionately exposed to these risks. In 2021, for instance, a research report estimated that the climate emergency will prevent at least 4 million girls in low and lower-middle-income countries from completing their studies.<sup>171</sup> An effective response to these challenges will make education systems more resilient to climate and environmental degradation, support students and communities to adapt resiliently, and promote environmentally sustainable practices.<sup>172</sup>

Though it is recognised that education will play a critical role in facilitating and achieving a just and rapid shift to sustainability, to date education systems have not introduced environmental education on a large scale.<sup>173</sup> A recent report on education curricula in more than fifty countries found that more than half of curricula did not refer to climate change; only 19% discussed biodiversity.<sup>174</sup> A more holistic and integrated approach to education and sustainability is needed to transform public understanding of the relationship between human beings and nature and encourage adoption of more sustainable practices and lifestyles.

From this perspective, education is critical in two dimensions. Rights-holders and communities need to acquire skills, information, and knowledge to reduce

disaster risks and become more climate resilient. And societies will need trained people in a range of disciplines (energy, transport, waste management, construction, engineering, agriculture, economics, health, etc.) if they are to implement just transition policies successfully. Education curricula should therefore increase students' understanding of the relationship between human beings, society, and nature; deepen their appreciation of the natural world; and equip them to deal with climate and broader environmental challenges and the social and economic challenges they will create.<sup>175</sup> Learning and teaching for sustainability from a young age and throughout life is critical to give people the capacities collectively to transform the present and cope with the future.<sup>176</sup>

Gender-just transition policies and frameworks should adopt a gender intersectional approach to education that considers the specific needs of all students, especially those living in marginalised conditions, and includes environmental education and key areas of knowledge relevant to the transition. Plans and curricula should extend teaching beyond climate and environmental science to include traditional and indigenous knowledge, human rights, social justice, sexual and reproductive health, and the gender dimensions of the planetary crisis.

## CASE STUDY

# Legislation for comprehensive gender-responsive environmental education in Argentina

In May 2021 the Government of Argentina adopted a new law that established a comprehensive programme of environmental education and set new expectations in relation to sustainability in all formal and informal education systems.<sup>177</sup> The law formally adopted a National Policy on Environmental Education, to be implemented through a National Strategy for Comprehensive Environmental Education,<sup>178</sup> and made the teaching of environmental education compulsory in all schools and at all levels of education in the country.

The initiative will be coordinated by the Ministries of Education, Environment and Sustainable Development, as well as the Federal Council on Environment and the Federal Council on Education. It explicitly includes gender equality among the legislation's key guiding principles and recognises that implementation "must take into account environmental and ecological analyses derived from the theoretical traditions of ecofeminism".<sup>179</sup>

This law is a promising practice that shows how integrated education policies can give citizens tools to protect the environment, take informed decisions, and shape a path towards sustainable development. Efforts to realise the right to education as part of a gender-just transition are critical and should focus not only on expanding access and improving learning outcomes but ensuring that curricula enable students to tackle social and environmental challenges.

### Key questions:

- How can curricula and education projects and programmes incorporate the environmental dimension of sustainable development in all teaching-learning proposals?
- How can environmental education programmes incorporate traditional, local, and indigenous knowledge and science?
- How can governments inform and educate people who have left the formal education system about environmental protection, inequality, and alternative sustainable development pathways?
- How can specific education programmes be designed to develop the skills required for a gender-just transition in key sectors of the economy (energy, transport, construction, waste management, etc.)?
- How should environmental programmes integrate gender-transformative teaching and ecofeminism, to ensure women and girls are included in the shift to sustainability?



## 2.2.7 Cultural rights

Cultural rights are vital to protection and respect of human dignity because they protect the expression and development of different individual and collective worldviews and include important rights related to the protection of identity, scientific progress, and tangible and intangible cultural heritage. Several international instruments affirm cultural rights.<sup>180</sup> They are set out in article 15 of the ICESCR, which states that all persons have the rights to: (i) take part in cultural life, (ii) enjoy the benefits of scientific progress and its applications, (iii) benefit from the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which they are the author, and (iv) enjoy the freedoms that are indispensable for scientific research and creative activity. Cultural rights therefore have an individual and collective dimension and can be exercised by an individual, an individual in association with others, or by a community or group.

Specific standards address the cultural rights of certain groups and establish that States have a duty to protect and respect cultural identity. Examples include the UN Declaration on the Rights of Indigenous Peoples,<sup>181</sup> and ILO Convention No. 169 on Indigenous and Tribal People.<sup>182</sup> Article 27 of the ICCPR recognises that in “States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”. Cultural rights cannot be used to justify cultural practices that discriminate against specific groups or violate the rights of others.

Outside human rights law, other international instruments define standards that are relevant to culture and environmental protection. They include the UNESCO World Heritage Convention, which encourages States to protect and

conserve natural and cultural sites;<sup>183</sup> and UNESCO's 'Culture 2030 Indicators', which provides tools for measuring the role and contribution of culture in climate adaptation and resilience.<sup>184</sup>

To respect the principles of gender equality and non-discrimination, cultural rights should also be analysed from an intersectional gender perspective. States have a duty to ensure that women and girls have an equal right to participate in recreational activities, sports, and all aspects of cultural life.<sup>185</sup> Realising women's and girls' cultural rights implies the transformation of all cultural patterns, beliefs, and traditions that subordinate one gender to the other. In this respect, cultural rights include the freedom to choose to belong, or not belong, to a given cultural community; or to practice or not practice a particular cultural activity.<sup>186</sup> This is especially relevant for women and girls, who are often forced to adopt cultural and religious practices that obstruct their access to other rights (such as the rights to education, to work, to bodily integrity, or to participate in public and political life), or infringe those rights. Women and girls must be able to act proactively, whether they are seeking knowledge, obtaining cultural goods and services, creating, or interpreting cultural products, or widening their horizons beyond the cultural communities in which they were born and raised.<sup>187</sup>

The climate emergency and the broader planetary crisis pose significant threats to cultural rights across the world; their impacts are widespread, swift and potentially existential.<sup>188</sup> The effects of the environmental breakdown can destroy centuries of human cultural achievement and render some cultural practices virtually impossible in the future, not least because they may destroy spaces of cultural expression, including natural spaces vital for the continuity of cultural diversity and different ways of life.<sup>189</sup> Since much culture is directly tied to ecosystems, climate and environmental harms will particularly affect women, indigenous groups, and rural and traditional communities. Displacement, competition for scarce resources, and the destruction of cultural and natural heritage will force changes in habits and ways of life that obstruct or paralyse the exercise of cultural rights in many communities.<sup>190</sup> For example, the Inuit people in the Arctic regions will be heavily affected by loss of the arctic ice on which their customs, traditions and way of life depend. Climate mitigation and adaptation projects can also harm the cultural rights of local groups: large scale-renewable energy projects may displace whole communities, for example. It is therefore critical to include such groups when climate mitigation and adaptation projects are planned and implemented.<sup>191</sup>

Culture deeply influences our understanding of the environment and the place of human beings in it. In consequence, cultural rights are directly affected by the



loss of natural resources, territory, and lands. Art and other cultural activities that speak of climate change and the social challenges it creates can help us to reimagine the world, raise awareness, and communicate to broader audiences about the planetary crisis and structural inequality.<sup>192</sup> Indigenous, traditional, and local knowledge should also play an important role in mitigation and adaptation strategies and the design of green and just transition policies.<sup>193</sup> Traditional forms of knowledge (traditional construction techniques, farming and fishing methods, etc.) should be integrated in sustainable transition strategies, which should recognise the important role of women and girls.<sup>194</sup>

The cultural right to enjoy scientific progress and its applications is also important. This right covers access to scientific results and outcomes, scientific processes, and scientific methods and tools.<sup>195</sup> Accordingly, States have a duty to provide technical assistance to tackle the climate emergency, to transfer technology and scientific knowledge for the same purpose, and to prioritise the needs of the most disadvantaged and marginalised. For instance, the CESCR has said that “States should use the maximum of their available resources to overcome hurdles that any person may face to benefit from new technologies or other forms of applications of scientific advancements”.<sup>196</sup> This is critical in a context where ongoing climate denial and denigration of climate science has had a serious effect on the ability of societies to take effective climate action.

The right to access scientific knowledge also plays a vital role in encouraging and eliminating barriers to women’s participation. Women continue to be underrepresented in most scientific domains. In gender-just transitions, their role in scientific creation and as cultural signifiers should be recognised in all decision-making processes. As people continue to transform the environment through their cultural practices, their values, their visions of the world, and scientific research, integrated approaches to achieve environmental, gender equality and cultural goals can push forward a rights-aligned gender-just transition.

## CASE STUDY

# Bridging local indigenous knowledge and scientific research to reinforce community climate resilience in Chad

UNESCO collaborates with local indigenous civil society organisations and communities through the 'Local Indigenous Knowledge Systems (LINKS) Programme', which gathers, pools and systematises native traditional knowledge on the environment and uses it to inform scientific climate research.<sup>197</sup> Initiatives that link African pastoralists with public officials, meteorologists and climate scientists have helped to improve meteorological forecasts, given local communities useful information, and assisted communities to adapt resiliently to the climate emergency.<sup>198</sup>

A project in Chad involved the Association des Femmes Peules Autochtones du Tchad, a M'bororo women's rights organisation, and a specific M'bororo group called Mbimbé Woïla, one of the few pastoralist communities in the region that is fully nomadic.<sup>199</sup> The M'bororo are known for herding red longhorn cattle and move seasonally across long distances. This practice has enabled them to develop extensive knowledge of their environment, which is passed from one generation to the next.<sup>200</sup> They have given public authorities and scientists invaluable information about the availability and quality of pastures, the behaviour of species, rainfall trends, and seasonal patterns, based on observation of the stars, atmospheric phenomena, and the phenology and distribution of flora and fauna.<sup>201</sup> In turn, scientists and local authorities have systematised their research results and passed these to community members in accessible formats, thereby helping them to cope more effectively with the climate emergency.<sup>202</sup> This mutually beneficial exchange of information has significantly advanced preparedness and response strategies, improved sustainable management of natural resources and land, and also addressed conflicts between communities.<sup>203</sup>

The communities involved gave their free, prior, and informed consent to the exercise; the information collection process respected intellectual property rights; and participatory research methodologies were used throughout. This is a promising example of positive cooperation between local indigenous experts and scientific experts in the context of a just transition.

### Key questions:

- What contribution can cultural rights make to climate awareness? How can they help to transform attitudes, behaviours and practices and encourage a gender-just transition?
- How can traditional indigenous knowledge and scientific knowledge contribute both to gender-just transition policies and to communities' resilience?
- What can be done to enable women and marginalised groups to participate in scientific research and benefit from its applications?
- How can art and other creative and cultural activities help broader audiences to understand the planetary crisis and adopt sustainable and gender-just attitudes and values?



## 2.2.8 The rights to water and sanitation

The rights to water and sanitation are rights essential to life. Article 11 of the ICESCR names several rights that support an adequate standard of living. Although it does not explicitly recognise the rights to safe drinking water and sanitation, these rights are implied in the provision.<sup>204</sup> In line with this understanding, UN General Assembly Resolution 64/292 and UN Human Rights Council Resolution 15/9 explicitly recognised that these rights are human rights in 2010. UN General Assembly Resolution 70/169 and Human Rights Council Resolution 33/10 went further and recognised that water and sanitation are two distinct, interrelated human rights. Both are affirmed in a number of international instruments that have developed their normative content. These rights are now established in international law.<sup>205</sup>

With respect to the right to safe drinking water, States have a duty to ensure that every person has access to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic use. With respect to the right to sanitation, States have a duty to ensure that every person has physical and affordable access to sanitation that is safe, hygienic, secure, socially and culturally acceptable, and affords privacy and dignity.<sup>206</sup> These rights entitle all persons to have access to water supply and sanitation services, without interference, and to enjoy a “system of water supply and management that provides equality of opportunity for people to enjoy the right to water” without discrimination.<sup>207</sup>

Because these services sustain life, water must be considered a social and cultural good, not merely an economic one.<sup>208</sup> States also have the obligation to realise these rights sustainably, to ensure that present and future generations can enjoy them, including by assessing the impact of events that may reduce water availability or harm natural ecosystems and watersheds, such as climate

change, desertification, soil salinity, deforestation, and loss of biodiversity.<sup>209</sup> The close association of the rights to water and sanitation with other ESCE rights, including the rights to health, food, and a healthy, clean and sustainable environment, must also be considered.

As with other ESCE rights, the rights to water and sanitation must take account of the principles of gender equality and non-discrimination. States have an obligation to ensure that women and girls (in all their diversity) are not excluded from decision-making processes that affect their rights to water and sanitation.<sup>210</sup> States also have the duty to address the situation of women who do not have access to safe drinking water at home; women fetch water in 80% of such households.<sup>211</sup> This underlying gender inequality needs to be addressed because it will be exacerbated by climate change: wherever water availability and water quality are disrupted, women will be forced to walk further to obtain it, and will be even more exposed to gender-based violence as a result.<sup>212</sup>

In the shift to just and sustainable societies, the rights to safe drinking water and sanitation are central. This is not just because water supports life, and access to it underpins other ESCE rights, but because the most severe effect of the climate crisis will be to constrict water supply.<sup>213</sup> It is estimated that, if the global average temperature rises by 1°C, approximately 8% of the world's population will have less access to water resources,<sup>214</sup> and that about 14% will be affected if temperatures rise by 2°C.<sup>215</sup> Precipitation variations will also increase significantly: storms, hurricanes, heavy rain and drought will be more frequent and severe.<sup>216</sup> The disruption of freshwater cycles will strain water and sanitation services at a time when current consumption patterns are already leading to overexploitation of this critical resource.

At the same time, renewable energy strategies are having an impact on access to water. Bioenergy with Carbon Capture and Storage (BCCS) provides an example. It is often suggested that BCCS will help to reduce the concentration of greenhouse gases in the atmosphere,<sup>217</sup> but the process is so water intensive that, if implemented, it is projected to increase the number of people experiencing water stress from 2.2 billion to 4.5 billion.<sup>218</sup> Other megaprojects that provide renewable energy, such as hydroelectric dams, also tend to threaten peoples' livelihoods and access to safe drinking water by diverting or polluting essential water sources.<sup>219</sup> For example, the Maya Chuj people, who live in the micro-region of Yich K'isis in Guatemala, have been severely affected by the construction of three large-scale hydroelectric dams: the community, and especially the women, have faced harassment and militarisation as well

as water scarcity and pollution, which have affected their ability to fish, grow food, and maintain their traditional lifestyle.<sup>220</sup> In Chile, which has some of the driest areas in the world, many communities and rights-holders lack water because the agriculture and mining sectors have over-consumed the water that is available.<sup>221</sup>

With respect to the agenda of a gender-just transition, the UN Special Rapporteur on the rights to safe drinking water and sanitation has noted that “adaptation to climate change must involve a *hydrological transition* that addresses the challenge of guaranteeing drinking water, sanitation and hygiene for all from a holistic viewpoint, taking on board both the elimination of inequalities and the recovery of the good state of aquatic ecosystems”.<sup>222</sup> Steps in this transition could include: strengthening social resilience by managing sources of surface and groundwater; giving drinking water priority over industrial processes; improving environmental resilience by restoring the health and functionality of aquatic ecosystems; and adapting water and sanitation infrastructures to meet the needs of marginalised populations.<sup>223</sup> Decentralised small-scale water technologies powered by renewable energy could also purify, regenerate and re-use water and wastewater, and drive supply systems for periods of drought. It is essential to develop a wide array of participatory responses, that cover rural as well as urban needs, and consider the needs of women and the most marginalised.

## CASE STUDY

# Ensuring democratic governance for sustainable water use in Catalonia

In Terrassa, Catalonia, the Observatori de Terrassa de l'Aigua (Water Terrace Observatory, or OAT in Catalan) has formed a participatory council which has put water management back in the hands of the municipality. It organises water services not as a commodity but as a common good. Created at the Annual Meeting of the Municipality in 2019, the council has full autonomy<sup>224</sup> and is composed of citizens who want to participate in the democratic management of water services. The OAT is responsible for issuing reports, studies, and proposals, increasing public control over water supply and water resources; it actively participates in defining public water policies.<sup>225</sup>

The OAT regularly meets water authorities and stakeholders in the city, including the major political parties, and helps citizens to participate in decisions that relate to water and sanitation. Women have played a leadership role, not least during drafting of a Water Charter.<sup>226</sup> This document affirms that water is a public responsibility, and a resource shared by nature and people, and must be managed and consumed responsibly and sustainably given the challenges of the climate emergency.<sup>227</sup> The OAT has multiplied opportunities to participate in collective governance of public water services, while promoting sustainable management and creating a new participatory water culture.<sup>228</sup>

### Key questions:

- How can a hydrological transition be promoted ensuring safe drinking water, especially for marginalised communities and peoples, while restoring aquatic ecosystems and natural water cycles?
- What key steps will shift transition policies from a paradigm that relies on large-scale hydraulic infrastructure to one that sustainably regenerates water ecosystems and treats water as a common good?
- How could irrigation, rain harvesting, and water management technologies be introduced to support marginalised women and disadvantaged populations to ensure a gender-just transition to sustainable water provision?
- What forms of regulation of private entities involved in the delivery and management of water resources will prevent abuses, and protect rights?
- How can an intersectional gender lens inform water and sanitation policies to ensure these services address gender-based discrimination?





## 2.2.9 The right to a clean, healthy, and sustainable environment

Two landmark resolutions of the UN General Assembly and the Human Rights Council recently affirmed the right to a clean, healthy, and sustainable environment.<sup>229</sup> This right is not recognised in a global treaty but is asserted in numerous international instruments and in the majority of national constitutions.<sup>230</sup> Normally, after a right has been globally recognised, it is codified in a treaty and other interpretative instruments that set out its normative content and corresponding State obligations. This right should in time follow that process, creating a new foundation stone of the international human rights framework and extending the scope of economic, social, and cultural rights instruments.<sup>231</sup>

Indicative elements of the normative content of this right have already been unpacked by the former Special Rapporteur on Human Rights and Environment, John Knox. The 'Framework Principles on Human Rights and Environment' set out 16 overarching general principles that govern enjoyment of a safe, clean, healthy and sustainable environment and the associated human rights obligations of States.<sup>232</sup> A landmark advisory opinion issued by the Inter-American Court of Human Rights has also recognised the right to a healthy environment, derived from article 26 of the American Convention on Human Rights.<sup>233</sup> Applying the principle of progressive development, this document asserts that the natural environment (forests, rivers, seas, the atmosphere, etc.) is a protected legal interest under the Convention even in the absence of specific harm to humans.<sup>234</sup>

It can be said that, although the right to a healthy environment has been framed in different ways, its core content assumes that a minimum environmental standard must be protected for every person without discrimination in order to ensure the freedom, dignity and equality of present and future generations.

As with other ESC rights, the right should naturally accommodate crosscutting principles (non-discrimination, gender equality, progressivity, minimum core obligations, availability of resources, etc.) and the State's obligation to respect, protect and fulfil.

The emergence of this right reflects the recognition that humanity depends on a clean, healthy, and sustainable environment for life (let alone for a dignified, healthy, and fulfilling life) and that the Earth's ecosystem is at risk. One of the main effects of its recognition will be to level the playing field between environmental concerns and competing social, economic, and cultural goals set out in the traditional ESC rights framework.<sup>235</sup> The right to a healthy environment will block any trend to serve to prioritise legally protected social, economic, and cultural objectives without regard for their impact on the natural environment. It also creates a baseline of reference for all ESC rights because no ESC right can be achieved in the absence of a healthy environment. In this sense, recognition of the right to a healthy environment will confirm and strengthen the interdependence, indivisibility, and universality of internationally recognised rights. Given that the global environmental breakdown poses existential challenges, States need urgently to codify and define its normative content, alongside other internationally recognised rights that are vital to socioeconomic wellbeing (such as the rights to health, education, social security, culture, water, work, etc.).

Like other ESC rights, the right to a clean, healthy, and sustainable development should be accompanied by a gender analysis. From this perspective, its codification should address entrenched and systematic gender-based inequalities and violence that cause environmental degradation to have disproportionate and specific impacts on women and girls (in all their diversity). Issues of concern include harmful gender roles and stereotypes that prevent women and girls from controlling, using, and obtaining access to natural resources on the same terms as men, and their exclusion from environmental decision-making. The unpaid care and domestic work that women do will also increase because the resources required for these tasks (water, firewood, food, etc.) will become scarcer in the context of the environmental breakdown. Women will also be responsible for most of the care of family members who are incapacitated or fall ill due to the effects of environmental degradation (air and water pollution, high temperatures, food scarcity, natural disasters, zoonotic diseases, etc.).<sup>236</sup>

## CASE STUDY

# New United Nations treaty on plastics pollution

Plastic pollution is a major threat to biodiversity and the health of the environment. Its non-biodegradability and widespread use, and ineffective waste management, have allowed plastics to spread throughout Earth's ecosystems, especially the marine environment. Human societies generate approximately 275 million tons of plastic waste annually, of which up to 12 million tons end up in the ocean, harming marine biodiversity, suppressing livelihoods, and causing a range of interlinked environmental, health and economic losses.<sup>237</sup>

Plastic production is a transboundary problem that requires concerted and coordinated global responses at each stage of the plastics lifecycle.<sup>238</sup> Structural discrimination causes some groups and communities to suffer disproportionately from plastic and toxic substance pollution. For example, women and girls are over-represented in precarious, informal, and unpaid waste management work that exposes them to health hazards.<sup>239</sup>

To address these challenges, in March 2022 the United Nations Environment Assembly (UNEA) adopted a landmark resolution on plastic pollution. Titled 'End Plastic Pollution: Towards a Legally Binding Instrument', it called on States to develop within two years a treaty that addresses the full lifecycle of plastics (from fossil fuel extraction, through production and consumption, to end of life).<sup>240</sup> The negotiation of this new instrument will create opportunities to incorporate ESCE rights standards in the text and develop tools to drive a gender-just transition and free the world from plastic pollution.

### Key questions:

- What does this new fundamental right add to the ESC rights framework? How could it help to balance economic, social, and cultural goals with environmental concerns and define the elements of a gender-just transition strategy?
- What actions can civil society and affected communities take to ensure that the normative content of this right will advance a gender-just transition?
- How can this new right be applied to hold States and other stakeholders accountable when they are unwilling or unable to support or implement a gender-just transition?
- What measures should States adopt to realise the right to a clean, healthy, and sustainable environment and challenge structural conditions of gender inequality?



### 2.2.10 Procedural rights

The importance of procedural rights is widely recognised. Their practise makes it possible to implement and protect ESCE rights, they enable individuals and communities to participate actively in political and other processes, and they provide the legal framework for ensuring compliance with and enforcement of laws and standards.

A range of procedural rights is recognised internationally. This brief focuses on procedural rights affirmed by international human rights and by environmental law that address both environmental and social justice concerns, namely: (i) the right to access to information; (ii) the right to participation; and (iii) the right to access to justice, including the right to effective remedies. A number of international instruments and frameworks recognise these rights. They include human rights treaties, such as the ICCPR, ICESCR, and CEDAW; the European regional Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention); and the American Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

The exercise of ESCE rights engages political processes and differences of power between stakeholders. The powers of States, communities, citizens, and corporations are often glaringly asymmetrical. In many situations, individuals and communities are not able to exercise their rights because critical information is not made available to them or are disbarred from participating in decisions that affect them, or are prevented from voicing their concerns and proposals, or do not have access to effective procedures for correcting harms or redressing abuse. Procedural rights ensure that all people are entitled to

participate in public deliberations and decision-making and enable individuals and communities to shape policies that affect their livelihoods and interests and claim redress if their rights are abused. They establish conditions of procedural justice that enable everyone to access their fundamental rights without discrimination.

The **right to access to information** entitles people to access and receive public information.<sup>241</sup> Rights-holders are entitled to request and receive information, to be informed promptly and effectively of policies and measures that may affect them, and to challenge and appeal when information is not made available.<sup>242</sup> The right enables rights-holders, including marginalised rights-holders, to participate in decision-making processes. In the context of a gender-just transition, this right obliges States to disseminate information, including the results of social and environmental impact assessments, that will help the public to prevent or mitigate harms associated with environmental degradation. States have a duty to ensure that information is disseminated in a form accessible and adequate for all types of audience.

**The right to participation** entitles people to be heard and to take part in decision-making processes that affect them.<sup>243</sup> Fulfilment of this right is essential to ensure human dignity and combat structural factors that cause marginalisation. It is a cornerstone of any gender-just transition, because groups that experience systemic discrimination are often left out of decision-making processes relevant to the shift to sustainability. Participation that is meaningful and effective can enrich social dialogue, enlarge the knowledge base, and take account of the lived experiences of communities in a manner that rebalances power, improves policy responses, and responds to the needs of those who are most disadvantaged.

The right to free, prior, and informed consent plays a critical role in this context, because it creates conditions for the effective and meaningful participation of communities and rights holders. This right requires States to consult indigenous peoples on any decision or measure that could affect their land, territory, or livelihoods and to do so in a participatory manner.<sup>244</sup> Dialogue and negotiation should be inclusive and meaningful from the outset of a policy or project to its conclusion, to enable indigenous peoples to participate fully in decisions that affect them.<sup>245</sup>

**The right to access to justice** is broadly understood to entitle any person whose human rights have been violated to seek redress in a court of law and make use of impartial and fair mechanisms to challenge or appeal decisions,

acts or omissions that affect exercise of the right.<sup>246</sup> A person may, for example, seek justice before independent and impartial administrative or judicial mechanisms, benefit from procedural guarantees, or be entitled to redress and remedy.<sup>247</sup> As recognised by the UN Secretary General, the right to access to justice is fundamental to the concept of human rights.<sup>248</sup> It enables individuals to exercise internationally recognised rights to allege, prosecute and obtain redress for human rights violations. The ICESCR, on which the ESC rights framework is founded, does not include a provision on access to justice. This provision is included in its sister treaty, the International Covenant on Civil and Political Rights (ICCPR). However, the jurisprudence of international human rights bodies and tribunals in the last 20 years has dispelled any doubts about the justiciability of ESC rights.<sup>249</sup> The right to access to justice for ESC rights has been recognised consistently.<sup>250</sup> Its application has been strengthened by the Aarhus and Escazú Agreements, both of which extend its application to environmental matters.

A successful gender-just transition will be shaped by many green policies that should not be designed in isolation in high offices but discussed with stakeholders on the ground, including women and girls and disadvantaged communities. For transitions to be gender-just, they must guarantee these three basic procedural rights, which enable democratic deliberation, public engagement, and accountability. If the procedures of transition are not just, its outcomes can never be just. These rights provide the means for those with less power to shape the course of gender-just transition policies.

## CASE STUDY

# Women human rights defenders participate in implementing the Escazú Agreement

The recently adopted Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement) is a landmark international instrument. It considers environmental and human rights concerns and affirms the three key procedural rights necessary to achieve environmental democracy. It is also the first regional legal framework to protect environmental human rights defenders.<sup>251</sup> This is a pressing concern because violence against environmental human rights defenders in the region is systemic and widespread. A recent report found that 227 land and environmental defenders had been killed in 2020, an average of more than nine every week.<sup>252</sup> These attacks, most of which are committed in the Latin American and Caribbean region, are part of a wider pattern of harassment and threats against people and communities who are defending their rights.<sup>253</sup>

The instrument can be used by civil society organisations, rights-holders, and communities to mobilise and demand justice. Women human rights defenders play a fundamental role in implementing the treaty. Because they are directly involved in defending their land and territories, their lived experiences, knowledge, and leadership are crucial to the development of mechanisms that realise rights on the ground.

In this context, FES Transformación and Iniciativa de Acceso México launched a joint project with several women's rights and feminist organisations, women human rights defenders, and youth groups in the Latin American region. It convened women human rights defenders from different countries in the region to share knowledge, create alliances and set agreed objectives, to ensure that their specific needs and concerns would be taken into account when the treaty is implemented.<sup>254</sup> The initiative highlights a critical step: ensuring that implementation considers gender-differentiated impacts and that the voices of women (in all their diversity) inform and shape gender-just transition policies and frameworks. This promising example shows how civil society can create innovative spaces to foster learning and collaboration, and use international legal standards to raise awareness and advance a gender-just transition.



### Key questions:

- What role do procedural rights play in ensuring that the governance of gender-just transition processes is democratic, deliberative and accountable?
- How could strategic litigation and adjudication mechanisms be used to oblige States to combat the climate and broader environmental breakdown effectively?
- How can procedural rights be applied to prioritise protection of human rights defenders in their struggle for a just transition, including women human rights defenders, who face additional harassment and violence because of their gender?
- What measures would remove barriers that prevent human rights defenders and marginalised rights-holders from obtaining justice when human rights abuses occur during green transitions?



### 3. Final observations

**T**he UN Intergovernmental Panel on Climate Change (2022) has stated that “All global modelled pathways that limit warming to 1.5°C [...] involve rapid and deep and in most cases immediate GHG emission reductions in all sectors”.<sup>255</sup> Avoiding the worst consequences of the current social, economic and environmental crisis requires a rapid and profound transformation of our economic systems. As described above, a green transition to a sustainable and just economic system implies the adoption of approaches that integrate social and environmental concerns across the areas that are protected by international human rights.

In that sense, a just transition is not a matter of protecting labour rights, or even upholding enjoyment of human rights, as traditionally conceived. It must be understood as a broader and more demanding process, that balances and engages all economic, social, cultural, and environmental rights and guarantees their enjoyment. In consequence, transition policies must be analysed carefully to understand how they will affect, and expand access to, the rights to health, education, housing, work, and a healthy environment, among others. Furthermore, this analysis must take account of crosscutting principles and apply an intersectional gender perspective, taking into account the situation of disadvantaged groups in society. In other words, to be just, the transition must be gender-just.

A gender-just transition must certainly comply with international human rights standards. In addition, it must attract the broad social support that will be required to accelerate progress towards a decarbonised economic system. Women in all their diversity, children and youth, and indigenous peoples, among others, must see their own futures in policies that promote a green paradigm; such groups must feel that their human rights will be more respected,

protected and fulfilled by them. ESCE rights can guide a gender-just transition, and provide forms of analysis that policy makers, civil society organisations, women, indigenous peoples, and communities can use to assess whether transition policies respect, protect, fulfil and promote human rights, do not do so, or breach them. In that process, procedural rights are key mechanisms of protection. They make it possible to judge whether affected communities, especially disadvantaged groups, have been meaningfully included in all stages of policy decision-making, and whether their rights to information, participation and access to justice have been respected, breached, or ignored. These entitlements and safeguards will help States to develop transition policies that reflect public needs, are sustainable, and gender just.

The UN, and other international bodies and fora, as well as States, must recognise that, when transition policies are designed and implemented, they should respect, protect, fulfil, and promote human rights, especially ESCE rights. This must be reflected in international decisions and policy making. All countries and the international community must strive collectively for a transition to sustainable and just societies that expand enjoyment of economic, social, cultural, and environmental rights, assure their long-term fulfilment, and achieve substantive gender equality.

# Notes

- 1 GI-ESCR (2020), 'Renewable Energy and Gender Equality', pp. 11-12, [link](#).
- 2 UN Women (2021), 'Beyond COVID-19: A feminist plan for sustainability and social justice', p. 59, [link](#).
- 3 Krause, D. (2021), 'Uncovering different degrees of eco-social policy', *Global Social Policy*, 21(2), pp. 332-334, [link](#).
- 4 Ibid.
- 5 See for instance the 'just transition' concept developed by the Climate Justice Alliance, [link](#).
- 6 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, [Link](#).
- 7 The Paris Agreement was adopted by 196 Parties at CoP21 in Paris on 12 December 2015. It entered into force on 4 November 2016.
- 8 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, note 7, [link](#).
- 9 Johnson, O. W., Han, J. Y-C., Knight, A-L., Mortensen, S., Aung, M. T., Boyland, M., Resurrección, B. P. (2020), 'Assessing the gender and social equity dimensions of energy transitions', Stockholm Environment Institute, [link](#).
- 10 Heintz, J., Staab, S., Turquet, L. (2021), 'Don't Let Another Crisis Go to Waste: The COVID-19 Pandemic and the Imperative for a Paradigm Shift', *Feminist Economics*, 27, 1-2, pp. 470-485, [link](#).
- 11 Humphreys, S. (2009), 'Introduction: Human rights and climate change', In Robinson, M. (author), and Humphreys, S. (ed.), 'Human Rights and Climate Change', Cambridge: Cambridge University Press, pp. 1-34, [link](#).
- 12 Ibid.
- 13 Common article 2 of the International Covenant on Civil and Political Rights (ICESCR) and the International Covenant on Economic, Social and Cultural Rights (ICCPR).
- 14 There are nine core international human rights treaties: the International Covenant on Civil and Political Rights (ICESCR); the International Covenant on Economic, Social and Cultural Rights (ICCPR); the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the International Convention on the Elimination of All forms of Racial Discrimination (CERD); the Convention on the Rights of the Child (CRC); the Convention on the Rights of Persons with Disabilities (CRPD); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and the International Convention for the Protection of All Persons from Enforced Disappearance (CEPD).
- 15 The instruments that establish regional human rights mechanisms are the American Convention on Human Rights; the African Charter on Human and People's Rights; and the European Convention on Human Rights. Each of these documents establishes regionally recognised human rights and institutional arrangements to oversee their implementation.
- 16 Many international human rights instruments affirm economic, social, cultural, and environmental rights. The most notable include: the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the International Convention on the Elimination of All forms of Racial Discrimination (CERD); the Convention on the Rights of the Child (CRC); the Convention on the Rights of Persons with Disabilities (CRPD). Important regional instruments do so too, including: the African Charter on Human and People's Rights and its Protocol on the Rights of Women in Africa (Maputo Protocol); the European Social Charter and its Additional Protocol; and the Additional Protocol to the American Convention on Human Rights (San Salvador Protocol).
- 17 Some regional instruments affirm environmental procedural rights, including the Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (the Aarhus Convention); and the more recently adopted Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement). At national and regional level, the right to a healthy, clean and sustainable environment is often grouped with

other economic, social, cultural and environmental rights (ESCE rights). See, for example, article 11 of the Additional Protocol to the American Convention on Human Rights in the area of economic, social, and cultural rights (the “Protocol of San Salvador”). For the purposes of this brief, we consider that the right to a healthy clean and sustainable environment is subject to ESC rights obligations, including the principles of progressive realisation, minimum core obligations, maximum of available resources, etc. However, at global level, the normative content of the right to a healthy, clean, and sustainable environment is still debated. Significant progress has been achieved in its development, nevertheless, with the adoption of two landmark resolutions that reflect a widespread international consensus in favour of recognising this fundamental right. The first resolution was passed in the Human Rights Council in 2021 (A/HRC/RES/48/13); the second at the UN General Assembly in 2022 (A/RES/76/300). Both, in tandem with broad national recognition of the right, indicate the emergence of a customary norm of international law.

18 International Court of Justice (ICJ) (2004), ‘Legal Consequences of the Construction of a Wall (Advisory Opinion)’, para. 106.

19 Schmid, E. (2015), ‘Introduction’, in ‘Taking Economic, Social and Cultural Rights Seriously in International Criminal Law’, Cambridge Studies in International and Comparative Law, Cambridge University Press, pp. 1-21, [link](#).

20 Several UN treaties guarantee the right to equality and non-discrimination. They include the International Covenant on Civil and Political Rights (ICCPR, articles 2, 3 and 26); the International Covenant on Economic, Social and Cultural Rights (ICESCR, articles 2(2) and 3); and the Convention on the Rights of the Child (CRC, articles 2 and 28). In addition, specialised treaties prohibit discrimination on the grounds of race, sex, and disability: The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the International Convention on the Rights of Persons with Disabilities (CRPD).

21 CESCR (2009), ‘General Comment No. 20: Non-discrimination in economic, social, and cultural rights (article 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)’, E/C.12/GC/20, p. 5.

22 Ibid.

23 Ibid, paras. 7 and 8.

24 CESCR (2005), ‘General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights (article 3 of the International Covenant on Economic, Social and Cultural Rights)’, p. 22.

25 Crenshaw, K. (1989), ‘Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics’, u. Chi. Legal f. 139.

26 Common article 2 of the ICCPR and ICESCR.

27 Goldblatt F., Goldblatt, B. (2015), ‘Discussion Paper: Gender Equality and Human Rights’, UN Women, No. 4. See also: ‘Montreal Principles on Women’s Economic, Social and Cultural Rights (2004)’, Human Rights Quarterly, Vol. 26, No. 3, [link](#).

28 Ibid.

29 GI-ESCR and ESCR-Net (2016), ‘The International Covenant on Economic, Social and Cultural Rights at 50: the Significance from a Women’s Perspective’, p. 9, [link](#).

30 CEDAW (2004), article 4 (1); CEDAW, ‘General Recommendation No. 24 on temporary special measures’, p. 18.

31 CESCR (2009), ‘General Comment No. 20 on non-discrimination on economic, social, and cultural rights’, E/C.12/GC/20, note 33.

32 Ibid, p. 17.

33 UN Women (2021), ‘Lessons from COVID 19: Major systemic crises are gendered and the environment is next’, [link](#).

34 Ibid.

35 Ibid.

36 UN Women (2021), ‘Beyond Covid 19: A Feminist Plan for Sustainability and Social Justice’, p. 49, [link](#).

37 Ibid. p.12

38 See, for example, article 2(1) of ICESCR. The requirement to continuously improve conditions is reiterated in article 11(1) of ICESCR on the right to adequate living conditions, including food, clothing, and housing. The article states: “State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions” [emphasis added]. It is now well established that the notion of progressive realisation contained in article 2(1) of the ICESCR does not weaken the obligations of immediate effect that the ICESCR also imposes. See Sepulveda, M. (2003), “The nature of the obligations under the International Covenant on Economic, Social and Cultural Rights”, Intersentia, pp. 311-370.

39 Vordermayer-Riemer, M. (2020), ‘The International Covenant on Economic, Social and Cultural Rights’, in ‘Non-Regression in International Environmental Law: Human Rights Doctrine and the Promises of Comparative International Law’, Intersentia, pp. 51-128. [link](#).

40 Ibid.

41 CESCR, ‘General Comment No. 3: The nature of State parties’ obligations (article 2, para. 1)’, note 98, para. 5.

42 Ibid, para. 9.

43 See, for example, CESCR, ‘General Comment No. 4’, para. 11; ‘General Comment No. 13’, para. 45; and ‘General Comment No. 14’, para. 32.

44 The CESCR has explained how it would assess whether a retrogressive measure is in compliance with Covenant obligations. It would ask: (a) Is there reasonable justification for the action? (b) Were alternatives comprehensively examined? (c) Did affected groups genuinely participate in examining the proposed measures and alternatives? (d) Are the measures directly or indirectly discriminatory? (e) Will they have a sustained or unreasonable impact on realisation of ESC rights, or deprive an individual or group of minimum essential access to ESC rights? (f) Were they reviewed independently at national level? See CESCR (2008), ‘General Comment No. 19 on the right to social security (article 9)’, U.N. Doc. E/C.12/GC/19, para. 42.

45 ICESCR, article 2(1); see also CESCR (1990), ‘General Comment No. 3: The nature of State parties’ obligations (article 2, para. 1)’, UN Doc E/1991/23, paras. 10-13.

46 CESCR (1990), ‘General Comment No. 3: The nature of State parties’ obligations (article 2, para. 1)’, UN Doc E/1991/23, para. 11.

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48 ICESCR, art. 2(1).

49 See, for example, the United Nations Framework Convention on Climate Change (UNFCCC), article 4(2); the Paris Agreement, article 9(3).

50 CESCR (1990), ‘General comment No. 3: The nature of State parties’ obligations (article 2, par.1)’, UN Doc E/1991/23, annex III, para. 10. See also, ‘Report of the Special Rapporteur on the right to education, Kishore Singh’ (on financing education and update on education in emergencies) (2011), UN Doc A/66/269; ‘Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque’ (on financing realisation of the rights to water and sanitation) (2011), UN Doc A/66/255; ‘Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona’ (on taxation and human rights) (2014), UN Doc A/HRC/26/28; and ‘Report of the Independent Expert on human rights and international solidarity, Virginia Dandan’ (2015), UN Doc A/70/316.

51 See ‘Realisation of Economic, Social and Cultural Rights: Second Progress Report (D. Türk)’ (1991), Doc. E/CN.4/Sub.2/1991/17, paras. 52(d) and 117.

52 Vordermayer-Riemer, M. (2020), ‘The International Covenant on Economic, Social and Cultural Rights’, in ‘Non-Regression in International Environmental Law: Human Rights Doctrine and the Promises of Comparative International Law’, Intersentia, pp. 51-128, [link](#).

53 See for example, ‘Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque’ (on financing realisation of the rights to water and sanitation) (2011), UN Doc A/66/255. See also CESCR (1990), ‘General Comment No. 3: The nature of State parties’ obligations (article 2, para. 1)’, UN Doc E/1991/23; Also see CESCR (1999), ‘General Comment No. 12: on the right to food’, E/C.12/1999/5; and CESCR (2000), ‘General Comment No. 14 on the right to the highest attainable standard of health’, E/C.12/2000/4.

54 See for example CESCR (1990), ‘General comment No. 3: The nature of State parties’ obligations (article

2, para. 1), UN Doc E/1991/23; and CRC (2013), 'General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)', UN Doc CRC/C/GC/15, para. 73.

55 See for example CESCR, 'General Comment No. 12', paras. 8-13; 'General Comment No. 14', paras. 43-45; 'General Comment No. 15', paras. 37-38; 'General Comment No. 17', paras. 39-40; 'General Comment No. 18', para. 31; 'General Comment No. 19', paras. 59-61; 'General Comment No. 22', para. 49.

56 See, for example, 'Interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover' (on health financing in the context of the right to health) (2012), UN Doc A/67/302, para. 9; and 'Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona' (on taxation and human rights) (2014), UN Doc A/HRC/26/28.

57 With respect to the right to water, for example, the Committee concluded in General Comment No. 15 (note 45, para. 37) that the minimum core obligation includes a duty to 'ensure access to the minimum essential amount of water', to 'ensure access to water and water facilities and services on a non-discriminatory basis', to 'ensure personal security is not threatened when having access to water facilities and services', to 'adopt and implement a national water strategy and plan of action addressing the whole population', and to 'take measures to prevent, treat and control diseases linked to water [including] ensuring access to adequate sanitation'.

58 This right can be found in the following international treaties: ICESCR, article 6; ICCPR, article 8.3(a); CERD, article 5(e)(i); CEDAW, article 11.1(a); CRC, article 32; CMW, articles 11, 25, 26, 40, 52 and 54. In regional treaties, it is affirmed by: the European Social Charter of 1996, part II, article 1; ACHPR, article 15; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (San Salvador Protocol), article. 6. See also the United Nations General Assembly Declaration on Social Progress and Development, resolution 2542 (XXIV) of 11 December 1969, article 6.

59 ICESCR, article 6.1.

60 ICESCR, article 6.2.

61 ICESCR, article 7.

62 ICESCR, article 8.

63 CEDAW, article 11.

64 Paris Agreement, p. 10. The Paris Agreement is a protocol to the 1992 United Nations Framework Convention on Climate Change (UNFCCC) and shares most of its institutional arrangements. The instrument was adopted by a decision of the parties to the UNFCCC and only parties to the UNFCCC can become parties to the Paris Agreement. The Paris Agreement entered into force in 2016.

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67 See, for example, Just Transitions and Equitable Climate Action Resource Centre, 'On just Transitions', World Resources Institute, at [link](#). The Centre highlights promising practices that assist workers to transition to low carbon societies; see also the Just Transition Declaration agreed at UNFCCC CoP26, signed by 18 countries, at [link](#); ILO, 'Climate 4 Jobs Initiative', at [link](#); Trade Union Congress (TUC) (2019), 'A Just Transition to a Greener, Fairer Economy', [link](#).

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70 Ibid, para. 40.

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72 Ibid.

73 Ibid.

74 The ILO and other United Nations entities use the terms social protection and social security interchangeably. See Sepúlveda, M., Nyst, C. (2012), 'The Human Rights Approach to Social Protection', Ministry of Foreign Affairs of Finland, p. 21.

75 ICESCR, article 9.

76 CESCR (2008), 'General Comment No. 19: the right to social security', UN Doc E/C.12/GC/19.

77 See ILO Convention 102 (ILO C102). See also: the Convention on the Elimination of All Forms of Racial Discrimination (CERD), article 5(e)(iv); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), articles 11(1)(e), 11(2)(b), 13(a) and 14(2)(c); the Convention on the Rights of the Child (CRC), articles 26 and 27(3); the Convention for the Protection of Migrant Workers and their Families (CMW), articles 27, 43, 45(1) and 54(1); the Convention on the Rights of Persons with Disabilities, articles 16(4), 26(1) and 28(2). In regional conventions, the right is affirmed in article 9 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador); article 12 of the European Social Charter; article 36 of the Arab Charter on Human Rights; article 18(4) of the African Charter on Human and People's Rights (ACHPR); and articles 22 and 23 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

78 The content of the right to social security is fleshed out in CESCR (2008), 'General Comment No. 19 on the right to social security', E/C.12/GC/19.

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88 Ibid.

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100 Ibid, para. 65.

101 Ibid, para. 68

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103 FAO, Alliance of Biodiversity International and CIAT (2021), 'Indigenous Peoples' Food Systems: Insights on sustainability and resilience from the front line of climate change', [link](#).

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105 See, for example, FAO, 'Agroecology Knowledge Hub', [link](#).

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107 Ibid.

108 Women and Gender Constituency (2021), 'Gender Just Climate Solutions', p. 21, [link](#).

109 Ibid.

110 See ICCPR, article 17; CEDAW, articles 14(2) and 15(2); CERD, article 5(e)(iii); CEDAW, articles 14(2) and 15(2); CRC, articles 16(1) and 27(3); CRPD, articles 9 and 28; CRMW, article 43(1)(d). At regional level, the right to adequate housing is recognised in article 13 of the European Convention on the Legal Status of Migrant Workers; article 20(2)(a) of the African Charter on the Rights and Welfare of the Child; and Part I (31) of the revised European Social Charter. The European Convention for the Promotion of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights do not explicitly refer to the right to adequate housing. However, jurisprudence has derived the right from the exercise of other fundamental human rights, such as the right to privacy, the right to property and peaceful enjoyment of possessions, and the right to protection of the family.

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112 Ibid, para. 8 (a).

113 CESCR (1997), 'General comment No. 7: The right to adequate housing (art. 11(1) of the Covenant): Forced Evictions'.

114 CESCR (1991), 'General Comment No. 4: the right to adequate housing, article 11(1) of the Covenant', para. 10.

115 CESCR (2005), 'General Comment No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights)', E/C.12/2005/4, para. 28.

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# ABOUT GI-ESCR

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental organisation. Together with partners around the world, GI-ESCR works to end social, economic and gender injustice using a human rights approach.

This is the third briefing paper published by GI-ESCR exploring the relationship between the just transition and women's rights. You can find our previous briefing papers on Renewable Energy and Gender Justice and on Women's Participation in the Energy Transition on our website: [www.gi-escr.org](http://www.gi-escr.org).

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