

# HUMAN RIGHTS & CLIMATE CHANGE WORKING GROUP

## Just Transition and the Full Realisation of Human Rights for All People

### Resolution 56/8 – Human Rights and Climate Change

Joint Submission of the Human Rights and Climate Change Working Group

January 2025

This submission is cosponsored by the following members of the Human Rights and Climate Change Working Group:



The Human Rights and Climate Change Working Group appreciates the opportunity to provide inputs to inform the UN Secretary General’s Report on Just Transition and the Full Realisation of Human Rights for All People. This critical and timely analysis is indispensable to unpack the international human rights framework applicable to the transition to green economies and societies. This is key to ensuring that transition policies and frameworks do not replicate but tackle inequalities and contribute to eradicating poverty and advancing sustainable development.

In this context, the submission seeks to provide information to answer the questions posed in the call for submissions highlighting the role of the international human rights framework in guiding the objectives, outcomes, and decision-making processes necessary to deliver a just transition. It furthermore provides concrete recommendations and actionable solutions for just transition policies and frameworks to respect, protect and fulfil human rights. We hope this submission can help ground the concept of just transition in the international human rights framework as a means to ensure it contributes to advancing the profound structural transformations necessary for people and nature to thrive.

## **I. A Human Rights Approach to Just Transition**

Despite the global progress made in advancing mitigation and adaptation measures across the world, annual emissions continue to exponentially increase and the impacts of the climate emergency escalate at an alarming rate. If we are to achieve the objectives of the Paris Agreement, it is urgent to redefine climate action and devise economy-wide transformations to halt the harmful practices at the root of the climate emergency. However, when implemented without taking human rights into account, these efforts risk exacerbating conditions of marginalization and all too often fail to tackle deeply embedded power imbalances between Indigenous Peoples, communities, rights holders, States, and the private sector, including businesses and other corporations. For these reasons, climate policy and action are commonly met with resistance, distrust, delays, and lack of cooperation by a wide range of stakeholders that are affected by these measures that despite intending to address the climate crisis often reproduce human rights abuses.

In this context, several stakeholders and social movements uphold the imperative of advancing a ‘just transition’ that can equally distribute the costs and benefits of the transformation towards green economies and uphold the rights of workers and communities. 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>1</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>2</sup> Over time, the concept has evolved to include but also go beyond workers’ rights to encompass a broader set of social and environmental justice concerns that will be impacted by climate policies.<sup>3</sup> This more comprehensive and deeper vision of a just transition views environmental degradation as one of several manifestations of a wider crisis to address the root causes of climate change, the destruction of ecosystems and biodiversity, and rising inequalities.

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<sup>1</sup> Just Transition Collaborative (2018), ‘Mapping Just Transition(s) to a Low Carbon World’, UNRISD, Rosa Luxemburg Stiftung, University of London Institute in Paris, ISBN: 92-9085-101-5.

<sup>2</sup> The Paris Agreement was adopted by 196 Parties at CoP21 in Paris on 12 December 2015. It entered into force on 4 November 2016.

<sup>3</sup> Just Transition Collaborative (2018), ‘Mapping Just Transition(s) to a Low Carbon World’, UNRISD, Rosa Luxemburg Stiftung, University of London Institute in Paris, ISBN: 92-9085-101-5, note 7.

Therefore, a just transition places justice, human rights and the agency of people and communities centre stage.<sup>4</sup>

In this line, international human rights law plays a critical role in framing and grounding what constitutes a just transition. Understood as a body of obligations, standards and institutions, human rights reflect globally agreed values, framed in agreed language, and refer to a body of internationally and regionally agreed norms that raise human dignity concerns to the level of entitlements for all.<sup>5</sup> Most importantly, this body of law imposes duties on States towards all individuals within their jurisdiction to “respect, protect and fulfil” human rights. Namely, the obligation to respect implies 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. Finally, the obligation to fulfil requires States to take positive steps to realise rights 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 transition policies are in accord with principles of human dignity.

Against this background, the human rights framework provides Member States and other stakeholders with tools to set clear priorities to deliver on a just transition. It furthermore establishes negative parameters of action (i.e. policies or actions should not infringe rights) and guidance on positive objectives (i.e. protect and promote rights, advance sustainability, and equality). Aligning the just transition with human rights would thereby help to ensure that just transition strategies would reduce deprivation and power imbalances while advancing measures to realise rights and effectively combating the planetary crisis. Human rights, thus, provides essential tools to guide policy aimed at ensuring a just transition where both nature and people can thrive.

This submission aims to provide recommendations to align just transition policies and frameworks with the international human rights framework. Without being an exhaustive list of the human rights norms and standards that are essential to deliver on a just transition, it provides key guidance to ensure the transformation towards green economies comply, at minimum, with the principle of equality and non-discrimination; the principle of maximum available resources; labour rights; right to social security; right to education; right to a clean, healthy and sustainable environment; right to food; right to health and the procedural rights to access to information, participation, and justice.

#### **a) Principles of equality and non-discrimination**

The right to equality and non-discrimination are cornerstones of the human rights framework.<sup>6</sup> There is a double obligation, not to discriminate on religious, gender, disability, socioeconomic status, age, ethnicity, nationality, or any other ground; and to take ‘affirmative action’ to achieve substantive

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<sup>4</sup> FIAN International, A Just Transition to Agroecology, accessed on 15 January 2025 at [AgroecologyJustTransition\\_en.pdf](#)

<sup>5</sup> 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. 1-3

<sup>6</sup> 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 UN Convention on the Rights of Persons with Disabilities (CRPD)

equality, recognising that there are differences between individuals.<sup>7</sup> The principles of equality and non-discrimination are affirmed in all major international human rights instruments. 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”.<sup>8</sup> 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 and discrimination on any ground is illegal.<sup>9</sup>

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. 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.

This means that States have a duty to banish and prevent harmful gender-based stereotypes, racial and ethnic discrimination, discrimination by disability, 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>10</sup> The principles of equality and non-discrimination, particularly with regard to Indigenous Peoples who tend to be disproportionately affected by transition policies, must therefore remain cornerstones of a rights-compliant transition to ensure that inequalities are not replicated and power relations are rebalanced.

Just transition policies need therefore to give attention to the situations of groups of individuals and communities 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, disability, immigration status, and other factors that shape systemic discrimination and inequality) to ensure that transition policies does not replicate inequalities and discriminatory practices.

#### **b) Principle of Mobilization of Maximum Available Resources**

Article 2(1) of the ICESCR links the principle of progressive realisation to a “maximum available resources” requirement.<sup>11</sup> To achieve the progressive realisation of 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

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<sup>7</sup> 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.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid, paras. 7 and 8.

<sup>10</sup> 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.

<sup>11</sup> 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.

possible enjoyment of rights under the prevailing circumstances”.<sup>12</sup> In such situations, the needs of the most marginalised should be prioritised.

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>13</sup> Furthermore, in 2024 world military expenditure rose to an all-time high of \$2443 billion going up in all five geographic regions.<sup>14</sup> This distribution of resources towards activities that significantly deepened inequalities, jeopardise peace and security, and the rights of present and future generations is inconsistent with the principles of allocating the maximum available resources to advance human rights.

International assistance and cooperation for the realisation of human rights to the maximum of available resources also merit attention.<sup>15</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 rights. On these grounds, the principle that States should make a “maximum of resources available” to achieve rights implies that wealthy countries should make significant financial contributions towards the realisation of human rights in developing countries.<sup>16</sup> This involves supporting adaptation and mitigation efforts in less wealthy States.<sup>17</sup>

Moreover, financing a just transition in line with the human rights principle of maximum available resources entails ensuring that resource allocation is sufficient, stable, grant-based and predictable between countries. Finance should contribute to fund direct action on capacity building and technology transfer to advance a rights-aligned just transition to sustainable societies and economies.

### c) Labour rights

Labour rights engage three different rights: the right to work, the right to just and favourable working conditions, the right to join and participate in trade unions. Several international instruments recognise the right to work.<sup>18</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

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<sup>12</sup> CESCR (1990), ‘General Comment No. 3: The nature of State parties’ obligations (article 2, para. 1)’, UN Doc E/1991/23, para. 11.

<sup>13</sup> Tax Justice Network (2020), ‘Financing Climate Justice: Funding a Just Transition’, Newsletter of the Tax Justice Network, Volume II, Number II, p. 3,

<sup>14</sup> Stockholm International Peace Research Institute, ‘Global military spending surges amid war, rising tensions and insecurity’, 2024, accessed on 15 January 2025 at <https://www.sipri.org/media/press-release/2024/global-military-spending-surges-amid-war-rising-tensions-and-insecurity>

<sup>15</sup> CESCR, art. 2(1)

<sup>16</sup> CEDAW, CESCR, CMW, CRC, CRPD, Joint Statement on Human Rights, 2019, concluded on 15 January 2025 at <https://www.ohchr.org/en/statements/2019/09/five-un-human-rights-treaty-bodies-issue-joint-statement-human-rights-and>

<sup>17</sup> Ibid.

<sup>18</sup> 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

accepted freely.<sup>19</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>20</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>21</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>22</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>23</sup>

Furthermore, the 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 green economies.<sup>24</sup> Among the guiding principles of the *ILO Guidelines* are social protection; social dialogue; the respect, promotion and realization of labour rights; a strong gender dimension to promote equitable outcomes; and policy coherence across various disciplines and institutions.<sup>25</sup> Notably, the *ILO Guidelines* recommend that Governments: “[a]ctively promote and engage in social dialogue, at all stages from policy design to implementation and evaluation and at all levels from national to enterprise level in line with applicable international labour standards most relevant to the just transition framework, to forge consensus on pathways towards environmental sustainability with decent work.”<sup>26</sup>

Against this background, it is recognised that workers are on the front lines of the climate crisis, experiencing its impacts every single day—whether from heat stress that endangers the health of Cambodian garment workers;<sup>27</sup> exploitation and forced labour in the mining, processing and production of minerals and technology in response to the heightened demand for clean energy; heat stress that increases farm workers’ exposure to airborne toxins; decreased crop yields for family farm worker unions that impact food security; the possible phasing out of coal mining; or rising sea levels

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<sup>19</sup> ICESCR, article 6.1.

<sup>20</sup> ICESCR, article 6.2.

<sup>21</sup> ICESCR, article 7.

<sup>22</sup> ICESCR, article 8.

<sup>23</sup> CEDAW, article 11.

<sup>24</sup> International Labour Organization (ILO) (2022), ‘Just transition: An essential pathway to achieving gender equality and social justice – UNFCCC Submission in Response to Mandate Table 4, D.5, Annex to 3/CP.25’.

<sup>25</sup> ILO, *Guidelines for a Just Transition Towards Environmentally Sustainable Economies and Societies for All* (hereafter, the “ILO Guidelines”) (2015), at section IV (Guiding Principles), para 13(a)-(g), available at: <https://www.ilo.org/publications/guidelines-just-transition-towards-environmentally-sustainable-economies>.

<sup>26</sup> *Id.* at section V, para. 17(a).

<sup>27</sup> Laurie Parsons et al., *Heat Stress in the Cambodian Workplace*, Solidarity Center, 2024, available at: <https://www.solidaritycenter.org/wp-content/uploads/2024/09/Parson-et-al-2024-Heat-Stress-in-the-Cambodian-Workplace.pdf>. In Cambodia, the Solidarity Center conducted heat stress research, studying garment workers, street vendors, and informal economy workers. In Cambodia, where 85 percent of garment workers are women, heat stress can lead to gender-based violence, workplace violence and harassment. The report concluded that unionized workers are better able to mitigate heat stress at work than workers without a union, providing that: “Union members evidenced a significantly lower proportion of working minutes at unsafe temperatures over 38°C. Union members spent 51% fewer working minutes at unsafe core body temperatures.” When unions negotiated with employers over heat mitigation, workers experienced 74% fewer working minutes at unsafe temperatures. Collective bargaining and social dialogue, through organized unions, can drive positive climate action and improve worker welfare.

disrupting the lives and livelihoods of hotel workers on small island nations. Accordingly, a human rights-based approach to the transition towards sustainable economies must be firmly anchored in the respect for, protection of, and fulfillment of labor rights. In the absence of this robust underpinning, many workers affected by the climate crisis face a stark dilemma: risk their health and fundamental human rights to earn a living, or risk losing their jobs.

To address these challenges, a just transition process must center climate-affected unions, workers and their communities and recognize their agency to inform and implement just and sustainable solutions to the climate crisis. Yet, unions and workers are rarely seen as central stakeholders to engage in the design and implementation of climate policies and plans, and as such, rarely are they consulted in a meaningful way. For example, in relation to countries' NDCs, unions are seldom consulted and while there are exceptions, unions often do not have a formal channel of engagement on climate policies. According to the ILO, only 32 percent of current NDCs have explicit mention of just transition.<sup>28</sup> As a result, the high-level national commitments to tackle climate change often omit their critical voices and analyses.

Further, employers in many countries have been reluctant or hostile to bargain collectively with unions over policies, practices and impacts related to climate change, including mitigation and adaptation measures. Additionally, even where governments may adopt a worker-driven just transition plan, in many countries, the employer company has no realistic restrictions from sudden closures or pullouts, leaving both workers and governments in the lurch.

In addition to the impacts on workers in industries slated to decarbonize, the intersectionality of workers' identities means that factors, such as immigration status, gender, sexual orientation, disability, race, ethnicity, class, and informal work status, create a heightened level of vulnerability to the climate crisis, compounding oppression, risks of labour exploitation<sup>29</sup>, and issues of access. Moreover, the nature of the informal and care economy leaves workers less resilient to economic shocks, which are worsened by environmental degradation and climate change. With more frequent and intense weather events, and rising sea levels, workers will be forced to find alternative forms of employment. This means moving into even more precarious employment in-country or migrating through extremely precarious migration channels for jobs where workers are more likely to be exploited, making people more vulnerable to forced labour and trafficking.<sup>30</sup>

In this line, it must also be considered that historically, employment options for persons with disabilities have frequently been confined to sheltered workshops or other segregated options with extremely limited choices of work, receiving salaries well below minimum wage levels. Persons with intellectual disabilities, in particular, still frequently work in these settings. The just transition can be an opportunity to accelerate reform and deinstitutionalisation to respect, protect and fulfil the rights

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<sup>28</sup> ILO, *Mapping Just Transition in NDCs: An Overview*, at pp. 6-9, available at: <https://www.ilo.org/sites/default/files/2024-11/Mapping%20Just%20Transition%20in%20NDCs-%20An%20overview%20-%20Web.pdf> (as of July 12, 2024, only 32 percent of NDCs have an explicit reference to just transition; only 6 percent have a designated section on just transition; 10 percent mentioned decent work; and 13 percent mention green jobs).

<sup>29</sup> Anti-Slavery International, the [International Institute for Environment and Development \(IIED\)](https://www.iied.org/) and [Ovibashi Karmi Unnayan Program \(OKUP\)](https://www.okup.org/), *Climate Change and Modern Slavery Hub*, accessible via <https://www.climate-modern-slavery-hub.org/>

<sup>30</sup> Anti-Slavery International, the [International Institute for Environment and Development \(IIED\)](https://www.iied.org/) and [Ovibashi Karmi Unnayan Program \(OKUP\)](https://www.okup.org/), *'Climate Change and Modern Slavery Hub'*, accessible via <https://www.climate-modern-slavery-hub.org/>

of peoples with disabilities which are often one of the groups most marginalised and left behind in responses to the climate emergency<sup>31</sup>.

In the context of heightened demand for clean energy to meet net-zero objectives, human and labour rights violations are also found throughout transition mineral supply chains, affecting both workers in these industries, and communities living in the vicinity of mining areas. In a particularly egregious example, transition mineral mining and processing, such as of quartz, metallurgical-grade silicon and polysilicon, lithium, steel, copper, and aluminium, relies on state-imposed forced labour in the Uyghur Region<sup>32</sup>, where representatives of affected workers call for full disengagement from the region<sup>33</sup> and the UN Special Rapporteur on Contemporary Forms of Slavery has concluded that the forced labour “may amount to enslavement as a crime against humanity”<sup>34</sup>. In a similar vein, a recent report on the Gulf region found highlighted the way that companies and investors are systematically relying on the severe exploitation of migrant workers to competitively deliver green energy projects.<sup>35</sup>

Another dimension that is often overlooked are the implications of the climate crisis on the millions of women in all their diversity who perform most of the 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 their care responsibilities in already strained care economies.<sup>36</sup> If measures are not taken to transform uneven care systems, the exclusion and precarious working conditions of women in the care economy will worsen in the face of climate-related risks.<sup>37</sup>

Finally, a key precondition for a rights-based just transition is an environment where workers are fully able to exercise their freedom of association and collective bargaining rights. As mentioned before, the right to bargain collectively over climate-related issues is protected under international law. Relatedly, many workers face obstacles to the exercise of the right to freedom of association in general—a problem that is particularly acute among agricultural workers, migrant workers, platform-based delivery workers and other workers in the informal and care economy. As a result, while these populations are among the most impacted by climate change, they have few avenues for redress under labour law.

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<sup>31</sup> Áine Kelly-Costello, ‘A just transition for disabled people: a disability lens on greening economies and societies’, 2023, accessed on 15 January 2025 at: <https://www.disabilitydebrief.org/debrief/messy-climate-transitions/>

<sup>32</sup> See: The Coalition to End Forced Labour in the Uyghur Region, ‘End Uyghur Forced Labour in China Now, The Chinese government subjects Uyghurs to systematic forced labour. Companies around the world are complicit. Accessed on 15 January 2025 at: <https://enduyghurforcedlabour.org/>

<sup>33</sup> Murphy, L., et al, ‘Driving Force: Automotive Supply Chains and Forced Labor in the Uyghur Region’, Sheffield Hallam University and Helena Kennedy Centre for International Justice (December 2022), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/driving-force>.

<sup>34</sup> OHCHR, ‘Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences: Contemporary forms of slavery affecting persons belonging to ethnic, religious and linguistic minority communities’, UN Doc A/HRC/51/26 (19 July 2022), <https://documents.un.org/doc/undoc/gen/g22/408/97/pdf/g2240897.pdf>.

<sup>35</sup> Equidem and the Business and Human Rights Resource Centre, ‘Rush to renewables: Toward migrant worker rights and just energy transition in the Gulf’ (November 2024), [https://www.equidem.org/assets/downloads/2024\\_Gulf\\_RE\\_report%283%29.pdf](https://www.equidem.org/assets/downloads/2024_Gulf_RE_report%283%29.pdf).

<sup>36</sup> UN Working Group on discrimination against women and girls (WGDAW) (2020), ‘Women’s human rights in the changing world of work’, A/HRC/44/51, para. 39.

<sup>37</sup> *ibid*, para. 40.



Workers' insights into their working and living conditions—in the workplace and in their communities—reflect important experiences and also hold potential solutions that bolster union engagement in social dialogue and power in collective bargaining. Full and realized rights to collectivize in unions allow workers to respond meaningfully to rights violations and harms that climate change causes, and strengthens the ability for unions to bring forward proposals that respond to the realities that workers and communities face. The lack of these rights both hampers social dialogue efforts and leaves workers more vulnerable to climate change impacts on their rights to health, decent work, a clean, healthy and sustainable environment, equality and non-discrimination, violations of which all increase under climate change.

In sum, given the impacts of climate on workers, centering labour rights so that they can drive climate solutions is foundational to deliver on a just transition. When climate mitigation and adaptation efforts are designed in cooperation with unions and workers and include access to sustainable decent work, access to full labour protections and universal social protections, workers and their communities are more resilient to the adverse impacts of climate change. When climate responses are referred to as “just transition” without robust social dialogue and legitimate worker representation, however, these measures often erode human rights, exacerbating inequalities.

#### **d) Right to social security**

Article 9 of the ICESCR affirms the right to social security or social protection.<sup>38</sup> It states that States Parties to the Covenant “recognize the right of everyone to social security, including social insurance”.<sup>39</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>40</sup> The ILO and several other international and regional treaties also assert this right.<sup>41</sup> Social protection frameworks therefore include a wide range of policies and programmes that address different forms of economic, social and environmental vulnerability.

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<sup>38</sup> 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.

<sup>39</sup> ICESCR, article 9

<sup>40</sup> CESCR (2008), ‘General Comment No. 19: the right to social security’, UN Doc E/C.12/GC/19

<sup>41</sup> 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).

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>42</sup> Most importantly, social security should be recognised as a social good used to realise core human rights, not treated as an economic or financial instrument.<sup>43</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 systems for those most likely to be affected by environmental degradation.<sup>44</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>45</sup>

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 should ensure that social protection is not only sustained but increased to meet additional social needs that arise during the shift to green economies. 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.

Against this background, social security measures in the context of just transitions can be categorised as protective, preventive, promotional or transformative.<sup>46</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 through access to health, care, energy, water and education services. Transformative interventions address structural causes of marginalisation and sustainability: they, for instance, empower rights-holders, redistribute 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>47</sup> However, in 2020 only 46.9% of the world’s population was covered by at least one social security benefit.<sup>48</sup> To advance a rights-aligned just transition, it is therefore critical to expand social

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<sup>42</sup> 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.

<sup>43</sup> Ibid; Also see Sepúlveda, M., Nyst, C. (2012), ‘The Human Rights Approach to Social Protection’, Ministry of Foreign Affairs of Finland, note 76, para. 10

<sup>44</sup> ILO (2015), ‘Guidelines for a just transition towards environmentally sustainable economies and societies for all’, para. 28.

<sup>45</sup> Sepúlveda, M., Nyst, C. (2012), ‘The Human Rights Approach to Social Protection’, Ministry of Foreign Affairs of Finland, note 76, para. 3.

<sup>46</sup> Food and Agriculture Organization (FAO) and Red Cross Red Crescent Climate Centre (2019), ‘Managing climate risks through social protection – Reducing rural poverty and building resilient agricultural livelihoods’, p. 14

<sup>47</sup> The World Bank has calculated that the climate crisis will drive between 68 million and 132 million people into poverty by 2030: World Bank (2020), ‘Poverty and Shared Prosperity 2020: Reversals of Fortune’, p. 12, link. See also Hallegatte, S. et al. (2006), ‘Shockwaves – Managing the Impact of Climate Change on Poverty’, World Bank.

<sup>48</sup> ILO (2021), ‘World Social Protection Report 2020-2022’, p. 19.

protection coverage, increase social security 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 may have adverse impacts on livelihoods.

#### e) Right to education

Several international human rights treaties affirm the right to education.<sup>49</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 right to education starts at birth, and every young child therefore has the right to early childhood care and education (ECCE) in its different forms, encompassing physical, socio-emotional, cognitive and linguistic development. 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>50</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>51</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>52</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>53</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>54</sup>

The right to education highlights in addition its contribution 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”. It adds that education should give attention to developing children's respect for human rights and for the natural environment.<sup>55</sup> Furthermore, for Indigenous Peoples, the right to education consists of lands or territories that reflect and allow the lessons inherent in traditional practices to continue to educate them through the use and ongoing development of traditional practices and knowledge.

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

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<sup>49</sup> See ICCPR, article 18; ICESCR, articles 13 and 14; CEDAW, article 10; CRC, articles 28 and 29; CERD, articles 5 and 7; CPD, article 24; CMW, articles 12(4) and 30. At regional level, see ACHPR, articles 17 and 25; Maputo Protocol, article 12; African Charter on the Rights and Welfare of the Child, article 11; Arab Charter on Human Rights, articles 40 and 41; Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 2; The Revised European Social Charter, articles 7, 10, 15 and 17; the European Charter for Regional or Minority Languages, article 8; the San Salvador Protocol, articles 13 and 16.

<sup>50</sup> CESCR (1999), ‘General Comment No. 13 on the right to education’, E/C.12/1999/10, para. 1.

<sup>51</sup> Ibid, para. 2.

<sup>52</sup> CESCR (1999), ‘General Comment No. 11: Plan of Action for Primary Education’, E/C.12/1999/4, paras. 5-7.

<sup>53</sup> CESCR (1999), ‘General Comment No. 13 on the right to education’, E/C.12/1999/10, paras.11-20.

<sup>54</sup> Ibid, para. 6.

<sup>55</sup> ICESCR, article 13(1)

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>56</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>57</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>58</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 and only 19% discussed biodiversity.<sup>59</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.

As with general living, persons with disabilities have historically been excluded from education systems and been provided with - at best - segregated services. A human rights approach to just transition will ensure that education services are fully accessible to all. This involves accessible learning materials, teacher training, and inclusive curricula. It must empower individuals with disabilities and other groups facing structural conditions of marginalisation to contribute to climate solutions, fostering equity, resilience, and diverse perspectives for sustainable development, benefiting society as a whole<sup>60</sup>.

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>61</sup> Learning and teaching for sustainability from a young age and throughout life is critical to deliver on a just transition and give people the capacities collectively to transform our current economic and social systems.<sup>62</sup>

#### **f) Right to health**

Several human rights treaties affirm the right to health. 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”.<sup>63</sup> It is important to note that the human rights law attaches equal importance to

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<sup>56</sup> CESCR (1999), ‘General Comment No. 13 on the right to education’, E/C.12/1999/10, paras. 48 and 50

<sup>57</sup> CEDAW, article 10. See also CESCR (2005), ‘General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social, and cultural rights’, E/C.12/2005/4, para. 30.

<sup>58</sup> CESCR (2005), ‘General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social, and cultural rights’, E/C.12/2005/4, para. 30.

<sup>59</sup> United Nations Education Initiative (UNGEI), ‘Our Call for Gender-Transformative Education to Advance Climate Justice’,

<sup>60</sup> UN CRPD Art. 24

<sup>61</sup> Ibid.

<sup>62</sup> UNESCO (2020), ‘Educational content up close: Examining learning dimensions of ESD and GCE.

<sup>63</sup> See ICESCR, article 5(e)(iv); CERD, article 12; CEDAW, articles 11(1)(f), 12 and 14(2)(b); CRC, article 24; ICMW, articles 28, 43(e) and 45(c); CPD, article 25. With respect to regional instruments, see the European Social Charter, article 11; ACHPR, article 16; the San Salvador Protocol, article 10.

mental and physical health, although 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>64</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>65</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>66</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. 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>67</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>68</sup>

From the perspective of disability, healthcare access in a just transition requires accessible facilities, disability-inclusive policies, affordable care, assistive technologies, awareness training for health professionals, and inclusive community-based services. Access for persons with disabilities must be provided to all healthcare services on an equal basis with others.<sup>69</sup>

In this context, 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 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>70</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. For instance, 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>71</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

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<sup>64</sup> CESCR (2000), 'General Comment No. 14: The right to the highest attainable standard of health', E/C.12/2000/4, para. 11.

<sup>65</sup> *Ibid*, para. 4.

<sup>66</sup> *Ibid*, para. 12.

<sup>67</sup> *Ibid*, para. 21. See also CESCR (2016), 'General Comment No. 22 on the right to sexual and reproductive health', E/C.12/GC/22; and CESCR (2005), 'General Comment 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights', E/C.12/2005/4, para. 29.

<sup>68</sup> CESCR (2005), 'General Comment 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights', E/C.12/2005/4, para. 29

<sup>69</sup> CRPD Art 25

<sup>70</sup> Vohra, K., Vodonos, A., Swatz, J., et al (2021), 'Global mortality from outdoor fine particle pollution generated by fossil fuel combustion: Results from GEOS-Chem', *Environmental Research*, Volume 195, 110754, ISSN 0013-9351. Also see Harvard, T. H. Chan School of Public Health (2021), 'Fossil fuel air pollution responsible for 1 of 5 death

<sup>71</sup> World Health Organization (2014), 'Quantitative Risk Assessment of the Effects of Climate Change on Selected Causes of Death, 2030s and 2050s', ISBN: 9789241507691.

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>72</sup>

In the face of these challenges, public health systems must be adequately financed ensuring they have the capacity to respond to increasing health risks and the overall impacts of the climate emergency on human health. Furthermore, climate mitigation and adaptation measures, such as the deployment of renewable electricity generation, can significantly reduce air pollution and other environmental problems that hinder the enjoyment of the right to health. In regions that lack reliable access to an electricity grid, mini-grids and decentralised renewable energy networks have also successfully combated energy poverty while curbing greenhouse gases and other harmful air pollutants.<sup>73</sup> These measures are examples of just transition policies that can contribute to the realisation of the right to health.

#### **f) Right to clean, healthy and sustainable environment**

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. The right is generally understood to entail both substantive and procedural elements. The substantive elements include clean air; a safe and stable climate; access to safe water and adequate sanitation; healthy and sustainably produced food; non-toxic environments in which to live, work, study and play; and healthy biodiversity and ecosystems.<sup>74</sup> The procedural rights elements encompass the rights to access to information, public participation and access to justice and effective remedies on environmental matters.<sup>75</sup> The right to a clean, healthy and sustainable environment achieved international recognition through two landmark resolutions of the UN General Assembly and the Human Rights Council.<sup>76</sup>

Just transition frameworks must place the right to a clean, healthy and sustainable environment at the centre of all efforts to shift towards a green economy and society. This involves addressing all environmental concerns arising from the implementation of response measures to the climate emergency. For instance, the extraction of raw materials needed for the development of low-carbon energy technologies, the construction and operation of large-scale energy infrastructure and the overconsumption of new clean, renewable energy systems may reproduce environmental abuse through, among other things, deforestation, pollution of land and water resources, habitat loss for many species of flora and fauna, land degradation and noise pollution. Currently over 17% of large-scale renewable energy projects globally operate within important nature conservation areas.<sup>77</sup> As the world moves forward with a just transition aligned with human rights, it is essential to consider not

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<sup>72</sup> United Nations Environmental Program (UNEP) (2020), 'Good health is an environmental right'.

<sup>73</sup> World Health Organization (2015), 'Promoting Health While Mitigating Climate Change, Technical Briefing for the World Health Organization Conference on Health and Climate', pp. 9-15.

<sup>74</sup> OHCHR, UNDP, and UN Environment Programme, 'What is the Right to a Healthy Environment? Information Note'. Consulted on 15 January 2025 at <https://www.undp.org/sites/g/files/zskgke326/files/2023-01/UNDP-UNEP-UNHCHR-What-is-the-Right-to-a-Healthy-Environment.pdf>

<sup>75</sup> Ibid.

<sup>76</sup> See HRC, Resolution A/HRC/RES/48/13, adopted on 18 October 2021; UNGA, Resolution A/RES/76/300, adopted on 1 August 2022.

<sup>77</sup> The Biodiversity Consultancy and WWF, 'Nature-Safe Energy: Linking Energy and Nature to Tackle the Climate and Biodiversity Crises', Gland, Switzerland: World Wide Fund for Nature, April 2023. [https://wwfeu.awsassets.panda.org/downloads/cleanaction\\_nature\\_safe\\_energy\\_report.pdf](https://wwfeu.awsassets.panda.org/downloads/cleanaction_nature_safe_energy_report.pdf)

only the carbon footprint but also how the overall transformation of social and economic systems impacts ecosystems at all levels.

In this line, all measures implemented to respond to the climate emergency should prioritize protecting the right to a clean, healthy, and sustainable environment. This can be achieved by implementing comprehensive environmental safeguards, including measures to carefully plan the location of climate projects, such as developing renewable energy systems away from natural habitats; supporting climate solutions with minimal impact on local ecosystems, and implementing relevant mitigation and adaptation measures to avoid, reduce, and restore potential adverse effects on nature.

Additionally, States must enact regulations to adopt a circular economy approach that prioritises material reuse, promotes environmentally safe end-of use processes, and reduces overall energy and material consumption in the economy. Placing the right to a clean, healthy and sustainable environment at the centre of a just transition is essential to shift towards economies and societies capable of redefining the relationship of humans with nature and ensuring human activities are environmentally sustainable.

#### **g) Right to food**

Several human rights instruments affirm the right to adequate food.<sup>78</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>79</sup> and the “fundamental right to be free from hunger”.<sup>80</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>81</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>82</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>83</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>84</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

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<sup>78</sup>See CEDAW, article 12(2); CRC, article 24(2)(c) and 24(2)(e), and article 27(3); CRPD, articles 25(f) and 28(1). The right is also recognised in regional instruments: the San Salvador Protocol, articles 12 and 17; the African Charter on the Rights and Welfare of the Child, article 14(2)(c), 14(2)(d) and 14(2)(h); and the Maputo Protocol, articles 15 and 14(2)(b).

<sup>79</sup> ICESCR, article 11(1).

<sup>80</sup> ICESCR, article 11(2).

<sup>81</sup> CESCR (1999), ‘General Comment 12 on the right to food’, E/C.12/1999/5, para. 8.

<sup>82</sup> Ibid, para. 7.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid, para. 12.

as packaging, transport and waste management.<sup>85</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>86</sup> For instance, in recent years the production of biofuels (biomass-derived fuels designed to replace fossil fuels) has disrupted food prices and staple foods.<sup>87</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>88</sup> Similarly, the diversion of water courses to produce renewable hydropower has sometimes displaced or harmed the food security of local populations.<sup>89</sup> Thus, green transitions that fail to consider unintended impacts on the right to food can therefore ultimately increase inequality, violate human rights, and create resistance to the transition.<sup>90</sup>

To address these challenges and advance the right to food as an integral part of a just transition, among other measures, it is imperative to reduce large-scale agro-industrial practices in favour of agro-ecological production. 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>91</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 realise the right to food.<sup>92</sup> A positive element of agro-ecology is that it seeks to integrate local and traditional knowledge with modern technology and contribute to preserve the livelihoods of Indigenous Peoples. Transitioning to agroecology should therefore be an integral part of a just transition aligned with the human right to food.

#### **h) Rights to access to information, participation and access to justice**

The importance of procedural rights is widely recognised. Their practice makes it possible to implement and protect substantive 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. This submission focuses on procedural rights affirmed by international human rights and by environmental law, 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, CRPD 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

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<sup>85</sup> Food and Agriculture Organization (FAO) (2021), ‘Food systems account for more than one third of global greenhouse gas emissions’,

<sup>86</sup> UN Special Rapporteur on the Right to Food (2015), ‘Interim report of the Special Rapporteur on the right to food’, A/70/287.

<sup>87</sup> Ibid, para. 61.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid, para. 65.

<sup>90</sup> International Panel of Experts on Sustainable Food Systems (2017), ‘Too Big To Feed: Exploring the impacts of mega-mergers, consolidation and concentration of power in the agri-food sector’

<sup>91</sup> Rae, I. (2008), ‘Women and the Right to Food: International Law and State Practice’, link; see also, UN Special Rapporteur on the Right to Food (2015), ‘Interim report of the Special Rapporteur on the right to food’, A/70/287, para. 35.

<sup>92</sup> See, for example, FAO, ‘Agroecology Knowledge Hub



Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement). In addition, the United Nations Declaration on the rights of Indigenous Peoples, the Organization of American States Declaration on the rights of Indigenous Peoples as well as ILO 169, call for the full and effective participation of Indigenous Peoples in all matters that affect them.

The exercise of 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 claim redress if their rights are abused. They establish conditions of procedural justice that enable everyone to access their fundamental rights.

**The right to access to information** entitles people to access and receive public information.<sup>93</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>94</sup> The right enables rights-holders, including marginalised rights-holders, to participate in decision-making processes. In the context of a 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, furthermore, have a duty to ensure that information is disseminated in multiple formats to ensure accessibility for everyone, including persons with disabilities.

**The right to participation** entitles people to be heard and to take part in decision-making processes that affect them.<sup>95</sup> Fulfilment of this right is essential to ensure human dignity and combat structural factors that cause marginalisation. It is a cornerstone of any just transition as groups that experience systemic discrimination are often left out of decision-making processes relevant to the shift to sustainability. As stated in other sections, participation that is meaningful and effective can enrich social dialogue, enlarge the knowledge base, and take account of the lived experiences of workers and communities in a manner that rebalances power, improves policy responses, and responds to the needs of those who are most disadvantaged.

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<sup>93</sup> The right to information is affirmed in: ICCPR, article 19.2; and the IACHR, article 13.1. At regional level, it is recognised in the Aarhus Convention, article 4; and the Escazú Agreement, article 5. The CESCR has frequently underlined that States have a duty to provide information that is necessary to enable individuals to access their ESC rights. See, for example, CESCR (2010), 'Concluding Observations on the Antilles', E/C.12/NLD/CO/4-5, para. 8 (considering economic, social, and cultural rights generally); and CESCR (2005), 'General Comment No. 17', para. 18(b)(iii).

<sup>94</sup> Aarhus Convention, art. 4; Escazú Agreement, art. 5

<sup>95</sup> The right to participation is recognised in: ICCPR, article 25; ICESCR, articles 13.1 and 15.1; CEDAW, articles 7, 8, 13(c) and 14.2; ICERD, article 5(e)(vi); CRC, articles 12 and 31; and CRPD, articles 3(c), 4.3, 9, 29, 30 and 33. It is also affirmed in several international environmental law treaties, including: UNFCCC, articles 4.1(i), 6(a)(iii); the Paris Agreement, articles 6.4(b), 6.8(b), 7.5, 11.2, 12; the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), article 6; the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), article 7; and the Convention on Biological Diversity, p. 14, article. 8(j), and 14(a).

Most-marginalised communities and their representative organisations may require resources in order to meaningfully participate. This provision could take the shape of human, financial or technical capacity building. Their meaningful participation must also be invited at the earliest possible stage of any initiative, and must continue through planning, implementation, monitoring and evaluation of just transition policies and projects.

In this context, Indigenous People's right to free, prior, and informed consent (FPIC) plays a critical role as 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>96</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>97</sup> Upholding FPIC as a key element of a just energy transition is critical role as Indigenous Peoples are often one of the groups most disproportionately affected by green energy projects since more than half of the world's resources that are indispensable to the energy transition are located in Indigenous territories.<sup>98</sup>

To advance a human rights perspective in just transition frameworks, it is also essential to emphasize that Community Benefits Agreements (CBAs)<sup>99</sup>, which have been used in some sectors for decades and are often used in the context of energy-renewable projects,<sup>100</sup> cannot and should not substitute the right to FPIC. When projects impact Indigenous peoples' lands, rights, and resources, they should not move forward without ensuring this FPIC is respected. Issues arise when there is a tendency to use CBAs as an easy method to secure community support while neglecting the rights of Indigenous Peoples.<sup>101</sup> Governments must ensure, and businesses have the responsibility as well, that "benefit-sharing arrangements are not used as a shortcut to secure the social license without addressing a project's most important harmful impacts."<sup>102</sup> Unfortunately, testimonies already indicate that CBAs are being misused to negotiate rights instead of focusing on benefits.<sup>103</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

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<sup>96</sup> UN Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly on 13 September 2007; ILO Covenant 169 on Indigenous and Tribal Peoples, articles 6 and 7. See also, Expert Mechanism on the Rights of Indigenous Peoples (2018), 'Free, prior and informed consent: a human rightsbased approach', A/HRC/39/62.

<sup>97</sup> N Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly on 13 September 2007; ILO Covenant 169 on Indigenous and Tribal Peoples, articles 6 and 7.

<sup>98</sup> John R. Owen and others, Energy transition minerals and their intersection with land-connected peoples, Nature Sustainability, vol. 6 (2023).

<sup>99</sup> CBAs are legally binding agreements that seek residents' support for large-scale development projects by delivering community benefits or addressing a broad range of their needs. These CBAs are usually signed between project developers and coalitions of community organizations. See "Common Challenges in Negotiating Community Benefits Agreements– and – How to Avoid Them", (2016), Community Benefits Law Center and the Partnership for Working Families, at <https://www.datocms-assets.com/64990/1657040054-effective-cbas.pdf>

<sup>100</sup> "Energy Justice in Community Benefit Agreements and Plans" by Marisa Sotolongo, Initiative for Energy Justice, June 26, 2024, at <https://iejusa.org/energy-justice-in-community-benefit-agreements-and-plans/>

<sup>101</sup> P. Toledano, C. Albin-Lackey, M. Diez Andres, M. Dietrich Brauch, (2023), 'Community Benefit Sharing and Renewable Energy and Green Hydrogen Projects: Policy Guidance for Governments', Columbia Center on Sustainable Investment and Planning for Climate Commission, at <https://ccsi.columbia.edu/sites/default/files/content/docs/ccsi-benefit-sharing-policy-guidance.pdf>

<sup>102</sup> Ibid. Pag. 8.

<sup>103</sup> Inter- American Commission on Human Rights, Regional Hearing: 'Impacts of mineral extraction in the context of energy transition', Friday, November 15, 2024 held in Washington, DC, at <https://youtu.be/pCuW5v1AvuY?vq=hd1080>

challenge or appeal decisions, acts or omissions that affect exercise of the right.<sup>104</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. As recognised by the UN Secretary General, the right to access to justice is fundamental to the concept of human rights.<sup>105</sup> It enables individuals to exercise internationally recognised rights to allege, prosecute, and obtain redress for human rights violations. The right to access justice for rights has been recognised consistently. The Aarhus and Escazú Agreements, both of which extend its application to environmental matters, have strengthened its application. To deliver on a just transition, it is imperative to ensure access to justice and effective remedies to redress the current and historic human rights violations that occur in the course of transition policies and projects. Repairing the wide range of harms done to communities and workers that are disproportionately affected by the climate emergency and transition policies that have failed to consider their needs and rights should be an integral part of a just transition aligned with the international human rights framework.

In sum, for transitions to be, 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.

#### List of relevant resources/materials on human rights and just transition

- Áine Kelly-Costello, [A just transition for disabled people: A disability lens on greening economies and society](#).
- Bell K. [International solidarity for a de-colonised Just Transition: electric vehicles and lithium in Mexico and Europe](#).
- FIAN International, [A Just Transition to Agroecology](#).
- GIESCR, [A Care-led Transition to Sustainability](#).
- Healthcare Without Harm, [Just Transition for Healthy People on a Healthy Planet](#).
- Indigenous Summit Just Transition, [Indigenous Peoples' Perspectives, Knowledge, and Lived Experiences, Indigenous Peoples Principles and Protocols for Just Transition](#).
- International Federation for Human Rights (FIDH). [COP29: A human rights-based position on climate negotiations in Baku](#).
- Solidarity Center, [Heat Stress in the Cambodian Workplace](#).
- Sufyan Droubi, Arthur Galamba, Fernando Lannes Fernandes, Amanda André de Mendonça, Raphael J. Heffron, [Transforming education for the just transition](#).
- The Coalition to End Forced Labour in the Uyghur Region, [End Uyghur Forced Labour in China Now](#).

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<sup>104</sup> The right to access to justice is guaranteed by most universal and regional human rights instruments. It is recognised in ICCPR, article 2(3); and ICESCR, article 2(1).

<sup>105</sup> ICCPR, article 2(3); and ICESCR, article 2(1).