

Collective submission for the draft General Comment on Economic, Social and Cultural Rights, and the Environmental Dimension of Sustainable Development¹

This submission is developed² and endorsed collectively by members of the Environment and ESCR as well as the Strategic Litigation Working Groups³ of the International Network on Economic, Social and Cultural Rights (ESCR-Net).

Joint recommendations⁴

I. Purpose and Scope

The General Comment should have a specific section on how conflict impacts ESCR related to the environmental dimension of sustainable development, as well as the increased recognition of climate change, environmental degradation, and development issues as a driver of conflict and instability.⁵ Accordingly, the General Comment should expressly note that States must adhere to their obligations under international humanitarian law, and the role that adherence to such obligations has in the prevention of environmental degradation, resource appropriation, and land dispossession.⁶

¹ ESCR-Net members remain available to engage and assist the Committee further on this draft General Comment. For further queries or questions please email Fernando Ribeiro Delgado, Strategic Litigation Working Group Coordinator at fdelgado@escr-net.org and Patricia Miranda Wattimena, Environment and ESCR Working Group Coordinator at pwattimena@escr-net.org

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³ The [Environment and ESCR](#) and [Strategic litigation](#) Working Groups consist of over 100 and 80 member organizations respectively

⁴ The joint recommendations are provided including in the form of **concrete textual changes** accompanied by legal basis and arguments from human rights and environmental justice lenses in relation to sustainable development.

⁵ See for example: "The Security Council expresses its concern about the underlying problems in the Sahel region and remains engaged in addressing the complex security and political challenges in this region that are inter-related with humanitarian and developmental issues as well as adverse effects of climate and ecological changes." [Statement by the President of the Security Council, 10 December 2012, S/PRST/2012/26](#) and "The Security Council expresses concern over the overall humanitarian situation in the region, characterized by the impact of armed conflict and terrorism, extreme poverty, food insecurity, forced displacement, adverse effects of climate change and epidemics, which contribute to the high levels of structural, chronic and acute vulnerability in the region and continue to affect populations, and call for significant humanitarian and development action." [Statement by the President of the Security Council, 30 January 2018, S/PRST/2018/3](#)

⁶ CESCR General comment No. 26 (2022) on Land and Economic, Social and Cultural Rights, 22 December 2022, para. 49

The General Comment should also reflect the need to move away from the growth-led development model and towards a more equitable and sustainable socio-economic paradigm.⁷

In addition, we propose concrete textual changes:

§ 5 “... and destroying the environment without respecting environmental limits or planetary boundaries. **Achieving meaningful mitigation and resolution of the global ecological crisis requires targeted actions to address systemic racism, in particular the historic and contemporary racial legacies of colonialism and slavery.**”⁸

III. General State obligations in the context of the planetary environmental crises

§ 28 “Article 3(3) of the UN Declaration on the Right to Development affirms the obligation of States “to cooperate with each other in ensuring development and eliminating obstacles to development”. **The right to development implies the full realization of the right of peoples to self-determination, which includes the right freely to determine their political status and to pursue their economic, social and cultural development.**⁹ In terms of Sustainable Development Goal 17, ...”¹⁰

§ 31 “... States must promote long-term debt sustainability, **the cancellation of odious or illegitimate debts linked to colonialism, guaranteeing the the right to default in times of crisis/emergencies,** and reducing/avoiding debt distress so that States particularly affected by debt burdens can devote adequate resources to climate mitigation and adaptation. ...”

§ 32 “... to advance the realisation of ESCRs, including through the prevention of significant environmental harm **and refrain from imposing measures that weaken states’ capacity to address PEC, such as austerity measures and the privatization of public services.** In this regard, States must adopt effective measures to protect State and international decision-making processes from **undue**¹¹ corporate influence or corporate capture which nullifies or impairs Covenant rights.”

§ 34 “...States must assess the risks and potential extraterritorial impacts of their laws, policies, and practices on the enjoyment of ESCRs, including as a result of environmental harm. **States that hold sovereign debt or are home to private creditors imposing debt burdens on developing States bear the duty to take all necessary measures, to ensure that indebted States can equitably allocate maximum available resources towards the full realization of ESCR in response to the PEC. This includes**

⁷ This entails meeting human needs without overshooting planetary boundaries by reconfiguring and redistributing resources, such as via taxes, away from wealthy individuals and corporations and towards low-income countries and households to ensure a fairer distribution of resources and goods, while at the same time meeting the related need to transition away from carbon-based energy and exploitative economic activities with profit motives towards more environmentally and socially sustainable endeavours, such as the care economy.

⁸ See [Report of the Special Rapporteur on contemporary form of racism, racial discrimination, xenophobia and related intolerance, on “Ecological Crisis, Climate Justice and Racial Justice”](#)

⁹ See [General Assembly resolution 41/128](#), art. 1(2).

¹⁰ The paragraph should include a clarification on the scope of the right to development stipulated in the UN General Assembly Resolution, particularly in the context of the right to self-determination.

¹¹ Along with the additional language suggested, we recommend removing the term “undue” as it conveys the idea that corporate influence over public policy-making is legitimate and acceptable.

introducing domestic laws to force private creditors to participate in mechanisms or schemes for debt cancellation or relief, ...¹²

§ 36 “... States have a particular duty of care and an obligation to **ensure accountability** and rigorously apply the precautionary principle.”⁶⁷

§ 37 “States have the national and extraterritorial obligation to protect related to business entities over which they can exercise control, including **ensuring accountability and** preventing foreseeable harm caused by business entities...”

§ 39 “... and must regulate business entities to prevent such harm, **preventing corporate capture by prohibiting direct and indirect business lobbying concerning existing or proposed regulations to which they would be subject.**”¹³

§ 40 “... including regarding access to a clean, healthy, and sustainable environment. **Non-discrimination requires States to prevent the exacerbation of, and actively improve, existing situations of environmental injustice with special urgency in sacrifice zones. The principle of non-discrimination also requires States to prioritize clean-up and restoration measures for disadvantaged communities that bear a disproportionate burden of exposure to pervasive pollution and toxic contamination.**¹⁴. People in disadvantaged situations...”¹⁵

§ 41 “... no one is left behind and that those furthest behind are reached first **through a substantive equality approach. The continued existence of sacrifice zones, often created through the collusion of governments and businesses, is the diametric opposite of sustainable development, harming the present and future generations.**¹⁶ Measures towards sustainable development should **include immediate detoxification of sacrifice zones** and help combat systemic patterns of marginalisation, ...”¹⁷

III. State obligations in relation to specific rights in the context of the planetary environmental crises

§ 62 “... States must develop a rights-based, sustainable food systems transformation that secures the long-term functioning **and equity** of production **and distribution** systems, **ensures sustainable consumption patterns within planetary boundaries,** and increases resilience to climate change **while**

¹² The paragraph should reaffirm the duty of wealthy nations to cancel and facilitate debt relief to ensure the full realization of ESCR in response to the PEC.

¹³ The paragraph should reaffirm the need to expressly prevent corporate capture through prohibitions on lobbying by businesses concerning the regulatory schemes to which they are or would be subject to. See e.g. Art. 5.3 of the United Nations Framework Convention on Tobacco Control.

¹⁴ See Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, on “The right to a clean, healthy and sustainable environment: non-toxic environment” Para. 57 - <https://documents.un.org/doc/undoc/gen/g22/004/48/pdf/g2200448.pdf>

¹⁵ The paragraph should elaborate further and reaffirm States obligations to uphold the principle of non-discrimination in a particular context of communities living in sacrifice zones.

¹⁶ See Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, on “[The right to a clean, healthy and sustainable environment: non-toxic environment](#)” Para. 29

¹⁷ The paragraph should contain an express reference to the principle of substantive equality and the recognition of the impacts of environmental degradation, including the creation of sacrifice zones, to the present and future generations in the spirit of pursuing sustainable development.

reducing pollution and ensuring the conservation and sustainable use of biodiversity. States must prioritize and actively implement agroecological approaches in this context.¹⁸

§ 63 "...The efficient utilization of natural resources must include the sustainability of natural resources, namely, i.e. maintaining their long-term capacity to support the enjoyment of ESCRs. **This includes effective measures to respect, protect and fulfil land tenure rights, with an emphasis on vulnerable and marginalized groups. States must also undertake and ensure the implementation of redistributive land reforms grounded in social, economic and environmental rights, prioritizing the needs of those most vulnerable to adverse climate impacts.** Transitional processes to achieve the sustainable management of food systems require a human rights-based planning process, with a focus on disadvantaged and marginalized groups. ..."¹⁹

V. Implications for disadvantaged individuals and groups

We are deeply concerned that there is no explicit reference to the right to self-determination in the text of the General Comment which is addressed in Article 1 of the Convention. The right to self-determination remains vested in the "peoples of colonial and Non-Self-Governing Territories"²⁰ as well as peoples under racial domination and foreign occupation.²¹

The right to self-determination is further reaffirmed in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) as well as related references of the Committee to Indigenous Peoples' rights including the right to Free, Prior and Informed Consent (FPIC).²² In the context of Indigenous women, the fulfilment of their right to a clean, healthy and sustainable environment is a precondition for preserving their cultural identity and self-determination.²³

In addition, we propose concrete textual changes:

¹⁸ See: FAO Council (2019), The Ten Elements of Agroecology (CL 163/13 Rev.1); and CFS Policy recommendations on agroecological and other innovative approaches for sustainable agriculture and food systems that enhance food security and nutrition.

¹⁹ See: Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, Guideline 8; Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forests in the Context of National Food Security, paras. 1.1, 3.1, 15.1, 15.3; CESCR General Comment No. 26; and Report of the United Nations High Commissioner for Human Rights: Measures for minimizing the adverse impact of climate change on the full realization of the right to food (A/HRC/55/37), para. 37

²⁰ See [Activities of Foreign Economic and Other Interests Which Impede the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Territories Under Colonial Domination, G.A. res. 50/33, U.N. Doc. A/RES/50/33 \(1995\)](#)

²¹ See UN General Assembly Resolution 37/135 of 17 December 1982: Permanent Sovereignty over national resources in the occupied Palestinian and other Arab territories: This includes the right of Palestinian and other Arab peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and other resources, wealth and economic activities.

²² The right to self-determination and the principle of non-discrimination, as affirmed in the ICESCR, forms the legal foundation for the collective rights of Indigenous Peoples. These include their inherent right to pursue economic, social, cultural, and environmental development, as well as their right to give or withhold FPIC regarding any activities that may restrict or impact these rights. This ensures Indigenous Peoples' ability, as distinct peoples, to safeguard their dignity, well-being, and survival, in accordance with the UNDRIP, which establishes the minimum standards that States and all other actors are obligated to respect and uphold. UNDRIP should serve as the interpretative framework for the ICESCR, similar to the approach established by CEDAW for CEDAW and other treaty bodies' jurisprudence. In the context of environmental protection and sustainable development, UNDRIP Article 29 explicitly affirms the right of Indigenous Peoples to protect the environment and the productive capacity of their lands, territories and resources. It mandates that programs for monitoring, maintaining, and restoring the health of Indigenous Peoples, especially in relation to hazardous materials on their lands, be developed and implemented by the affected communities.

²³ See CEDAW General Recommendation No. 39, Para. 55b.

§ 81 “...disproportionate risks from the impacts of PEC. *Climate change-induced natural disasters and sea level rise will affect the right to self-determination of peoples living in low-lying island States as well as of Indigenous Peoples by threatening their territories and causing loss of cultural practices.* They are likely to suffer from higher rates of morbidity...”²⁴

§ 85 “The Committee recalls the inalienability of the *collective* rights of Indigenous Peoples to *self-determination, inter alia, the right to own, develop, control and use their lands, territories and resources,* their ancestral lands and their sacred places of worship, and their right to be free from discrimination. ... Indigenous Peoples must be recognized, by all but in particular by States, as rights-holders with respect to their land, territories, and natural resources *and, where such land, territories, and natural resources have been otherwise inhabited or used without their free, prior and informed consent, steps must be taken to return these lands and territories to the respective Indigenous Peoples.*”²⁵²⁶

§ 86 “... Rural areas *and communities* are affected by extreme weather events; biodiversity is altered *and reduced* by environmental degradation, *changes challenges* to *traditional* seed *and breeding* systems affect the right to food *and self-determination,* and the warming of lakes and oceans affects the availability of fishing resources.”

§ 87 “...including through disaster preparedness and providing alternative livelihoods. *Recognizing the contribution of peasants and other rural communities to the sustainable use and stewardship of natural resources and ecosystems, States shall take appropriate measures to protect, support and promote the traditional knowledge, innovations and practices of these communities. This includes ensuring the protection and advancement of traditional agrarian, pastoral, forestry, fisheries, livestock and agroecological systems.* ... To this extent, *States shall take all necessary measures to support peasant seed systems, and* national land-use systems must be adapted *through inclusive and meaningful community participation,* as far as possible. Where adaptation is difficult or impossible, resettlement or relocation might be needed, *based on international human rights standards and instruments.* ...”

§ 88 “Special measures, including *mitigation and* adaptation measures, are required... in their access to natural resources, including water, seeds, forests and fisheries. *States must ensure mechanisms for adequate and effective participation of vulnerable and marginalized individuals and groups.*”

§ 89 “... efficient management of drylands and high-altitude ecosystems. *Pastures and grazing lands carry out important ecosystem functions in the context of climate mitigation and adaptation.* Pastoralists are particularly affected by changes in vegetation zones, *alterations of seasonal cycles,* heat and droughts. *States should protect their tenure rights as well as traditional knowledge, innovation and practices, and support traditional pastoral and livestock systems* *They must be supported* in climate adaptation *and conservation* policies.”

§ 90 “Environmental changes *and extractive practices* also affect *small-scale fishers, fish workers and their communities fisherfolk.* In addition to development policies affecting their livelihoods, they *will be are* confronting rising sea levels, warmer oceans and lakes, *destruction of ecosystems* and pollution. ... States must have policies in place to respect, *protect and fulfil* the customary rights of fishing communities to the coast, oceans, rivers and lakes, *to support their systems to sustainably manage fisheries and ecosystems* and to develop alternative alternatives for adaptation.”

²⁴ Ref. Report of the Special Rapporteur on the right to development, on “Climate justice: loss and damage” (A/79/168) para 40.

²⁵ CESCR General Comment No. 21 paras 36 and 37, CESCR GC No. 24 paras 12 and 17.

²⁶ The paragraph should explicitly refer to the collective rights of the Indigenous Peoples to self-determination and to free, prior and informed consent.

§ 93 “This means that States have an obligation to ensure that decisions related to sustainable development and the PEC take the rights of future generations into account ***grounded in the principle of intergenerational equity and justice***, including restricting present resource extraction and unsustainable consumption and production patterns to ensure their enjoyment of ESCRs.”

VI. Remedies & Accountability

The General Comment should acknowledge cases of armed conflict in which there is deliberate environmental destruction, as well as destruction of critical infrastructure related to water and sanitation, which violate the right to a clean, healthy and sustainable environment. Such deliberate environmental degradation also is a driver of PEC,²⁷ and will have a grave impact on current and future generations.²⁸ In conflict-affected areas, including situations of occupation, natural resource appropriation, including that expropriated under the guise of development, may serve to prolong and/or exacerbate conflict and related violations of ESCR.²⁹

In addition, we propose concrete textual changes:

§ 95 “In this context, prevention and adherence to the precautionary principle is vital, as well as providing appropriate remedies, ***including redressing loss and damage***, for environmental harm that cannot be prevented or adapted to.”³⁰

§ 97 “Where disputes ***with businesses*** or between communities arise concerning development, environmental protection, natural resource use, or related activities, States should recognize ***and respect the distinct identity of Indigenous Peoples*** and, ***in doing so, prioritize utilization of*** customary ***justice systems***. ***In broader community contexts***, other forms of ***community-led*** dispute settlement ***should be recognized***, ensuring they provide fair, reliable, accessible, and non-discriminatory ways of promptly resolving such disputes.”³¹

§ 100 “...States must not resort to criminal prosecution to hinder their work, or otherwise obstruct their work. ***States must take all necessary measures to protect human rights defenders from harm caused by third parties, including armed groups and private security personnel, particularly when such actors operate under the control or influence of corporate entities.***”

²⁷ Gaza: Unprecedented destruction will take tens of billions of dollars and decades to reverse, UNCTAD, 21 January 2024, <https://unctad.org/news/gaza-unprecedented-destruction-will-take-tens-billions-dollars-and-decades-reverse>; Ecocide: Israel's Deliberate and Systematic Environmental Destruction in Gaza, Al Mezan, 16 October 2024

²⁸ ‘Everything Living is Dying’: Environmental Ruin in Modern Iraq, 22 December 2021, <https://undark.org/2021/12/22/ecocide-iraq/>

²⁹ Legal Consequences Arising From the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, International Court of Justice, 19 July 2024, Paras. 124-133

³⁰ While in support of the reaffirmation of the extraterritorial obligations of States to regulate corporations as part of the efforts to respect and protect ESCRs (§ 34 of this GC), we are of the view that addressing loss and damage must go beyond “appropriate compensation” to include all elements of the right to remedy such as cessation, restitution, compensation, satisfaction and guarantees of non-repetition.

³¹ In relation to conflict resolution, this specific section should also explicitly refer to the prioritization of customary justice systems to reaffirm the legitimacy and importance of Indigenous traditions in managing conflicts, particularly concerning natural resources, development and interactions with businesses.