

States' Obligations under the Covenant on Economic, Social and Cultural Rights, in the Context of Climate Change



The Committee on Economic, Social and Cultural Rights (CESCR) monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted in 1966. The Covenant has been ratified by 166 States. The Committee comprises 18 independent experts and meets two to three times a year in Geneva.

The ICESCR requires States to take steps, individually and through international assistance and cooperation, to the maximum of their available resources, with a view to progressively achieving the full realization of economic, social, and cultural rights by all appropriate means (article 2). The ICESCR defines several substantive rights that might be particularly threatened in the context of climate change, including the

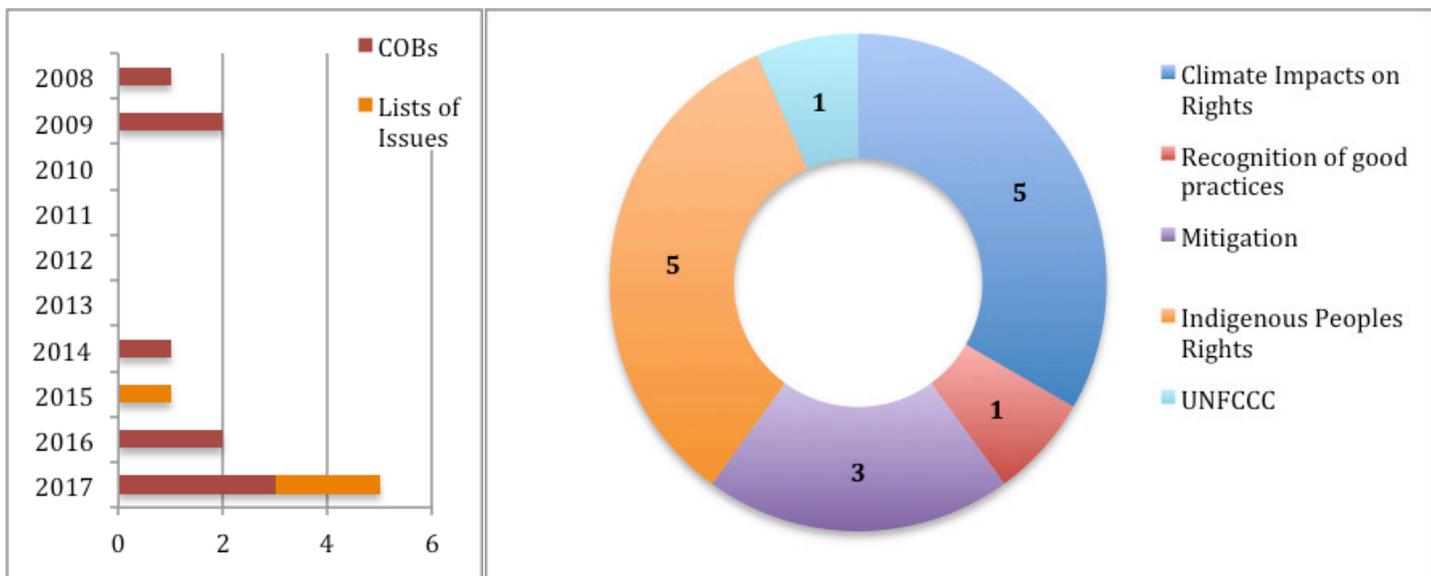
right not to be deprived of one's own means of subsistence (article 1), to an adequate standard of living, including food and adequate housing (article 11), to water (articles 11 and 12), and to the enjoyment of the highest attainable standard of physical and mental health (article 12).

In its General Comment No. 15 (2002) on the right to water, the CESCR describes the nature of States' obligations with respect to the right to water, in the context of climate change. The Committee highlights the need for States to adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations, including through the assessment of climate impacts on water availability and natural-ecosystems watersheds.

Overview of References to Climate Change in CESCR Concluding Observations

Over the past ten years, the CESCR has mentioned climate change in nine Concluding Observations and three Lists of Issues, with an increase in the frequency of these references over time.

The majority of these Concluding Observations have noted that ongoing climate impacts are a threat to the realization of the rights protected by the Covenant. The impacts of climate change on the rights of indigenous peoples are also addressed in the majority of these Concluding Observations. Additionally, the CE-



Breakdown of references to climate change in the Concluding Observations (COBs) adopted by the CESCR Committee, by year and by theme (some COBs include several themes)

Please note that the data provided in this synthesis note only includes references that explicitly mention climate change. Other Concluding Observations adopted by the Committee, such as in relation to extractive industries or disaster risk reduction, may also be relevant.

SCR has highlighted several times the necessity for parties to the ICESCR to take adequate action to reduce emissions of greenhouse gases and to consider the adverse impacts of fossil fuel extraction on human rights.

Recent references to climate change also suggest an interest of the Committee in considering the compatibility of shale-gas fracking and the adequacy of climate finance in the context of ICESCR obligations.

Compilation of Concluding Observations Adopted by the CESCR on Climate Change

This section provides a compilation of Concluding Observations ad-

opted by the CESCR regarding the interpretation of States' obligations under the ICESCR in relation to key aspects of climate policies. We provide below examples of COBs addressing common or important themes and list other examples of relevant COBs in the endnotes.

Disproportionate impacts on groups in vulnerable situations, including indigenous peoples

"[The Committee] is particularly concerned that the livelihood of small-scale fishers has been under threat owing to declining fish stocks in coastal areas as a result of climate change."

– CESCR Concluding Observations on the Philippines (2016)

"In the light of its previous recommendation and currently available

information, the Committee urges the party to: (...) (d) adopt the appropriate measures to address the adverse effect of climate change on the Saami people's land and resources."

– CESCR Concluding Observations on Finland (2014)¹

Reduction of greenhouse gas emissions

"[The Committee] also recommends that the State party increase its efforts to reduce greenhouse gas emissions and set national targets with time-bound benchmarks."

– CESCR Concluding Observations on Russia (2017)²

Renewable energy

"The Committee recommends that the State party address the impact of climate change on indigenous peoples more effectively while fully en-

gaging indigenous peoples in related policy and programme design and implementation. The Committee also recommends that the State party ensure that the use of non-conventional fossil energies is preceded by consultation with affected communities and impact assessment processes. It also recommends that the State party pursue alternative and renewable energy production.”

– CESCR Concluding Observations on Canada (2016)

Reduction of emissions resulting from fossil fuels extraction

“The Committee recommends that the State party revise its climate change and energy policies, as indicated during the dialogue. It recommends that the State party take immediate measures aimed at reversing the current trend of increasing absolute emissions of greenhouse gases, and pursue alternative and renewable energy production. The Committee also encourages the State par-



Jervis Sundays, Kenya Red Cross Society via Bread for the World/Flickr

ty to review its position in support of coal mines and coal exports.”

– CESCR Concluding Observations on Australia (2017)

Relevance of the UNFCCC agreements to human rights obligations

“The Committee is concerned about the continued increase of carbon dioxide emissions in the State party, which run the risk of worsening in

the coming years, despite the State party’s commitments as a developed country under the United Nations Framework Convention on Climate Change and the Kyoto Protocol, as well as its nationally determined contribution under the Paris Agreement.”

– CESCR Concluding Observations on Australia (2017)³

Endnotes

1. See also the CESCR COBs on Australia (2009), Canada (2016), Russia (2017), Australia (2017)
2. See also the CESCR COBs on Australia (2009), Australia (2017)
3. See also the CESCR COBs on Ukraine (2008)



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