

Economic, Social, and Cultural Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on Economic, Social and Cultural Rights (2019 Update)



The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted in 1966 and has been ratified by 166 States. 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). Several substantive rights defined herein are particularly affected by climate change: the right not to be deprived of one's own means of subsistence (article 1), to an adequate standard of living, food, adequate housing, water, and sanitation (articles 11 and 12), and to the enjoyment of the highest attainable standard of physical and mental health (article 12).

The Committee on Economic, Social and Cultural Rights (CESCR) monitors the implementation of the ICESCR through its three functions: the State reporting procedure, its general comments and thematic initiatives, and its communications procedure. To date, the CESCR has not addressed climate change in any of its decisions on communications.

General Comments and Thematic Initiatives

The CESCR addressed climate change in its General Comment on the right to water.

In October 2018, following the publication of the IPCC Special Report on 1.5°C, the CESCR released a Statement on climate change and the Covenant, which

underlines the human rights implications of climate change, the role of human rights mechanisms on this issue, and States' human rights duties in light of climate change.

State Reporting Procedure

The CESCR has increasingly referred to climate change in its Concluding Observations (COBs). This trend has continued in 2018 where 42% of States reviewed by the CESCR during the year received a recommendation on climate change. As seen in Figure A, of those States, there was a reasonably even spread of recommendations to small island developing States (SIDS), least developed States (LDCs), other developing States, and developed States. For developed States, two of the three States reviewed by the CESCR in 2018 received a recommendation on climate.

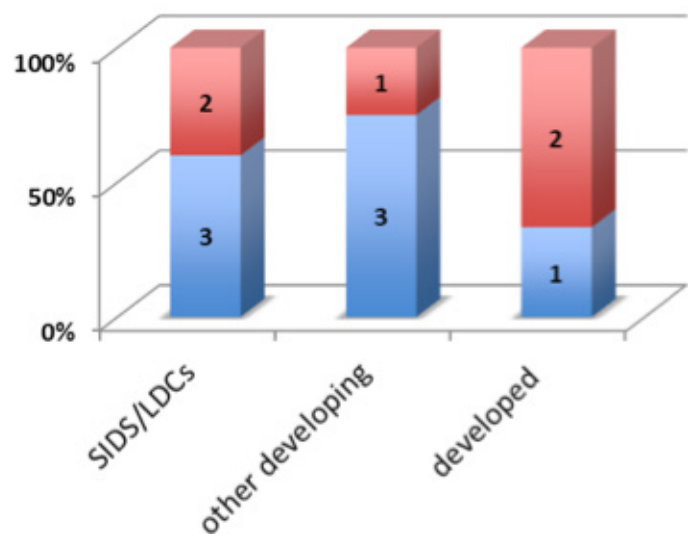
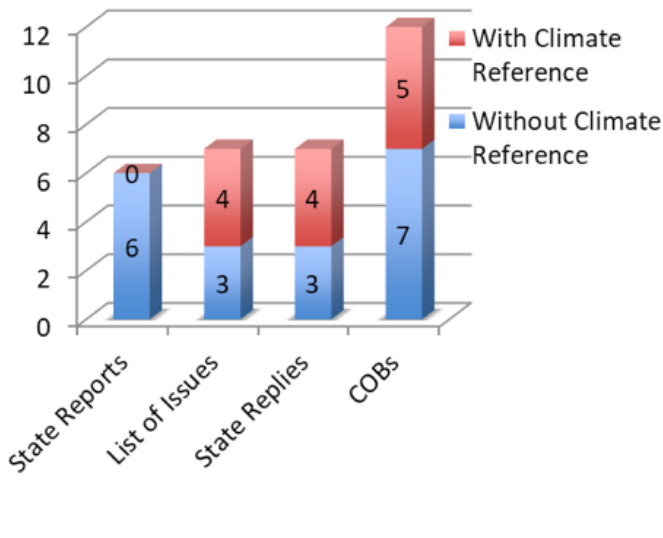


Figure A: Climate change references in the State Reporting Procedure of the CESCR in 2018, by document type (left), and climate change references in the COBs of the CESCR in 2018, by country type (right)

The CESCR continued to have a stronger focus on mitigation issues than other Committees (20% of its climate recommendations), for example referring to reducing greenhouse gasses, export of fossil fuels, extraterritorial obligations related to mitigation, fracking, deforestation, and soil degradation (see Figures B and C). These recommendations on mitigation tend to be very targeted and have a high degree of specificity, making them more relevant for policy-making. For example, the CESCR recommended that Argentina “reconsider the large-scale exploitation of unconventional fossil fuels through hydraulic fracturing in the Vaca Muerta region, in order to ensure compliance with its obligations under the Covenant, in the light of the Paris Agreement commitments.”

Nevertheless, procedural rights was the category with the highest number of recommendations (30%) in 2018, and those recommendations concentrated on public participation in climate decision-making (this was also a common theme for



Figure B: References to climate change in COBs of the CESCR in 2018, by categories

the CRC and the CEDAW). For example, the CESCR recommended that Bangladesh “ensure that strategies and action plans on climate change and disaster response

and risk reduction are formulated and implemented on the basis of human rights and with the meaningful participation of affected communities and civil society.” As

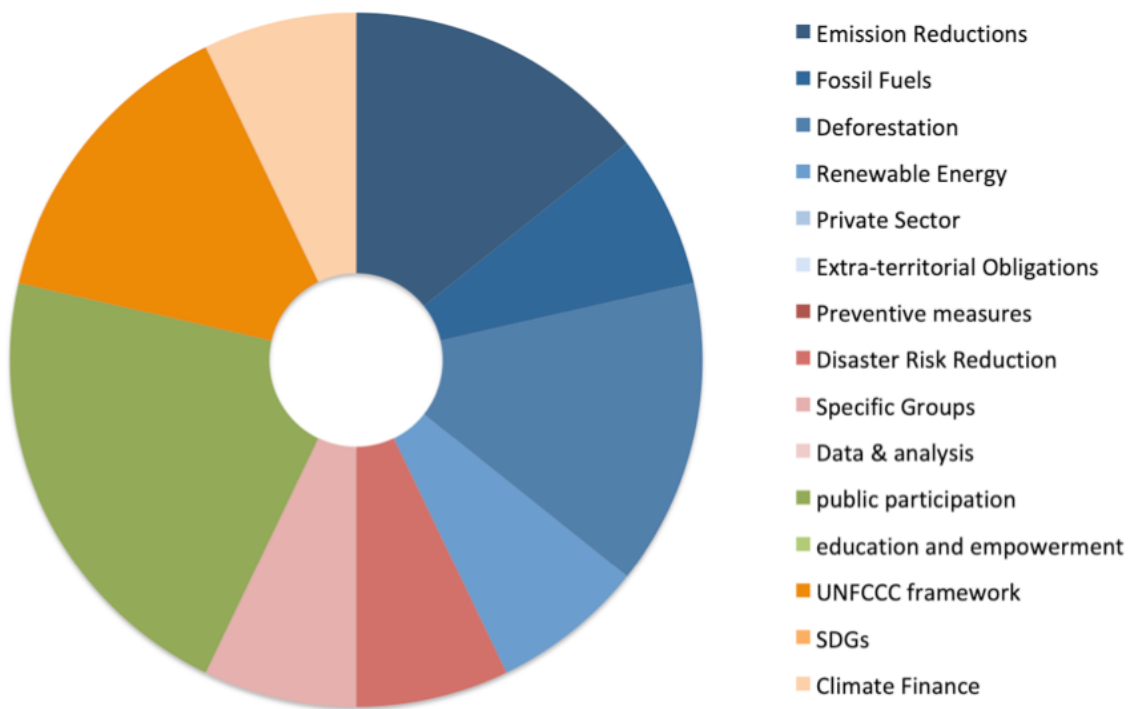


Figure C: References to climate in COBs of the CESCR in 2018, by sub-themes

in previous years, the CESCR has been less likely to address adaptation compared to other Committees and has referred to disaster risk reduction less often.

The CESCR has also been less likely to mention the differentiated impact on specific groups, instead highlighting the impacts on the enjoyment of economic, social, and cultural rights for all. Nevertheless, it has often linked climate issues to the rights of indigenous peoples (Argentina and New Zealand).

The importance of States complying with their Paris Agreement commitments was also emphasized by CESCR. The Committee has not yet made references to the importance of developed countries increasing contributions to climate financing. However, the Committee did address international cooperation in its recommendations to Bangladesh, encouraging it to seek international cooperation to mobilize resources to tackle climate change.

The CESCR has yet to address through its recommendations broader issues related to climate justice, such as the linkages between international financial flows, trade, investments, and climate change. Nor has it articulated in detail the linkages between economic, social, and cultural rights and land use, deforestation, and climate change.

Compilation of CESCR Statements on Climate Change in 2018

All concluding observations adopted by the CESCR can be accessed here: bit.ly/CESCRcobs.

CESCR's statement on climate change and the covenant in the context of the IPCC Report on Global Warming by 1.5°C is available here: bit.ly/CESCR1o5c.

On **the reduction of emissions and fossil fuels (mitigation)**, the CESCR has stated that States must:

- reduce greenhouse gas emissions by setting out national targets with time-bound benchmarks and intensifying domestic efforts to reach the 2020 target (CESCR COB to Argentina, Germany, CESCR Statement);
- ensure compliance with commitments made in the Paris Agreement in relation to the exploitation of fossil fuels (CESCR COB to Argentina);
- promote alternative and renewable energy sources (CESCR COB to Argentina);
- dedicate the maximum available resources to the adoption of measures that could mitigate climate change, such as those to slow down deforestation and move to agroecological farming (CESCR Statement);

- effectively regulate private actors to ensure that their actions do not worsen climate change and that they respect maximum air pollutant emissions limits (CESCR Statement).

On the **protection of rights from the impacts of climate change (adaptation)**, the CESCR requires States to:

- ensure that strategies and action plans on climate change and disaster risk reduction are formulated and implemented on the basis of human rights (CESCR COB to Bangladesh, CESCR Statement);

- strengthen its public policies and strategies aimed at mitigating the impact of natural disasters and climate change on the population and reducing the vulnerability of communities (CESCR COB to Cabo Verde).

On **procedural rights**, the CESCR affirmed that States are required to:

- ensure that national and regional strategies and action plans on climate change and disaster response and risk reduction are formulated with the meaningful participation of affected communities and civil society (CESCR COB to Bangladesh, CESCR Statement);

SCR COB to Bangladesh, Cabo Verde, CESCR Statement).

On **international cooperation**, the CESCR has articulated that States must:

- comply with specific obligations of the Paris Agreement (CESCR COB to Argentina, Germany);
- strengthen international cooperation and seek the support to which developing States are entitled in mitigating and responding to the effects of climate change (CESCR COB to Bangladesh, CESCR Statement).

List of Countries Coming Up for Review by CESCR in 2019

Session	Dates	Countries under review
WG65	18 February - 8 March 2019	Bulgaria, Cameroon, Estonia, Kazakhstan, Mauritius
PSWG64	11-15 March 2019	Austria, Benin, Ecuador, Finland, Israel, Kuwait, Senegal
WG66	30 September – 18 October 2019	Benin, Denmark, Ecuador, Israel, Senegal, Slovakia, Switzerland
PSWG65	21-25 October 2019	Azerbaijan, Chile, Italy, Mongolia



The Global Initiative
for Economic, Social and Cultural Rights

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