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Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment

Individual Report on the International Covenant on Economic, Social and Cultural Rights

Report No. 1

Prepared for the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy, and Sustainable Environment

December 2013

TABLE OF CONTENTS

1. Introduction

#  Summary of the Research Process

#  Overview of the Report

1. Human Rights Threatened by Environmental Harm

# Right to an Adequate Standard of Living, Including the Rights to Adequate Housing, Adequate Food, and Safe and Clean Drinking Water and Sanitation

# Right to the Highest Attainable Standard of Physical and Mental Health

# Right to Take Part in Cultural Life

1. Obligations on States Relating to the Environment

# Procedural Obligations

#  Substantive Obligations

# Obligations Relating to Indigenous Peoples

1. Cross-Cutting Issues

# Obligations Relating to Transboundary Environmental Harm

#  Obligations Relating to Non-State Actors

# Obligations Relating to Future Generations

# References by the Committee to Standards Outside the ICESCR to Inform Human Rights Duties Relating to the Environment

1. Conclusions
2. INTRODUCTION
3. This report outlines human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment under the International Covenant on Economic, Social and Cultural Rights (“ICESCR” or “Covenant”).[[1]](#footnote-1) These human rights obligations are elaborated by the Committee on Economic, Social and Cultural Rights (“Committee”).[[2]](#footnote-2)
4. This report is one of a series of 14 reports that examine human rights obligations related to the environment as they have been described by various sources of international law in the following categories: (a) UN human rights bodies and mechanisms; (b) global human rights treaties; (c) regional human rights systems; and (d) international environmental instruments. Each report focuses on one source or set of sources, and all reports follow the same format.
5. These reports were researched and written by legal experts working *pro bono* under the supervision of John H. Knox, the UN Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. In March 2012, in Resolution 19/10, the Human Rights Council established the mandate of the Independent Expert, which includes, *inter alia*, studying the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and reporting to the Council on those obligations.
6. In his first report to the Council, U.N. Doc. A/HRC/22/43 (24 December 2012), the Independent Expert stated that his first priority would be to provide greater conceptual clarity to the application of human rights obligations related to the environment by taking an evidence-based approach to determining the nature, scope and content of the obligations. To that end, he assembled a team of volunteers to map the human rights obligations pertaining to environmental protection in as much detail as possible. The results of the research are contained in this and the other reports in this series.
7. The Independent Expert’s second report to the Council, U.N. Doc. A/HRC/25/53 (30 December 2013), describes the mapping project and summarizes its conclusions on the basis of the findings of the 14 specific reports. In brief, the main conclusions are that the human rights obligations relating to the environment include procedural obligations of States to assess environmental impacts on human rights and to make environmental information public, to facilitate participation in environmental decision-making, and to provide access to remedies, as well as substantive obligations to adopt legal and institutional frameworks that protect against environmental harm that interferes with the enjoyment of human rights, including harm caused by private actors. States are also subject to a general requirement of non-discrimination in the application of environmental laws, and have additional obligations to members of groups particularly vulnerable to environmental harm, including women, children and indigenous peoples.

# Summary of the Research Process

1. In addition to the normative bases for the human rights in the ICESCR, this report is based on an examination of certain primary materials produced by the Committee in relation to its functions for the promotion and protection of the human rights under the ICESCR.
2. The following categories of ICESCR documentation were reviewed:

(a) General Comments;

(b) substantive statements by the Committee;

(c) Annual Reports; and

(d) Concluding Observations on the reports of State parties to the Committee.[[3]](#footnote-3)

1. Examination of Annual Reports as well as concluding observations on the reports of State parties was limited to documentation produced by the Committee between 1995 and 2012. Of the documentation reviewed—except for general recommendations and substantive statements—research was narrowed to those materials containing relevant search terms.
2. The search terms used are set forth in the table below:

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| --- | --- | --- |
| * Environment\*
* Water
* Flood
* Drought
* Storm
* Hurricane
* Ecolog\*
* Sustain\*
* Sanitary
* Toxic
* Stockholm Declaration
* Aarhus
* Biodiversity
* Chemical
* Deforest\*
 | * Natural Resources
* Climate
* “Global warming”
* Emission\*
* Greenhouse
* Food
* Pollut\*
* Contamina\*
* Nature
* Rio Declaration
* Principle 10
* Agenda 21
* Habitat
* Mining
* Typhoon
* Drown
 | * Carbon dioxide
* CO2
* Sea level\*
* Erosion
* Hazardous
* Asbestos
* PCB
* Mercury
* Acid
* Extinct; extinction
* Endangered
* Ecosystem
* Dam
* Desertification
* Flaring
* Air
 |

1. Documents were obtained from the website of the Committee.[[4]](#footnote-4) The review was conducted of English language documents.

# Overview of the Report

1. The remainder of the report presents the main findings of the research. Section II describes how the Committee has connected environmental harm to infringements of particular human rights. Section III discusses human rights obligations relating to the environment. These obligations include procedural obligations, substantive obligations and obligations relating to members of a specific group, namely indigenous peoples. Section IV addresses rights and obligations pertaining to various cross-cutting issues that cut across a range of possible rights and duties, including duties relating to transboundary and global environmental harm and duties relating to non-state actors. Section V makes some concluding observations.
2. Human Rights Threatened by Environmental harm
3. The text of the ICESCR does not explicitly recognize a human right to a healthy environment. Nonetheless, the Committee has recognized that the enjoyment of a broad range of economic, social and cultural rights depends on a healthy environment.[[5]](#footnote-5) As the Committee emphasized in its recent statement in the context of the Rio+20 Conference, “the Committee in its dialogue with States parties has regularly stressed the inter-linkages of specific economic, social and cultural rights, as well as the right to development, with the sustainability of environmental protection and development efforts.”[[6]](#footnote-6)
4. The Committee frequently addresses the impact of environmental harm on the enjoyment of economic, social and cultural rights. For example, the Committee has expressed its concern regarding environmental degradation and pollution,[[7]](#footnote-7) and has addressed specifically the adverse environmental consequences resulting from oil industry activities,[[8]](#footnote-8) industrial leakage of harmful waste products creating environmental disaster areas,[[9]](#footnote-9) threats to the environment posed by a nuclear plant,[[10]](#footnote-10) deforestation,[[11]](#footnote-11) and the illicit trade of wood from forests.[[12]](#footnote-12)
5. The Committee has expressed particular concern about the negative impact of natural resource exploitation on the enjoyment of rights under the ICESCR. For example, the Committee has stated that “impunity for human rights violations and the illegal exploitation of the country’s natural resources, including by foreign companies, constitute major obstacles to the enjoyment of economic, social and cultural rights in the State party.”[[13]](#footnote-13)
6. The Committee has also praised States for their efforts to protect the environment. For instance, it commended Paraguay for its efforts to curb deforestation,[[14]](#footnote-14) Bolivia for its efforts to protect the environment and for having the most certified forests in the region,[[15]](#footnote-15) the Philippines for the adoption of legislation and the establishment of institutional mechanisms to protect the environment and improve industrial and environmental hygiene,[[16]](#footnote-16) and Tunisia for its management of waste and its use of waste water in agricultural production and combatting desertification.[[17]](#footnote-17)
7. The Committee has found environmental degradation and damage to threaten the enjoyment of several human rights protected under the ICESCR. The human rights that are most frequently addressed by the Committee when considering the impact of environmental harm are:

(a) the right to an adequate standard of living, including the rights to adequate housing, adequate food, and safe and clean drinking water and sanitation;

(b) the right to the highest attainable standard of physical and mental health; and

(c) the right of everyone to take part in cultural life.

Each of these rights is addressed individually below.

# Right to an Adequate Standard of Living, Including the Rights to Adequate Housing, Adequate Food, and Safe and Clean Drinking Water and Sanitation

1. Article 11 of the ICESCR establishes the right to an adequate standard of living as entailing:

the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

The Committee has explained that the right to an adequate standard of living as found in the ICESCR is intentionally expansive and specifies “a number of rights emanating from, and indispensable for, the realization of the right,” including the rights to adequate housing, adequate food, and safe and clean drinking water and sanitation.[[18]](#footnote-18)

1. The Committee has cited instances of environmental harms broadly impacting the right to an adequate standard of living. For instance, the Committee expressed concern in concluding observations adopted in relation to the Solomon Islands that “the State party does not give due consideration to the threats to the natural environment of Solomon Islands, caused by the practices of deforestation and overfishing, affecting the maintenance of an adequate standard of living, as guaranteed by article 11 of the Covenant.”[[19]](#footnote-19)
2. The Committee has also welcomed conduct of State parties aimed at protecting this right for their citizens through the preservation of the environment. In concluding observations with respect to Costa Rica, for example, the Committee noted its approval of “measures undertaken by the State party to preserve its natural heritage and to address increasing threats to the country's biodiversity, mainly deforestation, agricultural overexploitation of land and pollution of waters, in order to guarantee an adequate standard of living.”[[20]](#footnote-20)
3. In addition to these references to the broad right to an adequate standard of living, the right has been more frequently invoked in the context of the effects of environmental degradation on the specific rights that it entails. Each of these rights is considered below.
4. **Right to Adequate Housing**
5. The right to adequate housing is explicitly referenced as a component of the right to an adequate standard of living in Article 11. The Committee has expounded upon this right, explaining that it should be interpreted broadly as “the right to live somewhere in security, peace and dignity.”[[21]](#footnote-21) The Committee has emphasized that disadvantaged individuals, including particularly vulnerable groups and victims of natural disasters, are particularly at risk of having their right to adequate housing infringed upon.[[22]](#footnote-22)
6. The Committee has drawn a connection between environmental degradation, on the one hand, and violations of the right to adequate housing of indigenous peoples and victims of natural disasters, on the other. In concluding observations with respect to Honduras, the Committee noted its regret regarding the State party’s failure “to address effectively the problem of excessive deforestation, which negatively affects the habitat of indigenous populations.”[[23]](#footnote-23)
7. **Right to Safe and Clean Drinking Water and Sanitation**
8. Although a right to water is not specifically enumerated in Article 11, the Committee noted that it “clearly falls within the category of guarantees essential for securing an adequate standard of living,” since it is “one of the most fundamental conditions for survival.”[[24]](#footnote-24) The Committee defines the right to water as one that “entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.”[[25]](#footnote-25) Furthermore, the right entails an entitlement to water that is safe, meaning “free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person’s health.”[[26]](#footnote-26)
9. The Committee has repeatedly linked infringements of the right to water to acts of environmental degradation and pollution resulting from agricultural, industrial and extractive activities.[[27]](#footnote-27) In concluding observations regarding Ecuador, the Committee stated its concern “about the environmental impacts of mining and agribusiness projects and, in particular, about their effects on people’s ability to exercise their right to water in rural areas.”[[28]](#footnote-28) Similarly, in concluding observations relating to Paraguay, the Committee expressed its disapproval that “the expansion of soybean cultivation has fostered the indiscriminate use of toxic agro-chemicals, leading to deaths and illnesses among children and adults, contamination of the water supply and the disappearance of ecosystems, while it has jeopardized the traditional food resources of the affected communities.”[[29]](#footnote-29) The Committee’s statements also extend beyond environmental harms caused by the business sector, noting that a lack of adequate infrastructure can have similarly adverse impacts upon the right to water.[[30]](#footnote-30)
10. The adverse effects of climate change have also been recognized as negatively affecting enjoyment of the right to water. In its General Comment No. 15 on the right to water, the Committee called on State parties to adopt comprehensive programs to ensure sufficient water for future generations by assessing the impacts of activity, such as climate change, “that may impinge upon water availability and natural-ecosystems watersheds.”[[31]](#footnote-31) The Committee also invoked this relationship in concluding observations relating to Australia, indicating its concern regarding “the negative impact of climate change on the right to an adequate standard of living, including on the right to food and the right to water, affecting in particular indigenous peoples, in spite of the State party's recognition of the challenges imposed by climate change (art. 11).”[[32]](#footnote-32)
11. **Right to Adequate Food**
12. The ICESCR indicates that the right to adequate food entails a “fundamental right of everyone to be free from hunger.”[[33]](#footnote-33) The Committee has further defined the scope of this right, clarifying that it implies:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; [and]

The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.[[34]](#footnote-34)

The Committee has called on State parties to provide special attention and priority consideration to specially disadvantaged groups with respect to access to food.[[35]](#footnote-35)

1. The Committee has described ways that pollution from farming, industrial, and extractive activities may infringe on the right to food. In concluding observations regarding the Russian Federation, the Committee noted serious concern about the contamination of domestically produced food products as a result of the improper use of pesticides as well as environmental pollution from oil spills and the improper disposal of heavy metals.[[36]](#footnote-36) The Committee highlighted its view that “[t]he question of an acceptable and adequate food supply is also linked to questions relating to a seriously polluted environment and the lack of investment in infrastructure for the maintenance and improvement of the water supply.”[[37]](#footnote-37)
2. The Committee has discussed effects on enjoyment of the right to food as a result of the depletion of the natural resources traditionally possessed by indigenous communities. In concluding observations concerning Cameroon, the Committee noted that the right to food of the Baka Pygmies had been adversely affected “by the depletion of the natural resources of the rainforest upon which they depend for subsistence.”[[38]](#footnote-38) Similarly, the Committee cited environmental harm from widespread pollution in its concluding observations regarding the Russian Federation:

The Committee expresses its concern at the situation of the indigenous peoples of the State party, many of whom live in poverty, and have inadequate access to food supplies, and some of whom suffer from malnutrition. The Committee is particularly concerned for those whose food supply is based on fishing and an adequate stock of reindeer, and who are witnessing the destruction of their environment by widespread pollution.[[39]](#footnote-39)

Similarly, the Committee looked at the adverse impacts of chemical pesticides and transgenic soya seeds on the right to food of indigenous communities in concluding observations relating Argentina, stating its disapproval that “these communities find it increasingly difficult to apply their traditional farming methods, and that as a consequence, this may become an important obstacle to the access to safe, adequate and affordable food.”[[40]](#footnote-40)

1. The Committee has also noted that climate change may adversely affect the right to food, particularly of indigenous peoples, and indicated that the right to adequate food remains where State parties face severe resource constraints caused by climate change.[[41]](#footnote-41) The Committee explained in concluding observations regarding Australia that climate change was having negative consequences on the enjoyment of the right to food.[[42]](#footnote-42)

# Right to the Highest Attainable Standard of Physical and Mental Health

1. Article 12(1) of the ICESCR establishes the right to the highest attainable standard of physical and mental health. Pursuant to Article 12(2), the full realization of this right requires State parties to take the necessary steps for “the improvement of all aspects of environmental and industrial hygiene.”[[43]](#footnote-43)
2. The Committee reviewed the drafting history and express wording of Article 12(2) and concluded that:

the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.[[44]](#footnote-44)

1. The Committee has recognized that environmental degradation and resource depletion can impede the full enjoyment of the right to health. For instance, the Committee expressed concern in concluding observations regarding Uzbekistan over “the degree of environmental degradation in the country, which has an extremely negative impact on the health of the whole population, in particular women and children.”[[45]](#footnote-45) The Committee conveyed similar apprehension in concluding observations concerning Kazakhstan when it stated its concern “about the regional environmental hazards that have a negative impact on the enjoyment of the right to health by the population in the State party, in particular the depletion and pollution of the Aral Sea.”[[46]](#footnote-46) The Committee has stated that one of the “elements of the enjoyment of the right to health” is the “need to conserve natural habitat.”[[47]](#footnote-47)
2. The Committee has also stated that environmental pollution negatively affects enjoyment of the right to health. The Committee explained in General Comment No. 14 on the right to health that the requirement of “environmental hygiene” entitles individuals to be free from “exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health.”[[48]](#footnote-48) This understanding was subsequently reflected in its concluding observations in relation to Mauritania and Chad, in which the Committee called attention to the difficulty of accessing safe drinking water due to contamination of water resources from inadequate sanitation and sewerage systems.[[49]](#footnote-49)
3. The Committee has also drawn a direct connection between enterprises’ pollution of the environment and the resulting negative effects on the right to health, explaining that the right to health is violated by “the failure to enact or enforce laws to prevent the pollution of water, air and soil by extractive and manufacturing industries.”[[50]](#footnote-50) Relatedly, the Committee has adjudged development-related activities leading to the displacement of indigenous peoples from their traditional territories and natural resources to have a deleterious effect on their health.[[51]](#footnote-51)
4. The Committee has expressed its concern about the effects of pollution from businesses on enjoyment of the right to health. In concluding observations concerning Mauritania, for example, the Committee noted that it was “concerned at the negative impact of extractive and mining activities in the State party on the environment and on the population’s enjoyment of the right to health, as illustrated by the serious public health problems encountered in mining towns such as Akjoujt.”[[52]](#footnote-52) The Committee similarly disapproved of the adverse effects on the right to health caused by oil exploration and extraction in Nigeria and by the use of pollutants and toxic substances in certain agricultural and industrial sectors in Honduras.[[53]](#footnote-53)
5. The Committee also considered the negative consequences for the right to health resulting from the extractive industry’s exploitation of the natural resources found on the lands traditionally occupied by indigenous persons. In concluding observations relating to Ecuador, the Committee expressed concern about “the negative health and environmental impacts of the activities of natural resource extracting companies at the expense of the exercise of land and culture rights of the affected indigenous communities and the equilibrium of the ecosystem.”[[54]](#footnote-54)

The Committee reiterated this view in concluding observations regarding Venezuela, stating:

The Committee is particularly concerned about the adverse effects of the economic activities connected with the exploitation of natural resources, such as mining in the Imataca forest reserve and coal-mining in the Sierra de Perijá, on the health, living environment and way of life of the indigenous populations living in these regions.[[55]](#footnote-55)

These statements further crystallize the connection between the enjoyment of the right to health and the existence of a healthy environment.

# Right to Take Part in Cultural Life

1. Article 15(1)(a) of the ICESCR recognizes the right of everyone to take part in cultural life. The right of persons, including indigenous people, to take part in cultural life entails the right to “follow a way of life associated with the use of cultural goods and resources such as land, water, biodiversity, language or specific institutions.”[[56]](#footnote-56) According to the Committee, the availability of these aspects of one’s culture is necessary to the full realization of this right, and “availability” comprises “the presence of cultural goods and services that are open for everyone to enjoy and benefit from, including ... nature’s gifts, such as seas, lakes, rivers, mountains, forests and nature reserves, including the flora and fauna found there, which give nations their character and biodiversity.”[[57]](#footnote-57) The Committee has emphasized that the protection of this right is “deeply linked” to the protection of the environment and indigenous peoples’ natural habitat.[[58]](#footnote-58)
2. The Committee has highlighted several instances where the exploitation of the natural resources traditionally possessed by indigenous peoples resulted in adverse effects on their ability to enjoy the right to take part in cultural life. For instance, the Committee expressed concern in concluding observations relating to the Democratic Republic of Congo that:

the systematic and abusive exploitation of forest resources in the State party has negatively affected the lands and the way of life of numerous indigenous peoples, especially the pygmies living in the Province of Equateur, impeding the enjoyment of their rights as well as their material and spiritual relationship with nature and, ultimately, their own cultural identity.[[59]](#footnote-59)

The Committee also noted the adverse impact on the right to take part in cultural life in concluding observations concerning Madagascar due to the “systematic exploitation of land and natural resources” that prevented the Malagasy population from “maintaining their cultural and social links with their natural environment and their ancestral lands.”[[60]](#footnote-60)

1. The right of everyone to take part in cultural life also entails the right of indigenous persons to maintain their connection with their traditional lands and natural resources. The Committee explained in its General Comment No. 21 that “States parties must also respect the rights of indigenous peoples to their culture and heritage and to maintain and strengthen their spiritual relationship with their ancestral lands and other natural resources traditionally owned, occupied or used by them, and indispensable to their cultural life.”[[61]](#footnote-61) The right to cultural life entails not only the right of indigenous peoples to the protection of their natural environment by State parties, but also the right to retain control over these traditional lands and natural resources.[[62]](#footnote-62)
2. The Committee has acknowledged several instances where the displacement of indigenous peoples from their traditional lands has resulted in violations of the right to take part in cultural life. In concluding observations concerning Colombia, the Committee noted with regret that “the traditional lands of indigenous peoples have been reduced or occupied, without their consent, by timber, mining and oil companies, at the expense of the exercise of their culture and the equilibrium of the ecosystem.”[[63]](#footnote-63)
3. The granting of land concessions causing the displacement of indigenous peoples has also been cited as leading to infringements of this right. For example, the Committee’s concluding observations regarding Cambodia described economic land concessions as “the major factor in the degradation of natural resources, adversely affecting the ecology and biodiversity,” which resulted in “the displacement of indigenous peoples from their lands without just compensation and resettlement, and in the loss of livelihood for rural communities who depend on land and forest resources for their survival.”[[64]](#footnote-64)
4. Through these comments, the Committee has illustrated that the right of everyone to take part in cultural life entitles indigenous persons both to the protection of their natural environment and to the freedom to use it according to their traditional practices.
5. Obligations on states relating to the environment
6. Article 2(1) of the ICESCR defines the obligations of State parties in relation to the rights accorded by the ICESCR, stating:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

1. The Committee has made clear that, as part of their Article 2 obligations, State parties must take measures to protect the environment. In particular, State parties have procedural and substantive obligations to safeguard the enjoyment of human rights from being compromised by environmental harm. They also have specific duties in connection with protecting against environmental threats to the enjoyment of human rights by indigenous peoples.

# Procedural Obligations

1. The Committee has articulated procedural obligations of State parties in relation to the protection of human rights against environmental harm. These include: (i) the obligation adequately to assess the environmental impacts of actions that may interfere with the enjoyment of human rights; (ii) the obligation to provide for effective participation in environmental decision-making of potentially affected individuals and groups; (iii) the obligation to provide for effective remedies to those whose rights are affected by environmental harm; and (iv) the obligation to protect the right to speak out against activities that may cause environmental harm.
2. **Obligation to Conduct Adequate Assessments of the Environmental Impact of Activities**
3. State parties are under an obligation to conduct adequate assessments of the potential environmental impact of development activities on the enjoyment of economic, social and cultural rights.
4. In its General Comment No. 15, on the right to water, the Committee included among the water strategies to be adopted by State parties the policy of “ensuring that proposed developments do not interfere with access to adequate water.”[[65]](#footnote-65) The Committee has stated that State parties should establish mechanisms for “assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification, and increased soil salinity, deforestation and loss of biodiversity.”[[66]](#footnote-66)
5. The Committee has stated that State parties should assess, in particular, the impact of the activities of the extractive industry on access to safe drinking water and the right to health. The Committee expressed concern where “independent impact assessments on water, air and soil conditions are not always carried out prior to the granting of licenses to companies.”[[67]](#footnote-67) For example, in concluding observations regarding Tanzania, the Committee recommended that the State party monitor the impact of artisanal mining activities on water sources.[[68]](#footnote-68) The Committee was concerned that the mining and chemicals used in the artisanal mining processes were possibly contaminating “such water sources as rivers, lakes and other bodies of water (art. 12).”[[69]](#footnote-69) In this case, the Committee also urged Tanzania to take urgent steps to ensure that workers—in particular women and children—were not subject to environmentally harmful working conditions while engaging in artisanal mining activities, such as exposure to highly toxic substances like mercury and other dangerous chemicals.[[70]](#footnote-70)
6. Relatedly, the Committee has indicated that State parties are under a duty to consider the impact on the environment and the enjoyment of human rights of investment agreements. Noting its concern that the Dominican Republic appeared to have approved investment agreements without having undertaken environmental impact assessments,[[71]](#footnote-71) the Committee urged the State party “to ensure that environmental and social impact assessments precede the approval of investment agreements or commencement of activities that might negatively impact economic, cultural and social rights, in particular of the most disadvantaged and vulnerable groups.”[[72]](#footnote-72)
7. Impact assessments conducted by State parties should be subject to independent review. For instance, the Committee noted that it was “particularly concerned” by the “extremely negative effects” on the environment and the enjoyment of the right to health by residents of Honduras due to “the use of pollutants and toxic substances in specific agricultural and industrial sectors, such as banana growing and gold-mining.”[[73]](#footnote-73) The Committee also noted its concern “that environmental impact studies conducted by or on behalf of those sectors are without effective review by independent bodies.”[[74]](#footnote-74) Likewise, in response to its concern about the impact of extractive industries on the health of the population of Peru, the Committee recommended that Peru provide that “comprehensive independent impact assessments [be] carried out prior to the setting up of mining projects, and ensure that such activities are not a threat to health and do not adversely impact water, air or soil quality, in particular in rural and remote areas.”[[75]](#footnote-75)
8. The Committee has also urged the World Trade Organization to “undertake a review of the full range of international trade and investment policies and rules in order to ensure that these are consistent with existing treaties, legislation and policies designed to protect and promote all human rights” and that “[s]uch a review should address as a matter of highest priority the impact of WTO policies on the most vulnerable sectors of society as well as on the environment.”[[76]](#footnote-76) Similarly, in the context of the Rio+20 conference, the Committee encouraged States to “adopt recommendations for making not only environmental impact assessments, but also human rights impact assessments when policies are adopted and implemented that affect the human environment and may lead, for example, to forced displacement for ecological reasons.”[[77]](#footnote-77)
9. **Obligation to Consult with Affected Communities About Activities Having an Adverse Environmental Impact**
10. State parties are under an obligation to consult with affected communities and allow for the right to participate in decision-making with respect to activities that could produce environmental harm.
11. In General Comment No. 15 on the right to water, the Committee noted:

Before any action that interferes with an individual’s right to water is carried out by the State Party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies.[[78]](#footnote-78)

General Comment No. 15 further states:

The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water. Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.[[79]](#footnote-79)

1. The Committee has also addressed the duty on State parties to consult with affected communities, in particular, in the context of the grant of natural resource concessions. For example, noting the 29 percent decrease in forest cover in Cambodia in the preceding five years, the Committee stated that a:

rapid increase in economic land concessions … [was] the major factor for the degradation of natural resources, adversely affecting the ecology and biodiversity, resulting in the displacement of indigenous peoples from their lands without just compensation and resettlement, and in the loss of livelihood for rural communities who depend on land and forest resources for their survival.[[80]](#footnote-80)

The Committee urged Cambodia to conduct “environmental and social impact assessments including consultations with relevant stakeholders and communities with due regard to their right to participate in informed decisions that affect their lives.”[[81]](#footnote-81)

1. **Obligation to Provide for Effective Remedies for Environmental Harm**
2. State parties are under an obligation to provide for just and fair compensation to those affected by environmental harm. In General Comment No. 15, the Committee noted that “[a]ll victims of violations of the right to water should be entitled to adequate reparation, including restitution, compensation, satisfaction or guarantees of non-repetition.”[[82]](#footnote-82) In concluding observations relating to Mexico, the Committee stated that the State party was required to “ensure that adequate compensation and/or alternative accommodation and land for cultivation are provided to the indigenous communities and local farmers,” whose land was flooded or otherwise affected by large infrastructure projects.[[83]](#footnote-83)
3. Similarly, in General Comment No. 12 on the right to adequate food, the Committee confirmed that all victims of violations of the right “are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition.”[[84]](#footnote-84) Additionally, in General Comment No. 7 on the right to housing, the Committee noted that, in the event of a forced eviction, including in the context of development activities, “States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.”[[85]](#footnote-85) Accordingly, State parties are obligated, “to the maximum of [their] available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”[[86]](#footnote-86)
4. **Obligation to Protect the Right to Speak Out Against Activities That May Cause Environmental Harm**
5. The Committee has also noted the duty of State parties not to repress individuals protesting against the effects of development projects on the environment and on their rights granted by the ICESCR.
6. For example, the Committee noted its concern “about the criminal investigations and convictions of social and indigenous leaders” in Ecuador “who took part in public demonstrations protesting [legislation] concerning water management and development projects that would have an impact on natural reserves.”[[87]](#footnote-87) The Committee recommended a variety of steps, including that Ecuador “establish robust safeguards for the rights to freedom of assembly and to participate in peaceful demonstrations and that it regulate the use of force by law enforcement officers in connection with public demonstrations” and that the “scope for the applicability of the criminal offences of sabotage and terrorism be clarified and that their application be restricted in the context of public demonstrations.”[[88]](#footnote-88) Similarly, in relation to the La Parota dam in Mexico, the Committee noted its concern that the State party had “forcefully prevented” members of indigenous and local communities “from participating in local assemblies concerning the implementation of” this and other projects under the Plan Puebla-Panama.[[89]](#footnote-89)

# Substantive Obligations

1. The substantive obligations articulated by the Committee in connection with protecting ICESCR rights include the obligations: (i) to refrain from directly engaging in activities that cause environmental harm that interferes with the enjoyment of rights protected by the Covenant; (ii) to take measures to safeguard the enjoyment of economic, social and cultural rights against environmental harm; and (iii) to ensure environmental sustainability.
2. **Obligation to Refrain from Engaging in Activities that Cause Environmental Harm that Interferes with Human Rights**
3. The Committee has indicated that State parties have an obligation to refrain from causing environmental harm that interferes with the enjoyment of rights protected by the ICESCR. For instance, in General Comment No. 14, the Committee noted that State parties are obligated to refrain from “unlawfully polluting air, water and soil, e.g. through industrial waste from State-owned facilities” and from testing nuclear, chemical and biological weapons if such testing produces adverse health consequences.[[90]](#footnote-90) Similarly, in General Comment No. 15, the Committee noted that an aspect of the normative content of the right to water is the right to be free of “contamination of water supplies” and that there is a concomitant legal obligation on State parties to refrain from “unlawfully diminishing or polluting water.”[[91]](#footnote-91) Specifically, the Committee stated that:

The obligation to respect requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water … [or] unlawfully diminishing or polluting water.[[92]](#footnote-92)

1. State parties are also obligated to avoid producing environmental harm that interferes with the enjoyment of other rights protected under the ICESCR, such as the rights to food and housing. For instance, the Committee has noted that State parties are required to “avoid adverse environmental effects on the right to food of its population” and, in particular, “to fully assess the impacts of newly developed green technologies in the area of energy and in relation to access to food and water.”[[93]](#footnote-93) Similarly, the Committee—vis-à-vis the right to housing—noted its concern about the “militarization” of La Cienaga-Los Guandules in the Dominican Republic and “the long-standing prohibition on improving or upgrading existing dwellings for the more than 60,000 residents of the area, and the inadequate and heavily polluted living conditions.”[[94]](#footnote-94)
2. **Obligation to Take Measures to Safeguard the Enjoyment of Economic, Social, and Cultural Rights Against Environmental Harm**
3. The Committee has noted that State parties have an obligation to adopt and implement measures that protect the enjoyment of rights accorded by the ICESCR from the effects of environmental harm. For example, after noting that the expansion of soybean cultivation in Paraguay had “fostered the indiscriminate use of toxic agro-chemicals, leading to deaths and illnesses among children and adults, contamination of the water supply and the disappearance of ecosystems,” the Committee pressed Paraguay “to adopt urgent measures to ensure that soybean cultivation does not undermine the ability of the population to exercise the rights recognized by the Covenant” and to “establish an effective legal framework for protection against the use of toxic agro-chemicals and carry out effective and frequent inspections.”[[95]](#footnote-95)
4. In General Comment No. 14, the Committee noted that the right to the highest attainable standard of health under Article 12 of the ICESCR is broad and encompasses not only health care but also the “underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, anda healthy environment.”[[96]](#footnote-96) The Committee has confirmed that State parties have an obligation to adopt “a national strategy to ensure to all the enjoyment of the right to health, based on human rights principles which define the objectives of that strategy, and the formulation of policies and corresponding right to health indicators and benchmarks.”[[97]](#footnote-97) In particular, State parties have a duty to formulate and implement policies aimed at “reducing and eliminating pollution of air, water and soil, including pollution by heavy metals such as lead from gasoline.”[[98]](#footnote-98)
5. Similarly, in General Comment No. 12 on the right to food, the Committee indicated that the right to food, as articulated in Article 11 of the ICESCR, “is inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies.”[[99]](#footnote-99) For example, the Committee noted its concern regarding those in the Russian Federation “whose food supply is based on fishing and an adequate stock of reindeer, and who are witnessing the destruction of their environment by widespread pollution” and urged that “action be taken to ensure their access to traditional and other sources of food.”[[100]](#footnote-100) In the same response, the Committee noted that “the question of an acceptable and adequate food supply is … linked to the questions relating to a seriously polluted environment” and recommended that the Russian Federation “examine these linkages and take appropriate steps to clean up the environment and prevent enterprises from engaging in further pollution, especially that which contaminates the food chain.”[[101]](#footnote-101) Although the Committee has recognized that “climactic conditions” can impose a “severe resource constraint[]” on State parties, such constraints do not eliminate their obligation to fulfill the right to food, especially to vulnerable populations.[[102]](#footnote-102)
6. The Committee has articulated obligations with respect to water specifically, requiring State parties to adopt measures to protect water sources from environmental harm. General Comment No. 15 on the right to water states:

Environmental hygiene, as an aspect of the right to health under article 12, paragraph 2(b), of the Covenant, encompasses taking steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions. For example, States parties should ensure that natural water resources are protected from contamination by harmful substances and pathogenic microbes.[[103]](#footnote-103)

Further, the Committee also confirmed in General Comment No. 15 that “[t]he water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person’s health .”[[104]](#footnote-104)

1. In concluding observations addressed to Mauritania, the Committee urged the State party “to take measures to protect water sources from contamination and to ensure the safety of water supplied to the population.”[[105]](#footnote-105) In concluding observations regarding Chad, the Committee stated that the State party was under a duty to provide “appropriate systems for ensuring access to drinking water and to adequate sanitation infrastructure” in light of “the serious health risks posed by the contamination of groundwater and rainwater.”[[106]](#footnote-106) The Committee similarly recommended that Ecuador “adopt specific measures to protect people’s right to water” in light of the Committee’s “concern[] about the environmental impacts of mining and agribusiness projects and, in particular, about their effects on people's ability to exercise their right to water in rural areas.”[[107]](#footnote-107) Further, in concluding observations relating to Yemen, the Committee called upon the State party to “strengthen its efforts … to address the shortage of water resources, improve water management, in particular in the agricultural sector, and rationalize the use of non-renewable groundwater reserves.”[[108]](#footnote-108)
2. The Committee has also stated that the requirement under Article 12 of the ICESCR to bring about “improvement of all aspects of environmental and industrial hygiene” entails a duty on the part of State parties to supply safe and potable water and basic sanitation, as well as to prevent the population’s exposure to harmful substances such as radiation and harmful chemicals, other detrimental environmental conditions, and the existence of health hazards in the work environment.[[109]](#footnote-109) This includes preventing the “pollution of water, air and soil by extractive and manufacturing industries.”[[110]](#footnote-110)
3. As part of the obligation to take measures to protect rights under the ICESCR from environmental harm, State parties must take measures to enforce requirements against actors causing environmental harm. For instance, the Committee indicated its concern that “the negative impact of extractive and mining activities … in [Mauritania] on the environment and on the population’s enjoyment of the right to health” was “indicative of insufficient regulatory measures and weak enforcement capacity.”[[111]](#footnote-111) The Committee recommended, *inter alia*, that Mauritania “ensure that adequate sanctions are applied for breach of environmental clauses in extractive and mining contracts” and “take corrective measures to address environmental and health hazards caused by extractive and mining activities.”[[112]](#footnote-112) Similarly, the Committee encouraged Kazakhstan to “strengthen its efforts to address environmental issues” and to “allocate more resources in this regard and to strictly enforce its environmental legislation.”[[113]](#footnote-113)
4. **Obligation to Mitigate the Effects of Climate Change and Exploitation of Natural Resources on the Enjoyment of Human Rights**
5. The Committee has also noted that State parties have an obligation to mitigate the effects of climate change and the exploitation of natural resources in order to safeguard the enjoyment of rights protected by the ICESCR. For instance, the Committee has pressed State parties to adopt “strategies to combat global climate change that do not negatively affect the right to adequate food and freedom from hunger, but rather promote sustainable agriculture, as required by article 2 of the UN Framework Convention on Climate Change.”[[114]](#footnote-114) The Committee has also encouraged a State party, “in spite of [its] recognition of the challenges” posed by climate change, “to reduce its greenhouse gas emissions and to take all the necessary and adequate measures to mitigate the adverse consequences of climate change, impacting the right to food and the right to water for indigenous peoples.”[[115]](#footnote-115)
6. The Committee has also expressed concern about deforestation in several countries. For instance, in concluding observations relating to Brazil, the Committee stated that deforestation in Brazil “impacts negatively the enjoyment of economic, social and cultural rights,” including the right to an adequate standard of living, and recommended that Brazil “take the necessary measures to combat continued deforestation.”[[116]](#footnote-116) Likewise, in concluding observations regarding Argentina, the Committee recognized that deforestation is a significant problem in Argentina and recommended that the State party “ensure the full implementation of [existing] legislation regarding the protection of the non-renewable resources of the State party with a view to combating deforestation.”[[117]](#footnote-117) The Committee has also recommended that the Solomon Islands “undertake measures to prevent the excessive exploitation of the country’s forestry and fishing resources.”[[118]](#footnote-118)
7. **Obligation to Assist Individuals Whose Human Rights are Impacted by Environmental Harm**
8. State parties have an obligation to assist individuals affected by natural disasters and other environmental harm. General Comment No. 12 explicitly confirms this obligation in relation to food, stating that State parties are under an obligation to ensure the food supplies of persons who are the victims of natural disasters and/or live in disaster-prone areas.[[119]](#footnote-119)
9. The obligation to assist the victims of environmental harm can be long-term. For instance, the Committee, when discussing the right to health in the context of the Chernobyl disaster in 1995, noted the ongoing “nefarious health consequences” of the 1986 accident.[[120]](#footnote-120) The Committee urged that “special assistance and medical care be further granted to [victims of the Chernobyl accident] and that special measures continue to be taken to clean the environment and to dispose of contaminated objects and consumable items with which people may come into contact.”[[121]](#footnote-121)

# Obligations Relating to Indigenous Peoples

1. The Committee has recognized that the human rights of indigenous peoples are directly tied to environmental considerations. In its June 2012 statement in the context of the Rio+20 Conference on “the green economy in the context of sustainable development and poverty eradication,” the Committee recognized that “[t]he protection of [indigenous peoples’] rights is deeply linked to the protection of the environment and their natural habitat, without which such communities are threatened with disappearance.”[[122]](#footnote-122) The Committee also recognized that there are “link[s]” between “biodiversity conservation and . . . the cultural rights of indigenous peoples and local communities.”[[123]](#footnote-123)
2. **Obligation to Adopt Measures Safeguarding the Substantive Rights of Indigenous Peoples**
3. States have duties under the ICESCR to take measures to “ensur[e] the effective enjoyment by indigenous peoples of their rights to ancestral domains, lands and natural resources,”[[124]](#footnote-124) and to “ensure that the means of subsistence of indigenous communities and their enjoyment of economic, social, and cultural rights are effectively protected.”[[125]](#footnote-125) The safeguarding of indigenous peoples’ rights vis-à-vis their lands facilitates the protection of their “material and spiritual relationship with nature and, ultimately, their own cultural identity.”[[126]](#footnote-126)
4. The Committee has indicated that State parties must enact measures that “incorporate the right of indigenous peoples to their ancestral lands” and “the right to free access to natural resources on which indigenous communities rely for their subsistence.”[[127]](#footnote-127) The Committee has expressed its concern in circumstances where such measures were not adopted. For example, in Concluding Observations regarding Mexico, the Committee noted that construction of a dam would cause flooding, which in turn would “lead to environmental depletion and reportedly displace 25,000 people” and “violate the communal land rights of the affected communities, as well as their economic, social and cultural rights.”[[128]](#footnote-128) Similarly, in Concluding Observations regarding the Democratic Republic of the Congo, the Committee expressed concern that “abusive exploitation” of forests adversely affected the local ecology and biodiversity and also “undermine[d] the rights of indigenous populations … to live in their ancestral lands and manage their forests according to their traditional practices.”[[129]](#footnote-129)
5. The Committee has stated that State parties are required to “ensure the enjoyment of the right to food and of the right to affordable drinking water and sanitation, in particular by indigenous peoples, including through “mitigat[ing] the adverse consequences of climate change.”[[130]](#footnote-130) The Committee has also noted concern whenever the rights of indigenous peoples, “in particular their right to an adequate standard of living including the right to food,” are adversely affected by the depletion of natural sources upon which they depend for sustenance.[[131]](#footnote-131)
6. State parties are required to safeguard the enjoyment of the rights of indigenous peoples against environmental degradation caused by the activities of non-State actors. For example, the Committee has urged States to “undertake the necessary measures to stop violations of the rights of indigenous peoples and … [to] hold accountable those responsible for such unlawful acts,” and to “ensure the protection of indigenous communities during the implementation of mining exploration and exploitation projects.”[[132]](#footnote-132) Such measures must be “specific”[[133]](#footnote-133) and “effective,”[[134]](#footnote-134) and, where appropriate, be in the form of legislation,[[135]](#footnote-135) or result in a “moratorium on concessions.”[[136]](#footnote-136)
7. **Obligation to Ensure the Participation of Indigenous People in Decision-Making Concerning Their Lands and to Obtain their Free, Prior and Informed Consent**
8. State parties are also required to ensure that indigenous peoples have the right to participate in, and to provide their free, prior and informed consent to, decisions involving their indigenous territories. For example, in General Comment No. 21, the Committee stated that:

Indigenous peoples have the right to act collectively to ensure respect for their right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions … including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora … . States parties should respect the principle of free, prior and informed consent of indigenous peoples in all matters covered by their specific rights.[[137]](#footnote-137)

This duty is consistent “with the principle of participation and the protection of the distinctive cultural identity of [indigenous peoples].”[[138]](#footnote-138) Further, the participation of indigenous peoples ensures that they are not deprived of the “full enjoyment of their rights with regard to their ancestral lands and natural resources.”[[139]](#footnote-139) The Committee has also recognized that State parties, through consulting with indigenous peoples, can “harness the potential of their traditional knowledge and culture (in land management and conservation).”[[140]](#footnote-140)

1. The Committee has stated that State parties must “ensure that the indigenous and local communities … are duly consulted, and that their prior informed consent is sought, in any decision-making processes related to these projects affecting their rights and interests under the Covenant”[[141]](#footnote-141) Referring to ILO Convention No. 169, the Committee has stated that State parties are required to:

always enter into effective consultations with indigenous communities before granting concessions for the economic exploitation of the lands and territories traditionally occupied or used by them to State-owned companies or third parties, fulfilling the obligation to obtain the free, prior and informed consent of those who are affected by the aforementioned economic activities.[[142]](#footnote-142)

The Committee has expressed concern about situations where State parties fail properly to consult indigenous peoples about natural resource development projects that affect them;[[143]](#footnote-143) such “shortcomings” have “led to the exploitation of natural resources in the territories traditionally occupied or used by [indigenous peoples] without their free, prior and informed consent.”[[144]](#footnote-144) For example, the Committee urged Ecuador to let indigenous peoples “freely decide whether or not to give their consent for a given project.”[[145]](#footnote-145) The Committee expressed its concern that Ecuador’s objectives in its “efforts to disseminate information, establish permanent consultative offices and organize tours through areas surrounding proposed mining and hydrocarbons development project sites [were] confined to the socialization of these projects and. . . fail[ed] to engender an intercultural dialogue that would serve as a basis for obtaining the consent of indigenous peoples and nationalities and respecting their right to be consulted.”[[146]](#footnote-146)

1. Consultation mechanisms must be used systematically and meaningfully. The Committee has urged States to “develop institutional and procedural guarantees to ensure the effective participation of indigenous communities in decision-making on issues that affect them.”[[147]](#footnote-147) The Committee has expressed concern where consultation processes were not “effective,”[[148]](#footnote-148) or did not create an “adequate framework for the process of genuine consultation.”[[149]](#footnote-149) States are required to give “primary consideration to [indigenous peoples’] special needs prior to granting licenses to private companies for economic activities on territories traditionally occupied or used by those communities.”[[150]](#footnote-150)
2. **Obligation to Conduct Environmental and Social Impact Assessments of Development Activities on Indigenous Peoples’ Lands**
3. State parties considering proposed development activities on indigenous lands—including projects for the exploitation of natural resources—are under a duty to assess in advance the impact of those activities on the indigenous peoples and their territories. State parties are required to “carry out environmental and social impact assessments of economic activities.”[[151]](#footnote-151) The Committee considers this duty jointly with the duty to consult with indigenous peoples,[[152]](#footnote-152) and has urged the completion of impact studies “with the participation of the peoples concerned.”[[153]](#footnote-153) For example, in concluding observations relating to Cambodia, the Committee expressed concern about the exploitation of natural resources carried out on indigenous territories and “emphasize[d] the need for carrying out environmental and social impact assessments and consultations with affected communities … with a view to ensuring that these activities do not deprive the indigenous peoples of the full enjoyment of their rights to their ancestral lands and natural resources.”[[154]](#footnote-154) These studies must be “comprehensive” and “assess the social, spiritual, cultural, and environmental impact on [affected people] of planned activities.”[[155]](#footnote-155)
4. **Obligation to Guarantee that Indigenous Peoples Derive Reasonable Benefit from Development Activities on Traditional Lands**
5. The Committee has strongly recommended that “the granting of economic concessions take into account the need for sustainable development and for all … to share in the benefits of progress rather than for private gain alone.”[[156]](#footnote-156) Accordingly, in considering development or investment activities on indigenous peoples’ lands, States should guarantee that the indigenous peoples share the benefits of the relevant activity. The Committee also encourages State parties to ensure that concessions “do not deprive the indigenous peoples of the full enjoyment of their rights to their ancestral lands and natural resources, and that the benefits thereof contribute to their poverty alleviation.”[[157]](#footnote-157)
6. **Obligation to Provide for Compensation to Indigenous Peoples for Environmental Harm Caused by Development Activities**
7. State parties should provide for just and fair compensation to indigenous peoples harmed by activities involving the exploration or exploitation of natural resources in their territories.[[158]](#footnote-158) In Concluding Observations regarding Argentina, the Committee expressed concern about the “exploitation of natural resources in the territories traditionally occupied or used by [indigenous communities] … without just and fair compensation being paid to them,” and recommended that the State party “guarantee that in no case will such exploitation violate the rights recognized in the Covenant and that just and fair compensation is granted to indigenous communities.”[[159]](#footnote-159)
8. **Cross-Cutting Issues**
	1. **Obligations relating to Transboundary Environmental Harm**
9. Although the ICESCR does not impose an express duty on State parties in relation to transboundary or global environmental harm, certain provisions of the ICESCR indicate the significance of international cooperation for the promotion of economic, social and cultural rights. The Preamble to the ICESCR refers to the obligation of:

States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms.

Article 2 requires each State party:

to take steps, individually and through *international assistance and cooperation*, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures.

Similarly, Article 11, relating to the right to an adequate standard of living, provides that:

1. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of *international cooperation* based on consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through *international cooperation*, the measures, including specific programmes, which are needed [to protect the right to food].

1. The Committee explicitly highlighted “[t]he importance of international cooperation for the promotion of economic, social and cultural rights and sustainable development” in its Statement in the context of the Rio+20 Conference in 2012.[[160]](#footnote-160) The Committee had issued a similar statement on sustainable development in 2002 prior to the meeting of the Preparatory Committee for the World Summit on Sustainable Development, emphasizing the need to uphold the principles relating to human rights in the Rio Declaration on Environment and Development, the Habitat Agenda, and other instruments on international cooperation. The Committee voiced its view that “[u]pholding and invoking relevant human rights instruments in general, and the Covenant in particular, will provide a solid legal basis for international cooperation and a sense of duty to demonstrate the seriousness of the efforts of the World Summit.”[[161]](#footnote-161)
2. The Committee has addressed the need for international cooperation when expounding upon the requirements of individual rights under the ICESCR. For example, in relation to the right to water, General Comment No. 15 states that:

International cooperation requires States parties to refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the State party’s jurisdiction should not deprive another country of the ability to realize the right to water for persons in its jurisdiction.[[162]](#footnote-162)

1. With respect to the right to food, General Comment No. 12 indicates that “States have a joint and individual responsibility, in accordance with the Charter of the United Nations, to cooperate in providing disaster relief and humanitarian assistance in times of emergency.”[[163]](#footnote-163)
2. The Committee has emphasized the need for international cooperation among State parties in safeguarding rights under the ICESCR both in relation to regional environmental hazards and environmental catastrophes suffered by individual State parties. For example, the Committee praised Ukraine in 1995 for “the fact that the Government has been making effective use of international assistance provided in connection with the grave effects of the Chernobyl nuclear accident.”[[164]](#footnote-164) The Committee also expressed its concern about the regional environmental hazards impacting the enjoyment of the right to health by the population of Kazakhstan, including “the depletion and pollution of the Aral Sea and the environmental pollution of the former nuclear test site of Semipalatinsk,” as well as “contamination of soil and water by industrial waste, agricultural pollutants and chemicals.”[[165]](#footnote-165) Besides enforcing its own environmental laws, and allocating more resources to these issues, the Committee urged Kazakhstan “to take immediate steps, including through regional cooperation as appropriate.”[[166]](#footnote-166) In separate comments in relation to the Aral Sea, the Committee urged Uzbekistan “to continue its efforts to find a regional solution to the Aral Sea catastrophe. . . and to take all necessary measures to ensure that the population affected in given full possibility to enjoy economic, social and cultural rights under the Covenant, and in particular the right to health.”[[167]](#footnote-167)
3. The Committee has also stated in connection with certain rights under the ICESCR that States should take steps to avoid transboundary harm impacting the human rights of individuals in other countries. For example, General Comment No. 15 confirms that:

Steps should be taken by States parties to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries. Where States parties can take steps to influence other third parties to respect the right, through legal or political means, such steps should be taken in accordance with the Charter of the United Nations and applicable international law.[[168]](#footnote-168)

Additionally, in General Comment No. 14 on the right to health, the Committee states that:

To comply with their international obligations in relation to article 12, States parties have to respect the enjoyment of the right to health in other countries, and to prevent third parties from violating that right in other countries, if they are able to influence these third parties by way of legal or political means.[[169]](#footnote-169)

* 1. **Obligations relating to Non-State Actors**
1. Although the obligations under the ICESCR are not addressed specifically to non-state actors, the role of such third parties in causing environment harm—which can compromise the enjoyment of rights protected by the ICESCR—is well-established, as is the obligation of State parties to take measures to protect against such harm.
2. The Committee has expressly acknowledged that:

corporate activities can adversely affect the enjoyment of Covenant rights. Multiple examples of related problems ... [include] the harmful impact on the right to health, standard of living, including of indigenous peoples, [and] the natural environment. . . The Committee reiterates the obligation of States parties to ensure that all economic, social and cultural rights laid down in the Covenant are fully respected and rights holders adequately protected in the context of corporate activities.[[170]](#footnote-170)

1. In a 2002 statement to the Commission on Sustainable Development, the Committee expressed concern about the turning over of social services by States to “non-State entities which have no comparable commitment to the progressive realization of economic, social and cultural rights, nor to the protection of the environment.”[[171]](#footnote-171) The Committee referred to the pollution of water, air and soil by extractive and manufacturing industries,” and stated that “[s]uch a situation, involving acts and/or omissions by the State and by non-State entities within the State’s purview, affect[s] sustainable development and also constitutes a breach of treaty obligations under the Covenant.”[[172]](#footnote-172) In 2012, the Committee stressed “[t]he importance that State parties to the Covenant live up to their responsibility to ensure that the corporate sector observe the Rio principles as they bear on all the rights under the Covenant, as stressed by the Committee in its 2011 statement on the obligations of State parties regarding the corporate sector and economic, social and cultural rights.”[[173]](#footnote-173)
2. In General Comment No. 15, the Committee confirmed that:

The obligation to *protect* requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measure to restrain, for example, third parties … polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.[[174]](#footnote-174)

General Comment No. 15 also indicates that:

Violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to water by third parties. This includes, inter alia: (i) failure to enact or enforce laws to prevent the contamination and inequitable extraction of water.[[175]](#footnote-175)

1. There is particular recognition that the grant to non-state actors of economic land or natural resource concessions can lead to environmental degradation and that State parties are under an obligation to protect the enjoyment of rights under the ICESCR against such harm. For example, the Committee noted in concluding observations addressed to the Democratic Republic of Congo that:

[t]he illegal exploitation of the country’s natural resources, including by foreign companies, constitute major obstacles to the enjoyment of economic, social and cultural rights in the State party. The Committee reiterates the primary responsibility of the State party for ensuring security in its territory and protecting its civilians with respect to the rule of law, human rights and international humanitarian law.[[176]](#footnote-176)

The Committee also noted its concern “about the lack of transparency surrounding the current revision of mining contracts and the granting of new contracts to foreign companies.”[[177]](#footnote-177) The Committee:

urge[d] the State party to take all appropriate measures to ensure that its natural resources are not subjected to illegal exploitation and mismanagement, to review without delay the mining contracts in a transparent and participatory way, repeal all contracts which are detrimental to the Congolese people, and ensure that future contracts are concluded in a transparent and public way. The Committee also encourages the State party to implement the Extractive Industries Transparency Initiative (EITI) to which it has been a candidate country since 2008, in particular as regards the regular disclosure of revenues received from oil, gas and mining to a wide audience in a publicly accessible comprehensive and comprehensible manner.[[178]](#footnote-178)

The Committee has also encouraged a State party “to take into account its obligations under the Covenant in all aspects of its negotiations with investors,”[[179]](#footnote-179) including in relation to the duty to safeguard Covenant rights against the potential harm to the environment.

* 1. **Obligations Relating to Future Generations**
1. In its 2002 statement to the Commission on Sustainable Development, the Committee stated that “[t]he primary objective for all of us should be to live up to existing human rights standards and to build upon them toward a better world and a sustainable future for ourselves and future generations.”[[180]](#footnote-180) In 2012, the Committee confirmed that:

[m]any provisions of the International Covenant on Economic, Social and Cultural Rights (the Covenant) link with environment and sustainable development, and the Committee in its dialogue with State parties has regularly stressed the interlinkages of specific economic, social and cultural rights, as well as the right to development, with the sustainability of environmental protection and development efforts.[[181]](#footnote-181)

1. The Committee has explicitly confirmed that State parties are subject to an obligation to ensure the environmental sustainability of their policies implementing the rights to food and water,[[182]](#footnote-182) and, in particular, to ensure that these rights can be realized for present and future generations against the impact of climate change and other environmental degradation. For example, the Committee confirmed, in relation to the right to water, that:

States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include … reducing and eliminating contamination of watersheds and water-related eco-systems … [and] assessing the impacts of actions that may impinge upon water availability and natural-ecosystems and watersheds, such as climate changes, desertification and increased soil salinity, deforestation, and loss of biodiversity.[[183]](#footnote-183)

1. Equally, in its concluding observations in relation to the reports of State parties, the Committee has noted the necessity of ensuring sustainable development. For example, in concluding observations addressed to Cambodia, the Committee “strongly recommend[ed] that the granting of economic concessions take into account the need for sustainable development.”[[184]](#footnote-184) Similarly, in concluding observations in relation to Mauritania, the Committee called on the State party “to ensure that water and sanitation policies take account of the increase in demand in the near future in urban areas as a result of sedentarization of nomadic people and rural exodus.”[[185]](#footnote-185)
	1. **References by the Committee to Standards Outside the ICESCR to Inform Human Rights Duties Relating to the Environment**
2. The Committee has frequently made reference to sources and standards outside the ICESCR to inform the substance of human rights duties in relation to the environment.
3. In a general statement in this regard, the Committee indicated that it took note of:

Principle 1 of the Stockholm Declaration of 1972 which states: ‘Man has the fundamental right to … adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being,’ as well as of recent developments in international law, including General Assembly resolution 45/94 on the need to ensure a healthy environment for the well-being of individuals … .[[186]](#footnote-186)

1. The Committee has also referred to international agreements targeted at more specific substantive issues. The Committee has invoked the UN Framework Convention on Climate Change, for example, stating:

The Committee urges State parties to address the structural causes at the national and international levels, including by . . . [i]mplementing strategies to combat global climate change that do not negatively affect the right to adequate food and freedom from hunger, but rather promote sustainable agriculture, as required by Article 2 of the United Nations Framework Convention on Climate Change.[[187]](#footnote-187)

In its statement in the context of the Rio +20 Conference on “The Green Economy in the Context of Sustainable Development and Poverty Eradication,” the Committee emphasized:

the need to integrate the green economy in the broader concept of sustainable development, which encompasses social development, together with economic growth and environmental protection, and thus has close linkages with economic, social and cultural rights. The Committee stresses the importance of upholding the balanced Rio Declaration approach.[[188]](#footnote-188)

The same statement referred to the human rights dimensions of the goals of a green economy, as enshrined, *inter alia*, in the ICESCR, the ICCPR, the Universal Declaration of Human Rights, the UN Declaration on the Right to Development, and the Millennium Declaration.[[189]](#footnote-189) In an earlier statement in 2002 to the Commission on Sustainable Development acting as the Preparatory Committee for the World Summit on Sustainable Development, the Committee “affirm[ed] its view that States must uphold the human rights commitments adopted in the Rio Declaration on Environment and Development, the Habitat Agenda, and other specialized and complementary efforts in international cooperation.”[[190]](#footnote-190)

1. Similarly, the Committee has encouraged State parties to implement “soft” standards articulated by non-governmental organizations or other groups. For example, in the context of natural resource exploitation, the Committee has called upon State parties to comply with the Extractive Industries Transparency Initiative (EITI).[[191]](#footnote-191) A further example arises in the context of the right to water—the Committee has indicated that State parties should “effectively implement adopted World Health Organization standards on drinking water quality.”[[192]](#footnote-192)
2. As part of its monitoring functions, the Committee has requested State parties to provide “an exact list of all the international conventions on environmental protection to which it is a party.”[[193]](#footnote-193) It has also congratulated States that have given effect to the protections under such international conventions. For example, in concluding observations addressed to Cambodia, the Committee “welcome[d] the launching by the State party of a project for carbon credits for community forestry under the Clean Development Mechanism and the Reduced Emissions from Deforestation and Forest Degradation of the United Nations Framework on Climate Change.”[[194]](#footnote-194)

Similarly, in concluding observations addressed to Ukraine, the Committee “welcome[d] the adoption by the State party of legislation on climate protection giving effect to the 1997 Kyoto Protocol to the United Nations Framework on Climate Change.”[[195]](#footnote-195)

1. The Committee has made repeated reference to ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries[[196]](#footnote-196) when stating that the free, prior and informed consent of indigenous communities is required before the exploitation of natural resources in their traditional territories.[[197]](#footnote-197) The Committee has also invoked ILO Convention No. 169 in relation to the obligation of State parties to pay compensation to indigenous peoples for harm to their territories resulting from natural resource exploitation.[[198]](#footnote-198)
2. **Conclusions**
3. Notwithstanding the absence of an express right to a healthy environment in the ICESCR, the Committee has firmly established that the enjoyment of several economic, social and cultural rights depends upon the existence of a healthy environment.
4. The majority of the Committee’s findings with respect to threats presented by environmental degradation and damage have been made in relation to the right to an adequate standard of living (incorporating the rights to adequate housing, adequate food, and safe and clean drinking water and sanitation), and the right to the highest attainable standard of physical and mental health. In this context, the Committee has addressed threats to the enjoyment of these rights resulting from a broad range of environmental harms, including pollution in multiple forms; environmental damage caused by agricultural, extractive and development activities; natural catastrophes; deforestation; and climate change.
5. The Committee has confirmed that State parties are subject to both procedural and substantive obligations to safeguard the enjoyment of economic, social and cultural rights against threats from environmental risks and degradation. In particular, State parties have a duty to establish mechanisms for assessing the impact of actions that may impinge upon these rights, and to give individuals who may be impacted by activities with potentially adverse environmental effects the right to participate in decision-making about those activities. The Committee has also indicated that State parties are under a duty to take measures—including through the enactment and effective enforcement of legislation and regulations—to safeguard the enjoyment of rights against the effects of environmental damage. Relatedly, the Committee has acknowledged that the activities of third party non-State actors can adversely affect the enjoyment of rights under the ICESCR and indicated that State parties must adequately protect rights holders in the context of such activities.
6. With respect to indigenous peoples, the Committee has acknowledged that biodiversity and environmental conservation are directly linked to the proper enjoyment of Covenant rights, including cultural rights, by indigenous peoples. State parties have a duty to safeguard the access of indigenous communities to their ancestral lands and the natural resources on those lands, without which their rights to water, food and health can be severely compromised. The Committee has also articulated several procedural obligations with which State parties must comply before granting concessions for the exploitation of natural resources on indigenous lands (including obligations to assess the impact of such development activities, and to consult and seek the free, prior and informed consent of indigenous peoples), as well as during the course of such activities should environmental damage take place (obligations to guarantee that indigenous peoples derive benefit from those activities and to provide for compensation for any harm that occurs).
7. The Committee has also addressed the issue of transboundary environmental harm, urging States to take steps to prevent harm that could impact the enjoyment of the economic, social and cultural rights of individuals in other States. Further, the Committee has highlighted the importance of international cooperation among State parties to the promotion of rights under the ICESCR and sustainable development more generally.
8. The issue of climate change has also been considered by the Committee, both in relation to the individual State parties, and more broadly in the context of its General Comments on the rights to water and food. The Committee has advocated that States parties “implement[] strategies to combat global climate change” and promote sustainable development.[[199]](#footnote-199) Further, the Committee has expressly linked “the sustainability of environmental protection and development efforts” to the enjoyment of economic, social and cultural rights.[[200]](#footnote-200) It has drawn this connection not simply in relation to the existing populations of State parties, but also in relation to future generations, stating that “[t]he primary objective for all of us should be to live up to existing human rights standards and to build upon them toward a better world and a sustainable future for ourselves and future generations.”[[201]](#footnote-201)
1. International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, 16 December 1966 (entered into force 3 January 1976). [↑](#footnote-ref-1)
2. The Committee is comprised of eighteen independent experts. It was created by the United Nations Economic and Social Council (“ECOSOC”) in Resolution 1985/17 of 28 May 1985, to carry out the monitoring functions assigned to ECOSOC in Part IV of the Covenant. [↑](#footnote-ref-2)
3. All States parties are obliged to submit regular reports to the Committee on how rights under the Covenant are being implemented. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of “concluding observations.” In addition to the reporting mechanism, the Optional Protocol to the ICESCR—which entered into force on 5 May 2013––grants the Committee the competence to receive and consider communications from individuals claiming that their rights under the Covenant have been violated. No decisions have yet been rendered under the Protocol. [↑](#footnote-ref-3)
4. *See* Webpage of the Committee on Economic, Social, and Cultural Rights,http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx. [↑](#footnote-ref-4)
5. *See, e.g., Concluding Observations of the Committee on Economic, Social and Cultural Rights: Uzbekistan*, 24 January 2006, U.N. Doc. E/C.12/UZB/CO/1, ¶ 9 (“the effects of the Aral Sea ecological catastrophe in the State party have posed obstacles to the enjoyment of economic, social and cultural rights by the population in the State party”). [↑](#footnote-ref-5)
6. *See Statement in the context of the* *Rio+20 Conference on “the green economy in the context of sustainable development and poverty eradication”*, adopted by the Committee at its forty-eighth session, 30 April–18 May 2012, 4 June 2012, U.N. Doc. E/C.12/2012/1, ¶ 5. [↑](#footnote-ref-6)
7. *See, e.g., Concluding Observations: Uzbekistan*, note 5 *supra,* ¶ 59 (urging Uzbekistan to find a solution to the Aral Sea environmental catastrophe and to take all necessary measures to ensure that the population affected could enjoy its economic, social and cultural rights). [↑](#footnote-ref-7)
8. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Azerbaijan*, 22 December 1997, U.N. Doc. E/C.12/1/Add.20, ¶ 14. [↑](#footnote-ref-8)
9. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Russian Federation*, 20 May 1997, U.N. Doc. E/C.12/1/Add.13, ¶ 25. [↑](#footnote-ref-9)
10. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel*, 4 December 1998, U.N. Doc. E/C.12/1/Add.27, ¶ 31. [↑](#footnote-ref-10)
11. C*oncluding Observations of the Committee on Economic, Social and Cultural Rights: Cambodia*, 12 June 2009, U.N. Doc. E/C.12/KHM/CO/1, ¶ 15. [↑](#footnote-ref-11)
12. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Democratic Republic of the Congo*, 20 November 2009, U.N. Doc. E/C.12/COD/CO/4, ¶ 14. [↑](#footnote-ref-12)
13. *Ibid.* ¶ 6 (urging the State party to take all appropriate measures to ensure that its natural resources were not subjected to illegal exploitation and mismanagement, to adopt measures to control the export of minerals and to impose sanctions on those involved in the illicit trading in natural resources). *See also* *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Chad*, 16 December 2009, U.N. Doc. E/C.12/TCD/CO/3, ¶ 23 (recommending that the State party take all appropriate measures, including the use of oil revenues, to ensure that the exploitation of natural resources benefits national development and promotes public welfare). [↑](#footnote-ref-13)
14. C*oncluding Observations of the Committee on Economic, Social and Cultural Rights: Paraguay*, 4 January 2008, U.N. Doc. E/C.12/PRY/CO/3, ¶ 10. [↑](#footnote-ref-14)
15. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Bolivia*, 8 August 2008, U.N. Doc. E/C.12/BOL/CO/2, ¶ 9. [↑](#footnote-ref-15)
16. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Philippines*, 1 December 2008, U.N. Doc. E/C.12/PHL/CO/4, ¶ 9. [↑](#footnote-ref-16)
17. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Tunisia*, 14 May 1999, U.N. Doc. E/C.12/1/Add.36, ¶ 8. [↑](#footnote-ref-17)
18. *See* *General Comment No. 15: The right to water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights),* 20 January 2003, U.N. Doc. E/C.12/2002/11, ¶ 3. [↑](#footnote-ref-18)
19. *Report of the Committee on Economic, Social and Cultural Rights for the Twentieth and Twenty-First sessions, Consideration of reports of States parties: Solomon Islands*, 26 April-14 May1999, 15 November-3 December 1999, U.N. Doc. E/C.12/1999/11, ¶ 204. [↑](#footnote-ref-19)
20. *Report of the Committee on Economic, Social and Cultural Rights for the Thirty-Eighth and Thirty-Ninth sessions, Consideration of reports of States parties: Costa Rica*, 30 April-16 May 2007, 5-23 November 2007, U.N. Doc. E/C.12/2007/3, ¶ 370. [↑](#footnote-ref-20)
21. *General Comment No. 4: The right to adequate housing (Art. 11(1) of the Covenant),* 13 December 1991, U.N. Doc. E/1992/23, ¶ 7. [↑](#footnote-ref-21)
22. *See ibid*. ¶ 8 (“Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as … victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere.”). [↑](#footnote-ref-22)
23. *Report of the Committee on Economic, Social and Cultural Rights for the Twenty-Fifth, Twenty-Sixth and Twenty-Seventh sessions, Consideration of reports of States parties: Honduras*, 23 April-11 May 2001, 13-31 August, 12-30 November 2001, U.N. Doc. E/C.12/2001/17, ¶ 132. [↑](#footnote-ref-23)
24. *See* *General Comment No. 15,* note 18 *supra*, ¶ 3. [↑](#footnote-ref-24)
25. *Ibid.* ¶ 2. General Comment No. 15 also confirms that “[t]he right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from … contamination of water supplies.” *Ibid.* ¶ 10. [↑](#footnote-ref-25)
26. *Ibid.* ¶ 12(b). Additional detail on the right to water has been provided in the context of the requirement of environmental hygiene, as an aspect of the right to health under Article 12 of the ICESCR, which “encompasses taking steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions.” *See* *ibid*. ¶ 8. [↑](#footnote-ref-26)
27. In General Comment No. 15 on the right to water, the Committee noted that “during armed conflicts, emergency situations and natural disasters, the right to water embraces those obligations by which States parties are bound under international humanitarian law. This includes protection of the natural environment against widespread, long-term and severe damage … .” *Ibid*. ¶ 22. [↑](#footnote-ref-27)
28. *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Eighth and Forty-Ninth sessions, Consideration of reports of States parties: Ecuador*, 30 April-18 May 2012, 12-30 November 2012, U.N. Doc. E/C.12/2012/3, ¶ 78(25). [↑](#footnote-ref-28)
29. *Report of the Committee on Economic, Social and Cultural Rights for the Thirty-Eighth and Thirty-Ninth sessions, Consideration of reports of States parties: Paraguay*, 30 April-16 May 2007, 5-23 November 2007, U.N. Doc. E/C.12/2007/3, ¶ 436; s*ee also* *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Eighth and Forty-Ninth sessions, Consideration of reports of States parties: Tanzania*, 30 April-18 May 2012, 12-30 November 2012, U.N. Doc. E/C.12/2012/3, ¶ 81(25) (“The Committee is concerned about … the impact of artisanal mining and the chemicals used on the environment and livelihoods of local communities, including contamination of such water sources as rivers, lakes and other bodies of water (art. 12).”); *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Sixth and Forty-Seventh sessions, Consideration of reports of States parties: Argentina*, 2-20 May 2011, 14 November-2 December 2011, U.N. Doc. E/C.12/2011/3, ¶ 267 (“The Committee is particularly concerned by the negative consequences of lithium exploitation in Salinas Grandes (Salta and Jujuy provinces) on the environment, access to water, way of life and subsistence of indigenous communities (arts. 1, 11 and 12).”); *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Eighth and Forty-Ninth sessions, Consideration of reports of States parties: Peru*, 30 April-18 May 2012, 12-30 November 2012, U.N. Doc. E/C.12/2012/3, ¶ 74(22) (“The Committee is concerned about the adverse effects as a result of the extractive industries’ activities on the health of the population, in particular on the access to safe drinking water.”); *Report of the Committee on Economic, Social and Cultural Rights for the Fortieth and Forty-First sessions, Consideration of reports of States parties: India*, 28 April-16 May 2008, 3-21 November 2008, U.N. Doc. E/C.12/2008/3, ¶ 251 (“The Committee is concerned about the shortage of access to safe drinking water and the presence of heavy metals in ground water.”); *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Second and Forty-Third sessions, Consideration of reports of States parties: Republic of Korea*, 4-22 May 2009, 2-20 November 2009, U.N. Doc. E/C.12/2009/3, ¶ 473 (“The Committee is concerned about reports on the contamination of village waterworks by radioactive agents, exceeding safety standards for drinking water. It is also concerned that companies commercializing bottled water are using groundwater resources that local communities need for farming and drinking. The Committee is further concerned at the failure to disclose the existence of carcinogenic substances in bottled drinking water.”). [↑](#footnote-ref-29)
30. *See, e.g.*, *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Second and Forty-Third sessions, Consideration of reports of States parties: Chad*, 4-22 May 2009, 2-20 November 2009, U.N. Doc. E/C.12/2009/3, ¶ 348 (noting the serious health risks posed by the contamination of groundwater due to the lack of an adequate sewerage system and urging the State party to provide all rural and urban communities with appropriate systems for ensuring access to drinking water and to adequate sanitation infrastructure). [↑](#footnote-ref-30)
31. *See* *General Comment No. 15,* note 18 *supra,* ¶ 28. [↑](#footnote-ref-31)
32. *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Second session, Consideration of reports of States parties: Australia*, 22 May 2009, U.N. Doc. E/C.12/AUS/CO/4, ¶ 27. The Committee further encouraged the State party to take measures to mitigate the adverse consequences of climate change and its impacts on the rights to food and water for indigenous peoples. [↑](#footnote-ref-32)
33. International Covenant on Economic, Social and Cultural Rights, note 1 *supra,* art. 11(2). [↑](#footnote-ref-33)
34. *General Comment No. 12: The right to adequate food (Art. 11)*, 12 May 1999, U.N. Doc. E/C.12/1999/5, ¶ 8. [↑](#footnote-ref-34)
35. *See ibid.* ¶ 14. [↑](#footnote-ref-35)
36. *Concluding Observations: Russian Federation*, note 9 *supra*, ¶ 24. [↑](#footnote-ref-36)
37. *Ibid.* ¶ 38. [↑](#footnote-ref-37)
38. *Report of the Committee on Economic, Social and Cultural Rights for the Twentieth and Twenty-First sessions, Consideration of reports of States parties: Cameroon*, 26 April-14 May 1999, 15 November-3 December 1999, U.N. Doc. E/C.12/1999/11, ¶ 337; s*ee also* *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Second and Forty-Third sessions, Consideration of reports of States parties: Madagascar*, 4-22 May 2009, 2-20 November 2009, U.N. Doc. E/C.12/2009/3, ¶ 372 (expressing apprehension that investment laws permitting land acquisition by foreign investors were adversely impacting the access of people living in rural areas to cultivable lands and their natural resources, thereby leading to a negative impact on the realization by the *Malagassupray* population of the right to food). [↑](#footnote-ref-38)
39. *Concluding Observations: Russian Federation,* note 9 *supra*, ¶ 14. [↑](#footnote-ref-39)
40. *Consideration of reports of States parties: Argentina*, note 29 *supra,* ¶ 268; *see also* *Consideration of reports of States parties: Paraguay*, note 29 *supra*, ¶ 436. [↑](#footnote-ref-40)
41. *See* *General Comment No. 12*,note 34 *supra*, ¶ 28 (“Even where a State faces severe resource constraints, whether caused by a process of economic adjustment, economic recession, climatic conditions or other factors, measures should be undertaken to ensure that the right to adequate food is especially fulfilled for vulnerable population groups and individuals.”). [↑](#footnote-ref-41)
42. *See* note 32 *supra,* ¶ 27. As set forth above, the Committee called on the State party to take all necessary measures “to mitigate the adverse consequences of climate change, impacting the right to food and the right to water for indigenous peoples.” [↑](#footnote-ref-42)
43. International Covenant on Economic, Social and Cultural Rights, note 1 *supra,* art. 12(2). [↑](#footnote-ref-43)
44. *General Comment No. 14: The right to the highest attainable standard of health (Article 12 of the International Covenant on Economic, Social and Cultural Rights),* ¶ 4, 11 August 2000, U.N. Doc. E/C.12/2000/4; s*ee also ibid*. n.13 (referring approvingly to Principle 1 of the Stockholm Declaration of 1972, which states that “[m]an has the fundamental right to … adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being”). [↑](#footnote-ref-44)
45. *Concluding Observations: Uzbekistan*, note 5 *supra*, ¶ 28. *See also* *Report of the Committee on Economic, Social and Cultural Rights for the Twenty-Eighth and Twenty-Ninth sessions, Consideration of reports of States parties: Estonia*, 29 April-17 May 2002, 11-29 November 2002, U.N. Doc. E/C.12/2002/13, ¶ 537 (“The Committee also recommends that the State party strictly enforce the domestic and international standards for environmental protection, so as to prevent harmful effects to the health of the population in Estonia.”). [↑](#footnote-ref-45)
46. *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Fourth and Forty-Fifth sessions, Consideration of reports of States parties: Kazakhstan*, 3-21 May 2010, 1-19 November 2010, U.N. Doc. E/C.12/2010/3, ¶ 213. [↑](#footnote-ref-46)
47. *Statement in the Context of the Rio+20 Conference,* note 6 *supra*, ¶ 6. The Committee noted that natural habitats can promote the enjoyment of the right to health through providing access to potable water, as well as through preventing water degradation and pollution, which can lead to epidemics and waterborne disease. [↑](#footnote-ref-47)
48. *General Comment No. 14,* note 44 *supra*, ¶ 15. [↑](#footnote-ref-48)
49. *See Report of the Committee on Economic, Social and Cultural Rights for the Forty-Eighth and Forty-Ninth sessions, Consideration of reports of States parties: Mauritania*, 30 April-18 May 2012, 12-30 November 2012, U.N. Doc. E/C.12/2012/3, ¶ 80(29); *Consideration of reports of States parties: Chad*, note 30 *supra,* ¶ 348. [↑](#footnote-ref-49)
50. *Statement of the Committee on Economic, Social and Cultural Rights to the Commission on Sustainable Development as the Preparatory Committee for the World Summit on Sustainable Development (Bali, Indonesia, 27 May-7 June 2002)*, 30 April 2003, U.N. Doc. E/C.12/2002/13, Annex VI, ¶ 3. [↑](#footnote-ref-50)
51. *See General Comment No. 14,* note 44 *supra*, ¶ 27. [↑](#footnote-ref-51)
52. *See Consideration of reports of States parties: Mauritania,* note 49 *supra*, ¶ 80(8). [↑](#footnote-ref-52)
53. *See Report of the Committee on Economic, Social and Cultural Rights for the Eighteenth and Nineteenth sessions, Consideration of reports of States parties: Nigeria*, 13 May 1998, U.N. Doc. E/C.12/1998/26, ¶ 123 (“The Committee notes with alarm the extent of the devastation that oil exploration has caused to environment and the quality of life in those areas, including Ogoniland where oil has been discovered and extracted without due regard for the health and well-being of the people and their environment.”); *Consideration of reports of States parties: Honduras*, note 23 *supra*, ¶ 131 (“The Committee is particularly concerned about the extremely negative effects of the use of pollutants and toxic substances in specific agricultural and industrial sectors, such as banana growing and gold-mining, on the environment, thereby putting at risk the health and lives of workers and those living in the vicinity of the affected areas.”). *See also* *Report of the Committee on Economic, Social and Cultural Rights for the Eighteenth and Nineteenth sessions, Consideration of reports of States parties: Israel*, 2 December 1998, U.N. Doc. E/C.12/1998/26, ¶ 257 (“The Committee is concerned at persistent reports that the Dimona nuclear plant could pose a serious threat to the right to health and to the environment unless urgent preventive measures are undertaken.”). [↑](#footnote-ref-53)
54. *Report of the Committee on Economic, Social and Cultural Rights for the Thirty-Second and Thirty-Third sessions, Consideration of reports of States parties: Ecuador*, 26 April-14 May 2004, 8-26 November 2004, U.N. Doc. E/C.12/2004/9, ¶ 278. [↑](#footnote-ref-54)
55. *Report of the Committee on Economic, Social and Cultural Rights for the Twenty-Fifth, Twenty-Sixth and Twenty-Seventh sessions, Consideration of reports of States parties: Venezuela*, 23 April-11 May 2001, 13-31 August 2001, 12-30 November 2001, U.N. Doc. E/C.12/2001/17, ¶ 85. [↑](#footnote-ref-55)
56. *See General Comment No. 21: Right of everyone to take part in cultural life (art. 15, para. 1(a), of the International Covenant on Economic, Social and Cultural Rights),* 21 December 2009, U.N. Doc. E/C.12/GC/21, ¶ 15(b). [↑](#footnote-ref-56)
57. *Ibid.* ¶ 16(a). [↑](#footnote-ref-57)
58. *See Statement in the Context of the Rio+20 Conference*, note 6 *supra*, ¶ 6(g). [↑](#footnote-ref-58)
59. *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Second and Forty-Third sessions, Consideration of reports of States parties: Democratic Republic of Congo*, 4-22 May 2009, 2-20 November 2009, U.N. Doc. E/C.12/2009/3, ¶ 311. *See also* *Consideration of reports of States parties: Chad*, note 30 *supra*, ¶ 352; *Report of the Committee on Economic, Social and Cultural Rights for the Fortieth and Forty-First sessions, Consideration of reports of States parties: Philippines*, 28 April – 16 May 2008, 3-21 November 2008, U.N. Doc. E/C.12/2008/3, ¶ 484 (“The Committee notes with concern the adverse effects that economic activities connected with the exploitation of natural resources, especially mining operations, carried out in indigenous territories continue to have on the right of indigenous peoples to their ancestral domains, lands and natural resources, as recognized in the 1997 Indigenous Peoples Rights Act (IPRA).”) [↑](#footnote-ref-59)
60. *Consideration of reports of States parties: Madagascar*, note 38 *supra*, ¶ 393. [↑](#footnote-ref-60)
61. *See General Comment No. 21,* note 56 *supra*, ¶ 49. [↑](#footnote-ref-61)
62. *Ibid.* ¶ 36. [↑](#footnote-ref-62)
63. *Report of the Committee on Economic, Social and Cultural Rights for the Twenty-Fifth, Twenty-Sixth and Twenty-Seventh sessions, Consideration of reports of States parties: Colombia*, 23 April-May 2001, 13-31 August 2001, 12-30 November 2001, U.N. Doc. E/C.12/2001/17, ¶ 761; s*ee also* *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant, Concluding observations of the Committee on Economic, Social and Cultural Rights: Cameroon,* 4-22 May 2009, 2-20 November 2009, U.N. Doc. E/C.12/CMR/CO/2-3, ¶ 33 (“The Committee is concerned that, despite its legal recognition of the cultural rights of indigenous peoples living on its territory, the State party has moved some communities, such as the Baka Pygmy community and the Mbororo community, away from their ancestral lands, which have been opened to third parties for logging, thereby forcing those communities to adapt to other dominant cultures in the country (art. 15).”). [↑](#footnote-ref-63)
64. *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Second and Forty-Third sessions, Consideration of reports of States parties: Cambodia*, 4-22 May 2009, 2-20 November 2009, U.N. Doc. E/C.12/2009/3, ¶ 193. *See also* *Report of the Committee on Economic, Social and Cultural Rights for the Forty-Sixth and Forty-Seventh sessions, Consideration of reports of States parties: Russian Federation*, 2-20 May 2011, 14 November-2 December 2011, U.N. Doc. E/C.12/2011/3, ¶ 153 (“The Committee is also concerned that changes to federal legislation regulating the use of land, forests and water bodies, in particular the revised Land (2001) and Forest (2006) Codes and the new Water Code, deprive indigenous peoples of the right to their ancestral lands, fauna and biological and aquatic resources, on which they rely for their traditional economic activities, through granting of licences to private companies for development of projects such as the extraction of subsoil resources (art. 2, para. 2).”). [↑](#footnote-ref-64)
65. *See General Comment No. 15,* note 18 *supra*, ¶ 28. [↑](#footnote-ref-65)
66. *Ibid*. [↑](#footnote-ref-66)
67. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Peru*, 30 May 2012, U.N. Doc. E/C.12/PER/CO/2-4, ¶ 22. [↑](#footnote-ref-67)
68. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: United Republic of Tanzania*, 13 December 2012, U.N. Doc. E/C.12/TZA/CO/1-3, ¶ 25. [↑](#footnote-ref-68)
69. *Ibid*. [↑](#footnote-ref-69)
70. *Ibid*. [↑](#footnote-ref-70)
71. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Dominican Republic*, 26 November 2010, U.N.Doc. E/C.12/DOM/CO/3, ¶ 8. [↑](#footnote-ref-71)
72. *Ibid*. [↑](#footnote-ref-72)
73. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Honduras*, 21 May 2001, U.N.Doc. E/C.12/1/Add.57, ¶ 24. [↑](#footnote-ref-73)
74. *Ibid.* [↑](#footnote-ref-74)
75. *Concluding Observations: Peru*, note 67 *supra*, ¶ 22. [↑](#footnote-ref-75)
76. *Statement of the UN Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization (Seattle, 30 November to 3 December 1999)*, 26 November 1999, U.N. Doc. E/C.12/1999/9, ¶ 2. [↑](#footnote-ref-76)
77. *Statement in the Context of the Rio+20 Conference*, note 6 *supra*, ¶ 7. [↑](#footnote-ref-77)
78. *General Comment No. 15,* note 18 *supra*, ¶ 56. [↑](#footnote-ref-78)
79. *Ibid*. ¶ 48. In relation more generally to the obligation on States parties to provide information to their populations about potential environmental harm, *see Concluding Observations of the Committee on Economic, Social and Cultural Rights: Republic of Korea*, 17 December 2009, U.N. Doc.E/C.12/KOR/CO/3, ¶ 32 (relating to the failure of a State party “to disclose the existence of carcinogenic substances in bottled drinking water” and recommending that the State party “ensure that adequate information on health hazards relating to the bottled drinking water that was found to contain carcinogenic substances [be] made available to the public”). [↑](#footnote-ref-79)
80. *Concluding Observations: Cambodia*, note 11 *supra*. ¶ 15. *See also Concluding Observations: Democratic Republic of the Congo*, note 12 *supra*, ¶ 14 (“The State party should ensure that forestry projects are centred on advancing the rights of forest-dependent peoples and conducted only after comprehensive studies are carried out, with the participation of the peoples concerned.”). [↑](#footnote-ref-80)
81. *Concluding Observations: Cambodia,* note 11 *supra,* ¶ 15. *See also Concluding Observations: Chad*, note 13 *supra*, ¶ 13; *Concluding Observations: Democratic Republic of the Congo*, note 12 *supra,* ¶ 13 (urging the State to “ensure that future [mining] contracts are concluded in a transparent and public way”). [↑](#footnote-ref-81)
82. *See General Comment No. 15,* note 18 *supra*, ¶ 55 (confirming more generally that “[a]ny persons or groups who have been denied their right to water should have access to effective judicial or other appropriate remedies at both national and international levels”). [↑](#footnote-ref-82)
83. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Mexico*, 9 June 2006, U.N. Doc. E/C.12/MEX/CO/4, ¶ 28. *See also Concluding Observations: Cambodia*, note 11 *supra*, ¶ 15 (noting that Cambodia had failed to provide “just compensation and resettlement” to indigenous peoples displaced by deforestation); *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Russian Federation*, 20 May 2011, U.N. Doc. E/C.12/RUS/CO/5, ¶ 7(c) (noting that Russia should “[e]nsure that licensing agreements with private entities provide for adequate compensation of the affected communities”);  *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Turkey*, 2- 20 May 2011, U.N.Doc. E/C.12/TUR/CO/1, ¶ 26 (expressing the Committee’s “deep[] concern[] at the potential impact of the Ilisu dam under construction and other dams on the enjoyment of economic, social and cultural rights in the areas concerned, especially with regard to forced evictions, resettlements, displacement, and compensation of people affected, as well as at the environmental and cultural impact of the construction of these dams” and urging Turkey to “undertake a complete review of its legislation and regulations on evictions, resettlement and compensation of the people affected by these construction projects” in line with the Committee’s General Comment No. 7 on forced evictions). [↑](#footnote-ref-83)
84. *General Comment No. 12,* note 34 *supra*, ¶ 32. [↑](#footnote-ref-84)
85. *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions,* 20 May 1997, U.N. Doc. E/1998/22, ¶ 13. [↑](#footnote-ref-85)
86. *Ibid*. ¶ 16. [↑](#footnote-ref-86)
87. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ecuador*, 13 December 2012, U.N. Doc. E/C.12/ECU/CO/3, ¶ 10. [↑](#footnote-ref-87)
88. *Ibid*. ¶ 10. [↑](#footnote-ref-88)
89. *Concluding Observations*: *Mexico*, note 83 *supra,* ¶ 10. [↑](#footnote-ref-89)
90. *General Comment No. 14,* note 44 *supra*, ¶ 34. [↑](#footnote-ref-90)
91. *See* *General Comment No. 15,* note 18 *supra*, ¶¶ 10, 23, 28, 44(a). Pollution of water resources is identified as a specific violation of the right to water. *Ibid.* ¶ 44. As described above, although not explicitly mentioned in Article 11 of the ICESCR, General Comment No. 15 identifies the right to water as emanating from the right to an adequate standard of living in Article 11 (noting that water “is one of the fundamental conditions for survival”) as well as the right to health in Article 12 of the ICESCR (with which, the Committee found, the right to water is “inextricably related”). *Ibid.* ¶ 3. The Committee has also noted the connection between the rights to water, health and sanitation, noting that, in developing countries, “as much as 80 per cent of wastewater is untreated and goes directly into lakes, rivers and oceans,” leading directly to disease. *See Committee on Economic, Social and Cultural Rights: Statement on the Right to Sanitation*, 19 November 2010, U.N. Doc. E/C.12/2010/1, ¶ 4. [↑](#footnote-ref-91)
92. *General Comment No. 15,* note 18 *supra,* ¶ 21. [↑](#footnote-ref-92)
93. *Statement in the Context of the Rio+20 Conference,* note 6 *supra,* ¶ 6. [↑](#footnote-ref-93)
94. *Consideration of Reports Submitted by State Parties Under Articles 16 and 17 of the Covenant, Concluding Observations of the Committee: Dominican Republic*, 19 December 1994, U.N. Doc. E/C.12/1994/15, ¶ 14. States Parties have an obligation under Article 2 to take steps to realize the right to adequate housing under Article 11. In General Comment No. 4, the Committee noted that the “habitability” of housing— a precondition for housing to be “adequate”—depends on whether it protects its inhabitants “from cold, damp, heat, rain, wind or other threats to health.” Note 23 *supra*, ¶ 8. [↑](#footnote-ref-94)
95. *Concluding Observations: Paraguay*, note 14 *supra*, ¶ 27. [↑](#footnote-ref-95)
96. *General Comment No. 14,* note 44 *supra*, ¶ 3. [↑](#footnote-ref-96)
97. *Ibid*. ¶ 53. [↑](#footnote-ref-97)
98. *Ibid*. ¶ 36. *See also Concluding Observations of the Committee on Economic, Social and Cultural Rights: China,* 13 May 2005, U.N. Doc. E/C.12/1/ADD.107, ¶ 63 (requesting China to provide the Committee with information on its “policies to reduce atmospheric pollution”). [↑](#footnote-ref-98)
99. *General Comment No. 12,* note 34 *supra*, ¶ 4. The Committee has also noted that land grabbing and over-exploitation of fisheries can have adverse implications on the right to food. *See Statement in the Context of the Rio +20 Conference*, note 6 *supra*, ¶ 6. [↑](#footnote-ref-99)
100. *Concluding Observations: Russian Federation*, note 9 *supra*, ¶¶ 14, 30. [↑](#footnote-ref-100)
101. *Ibid.* ¶ 31. [↑](#footnote-ref-101)
102. *General Comment No. 12,* note 34 *supra,* ¶ 28. *See also ibid.* ¶ 6 (“States have a core obligation to take the necessary action to mitigate and alleviate hunger … even in times of natural or other disasters.”), ¶ 15 (“Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfill (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.”), *Committee on Economic, Social and Cultural Rights: Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights*, 10 May 2001, U.N. Doc. E/C.12/2001/10, ¶ 18 (noting that the core obligations under the ICESCR are non-derogable and continue to exist in situations of natural disaster). [↑](#footnote-ref-102)
103. *General Comment No. 15,* note 18 *supra*, ¶ 8. [↑](#footnote-ref-103)
104. *Ibid.* ¶ 12(b). [↑](#footnote-ref-104)
105. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Mauritania,* 10 December 2012, U.N.Doc.E/C.12/MRT/CO/1, ¶ 29. [↑](#footnote-ref-105)
106. *Concluding Observations: Chad*, note 13 *supra*, ¶ 348. [↑](#footnote-ref-106)
107. *Concluding Observations: Ecuador*, note 87 *supra*, ¶ 25. *See also Concluding Observations: Azerbaijan*, note 8 *supra*, ¶ 28 (also recommending that Azerbaijan “regulate the oil industry more effectively, particularly with respect to its potentially adverse effects on the environment.”). [↑](#footnote-ref-107)
108. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Yemen*, 1 June 2011, U.N. Doc. E/C.12/YEM/CO/2, ¶ 26. [↑](#footnote-ref-108)
109. *General Comment No. 14,* note 44 *supra*, ¶ 15. [↑](#footnote-ref-109)
110. *Ibid.* ¶ 51. Referencing this statement later, the Committee noted that “[s]uch a situation, involving acts and/or omissions by the State and by non-State entities within the State’s purview” would affect “sustainable development” and also would constitute “a breach of treaty obligations under the [ICESCR].”  *Bali Statement*, note 50 *supra*, ¶ 3. [↑](#footnote-ref-110)
111. *Concluding Observations: Mauritania*, note 105 *supra*, ¶ 8. [↑](#footnote-ref-111)
112. *Ibid*. ¶ 8. [↑](#footnote-ref-112)
113. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Kazakhstan*, 21 May 2010, U.N. Doc. E/C.12/KAZ/CO/1, ¶ 35. [↑](#footnote-ref-113)
114. *Committee on Economic, Social and Cultural Rights,* *Statement on the World Food Crisis*, 20 May 2008, U.N.Doc. E/C.12/2008/1, ¶ 13. [↑](#footnote-ref-114)
115. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Australia*, 22 May 2009, U.N. Doc.E/C.12/AUS/CO/4, ¶ 27. [↑](#footnote-ref-115)
116. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Brazil*, 12 June 2009, U.N. Doc. E/C.12/BRA/CO/2, ¶ 26. [↑](#footnote-ref-116)
117. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Argentina*, 14 December 2011, U.N. Doc. E/C.12/ARG/CO/3, ¶ 10. [↑](#footnote-ref-117)
118. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Solomon Islands*, 14 May 1999, U.N. Doc. E/C.12/1/Add.33, ¶ 26. [↑](#footnote-ref-118)
119. *General Comment No. 12,* note 34 *supra*, ¶ 13. [↑](#footnote-ref-119)
120. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ukraine,* 28 December 1995, U.N. Doc, E/C.12/1995/15, ¶ 7. [↑](#footnote-ref-120)
121. *Ibid*. ¶ 28. [↑](#footnote-ref-121)
122. *Statement in the context of the Rio+20 Conference*, note 6 *supra*, ¶ 6(g). [↑](#footnote-ref-122)
123. *Ibid*. ¶ 6(f). *See also ibid.* ¶ 6(g) (noting “[t]he importance of carefully balancing the requirements of the green economy with obligations under the Covenant to respect, protect, and fulfill the rights of forest dwellers and indigenous peoples to their ancestral lands and traditional culture and, in particular, deforestation measures taken without the prior informed consent of forest dwellers and indigenous peoples that directly affect their rights”). [↑](#footnote-ref-123)
124. *Consideration of reports of States parties: Philippines*, note 59 *supra*, ¶ 484. [↑](#footnote-ref-124)
125. *Consideration of reports of States parties: Argentina*, note 29 *supra*, ¶ 268. [↑](#footnote-ref-125)
126. *Consideration of reports of States parties: Democratic Republic of the Congo*, note 59 *supra*, ¶ 311. *See also General Comment No. 21*, note 56 *supra*, ¶ 36 (“The strong communal dimension of indigenous peoples’ cultural life is indispensable to their existence, well-being and full development, and includes the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. Indigenous peoples’ cultural values and rights associated with their ancestral lands and their relationship with nature should be regarded with respect and protected, in order to prevent the degradation of their particular way of life, including their means of subsistence, the loss of their natural resources and, ultimately, their cultural identity. States parties must therefore take measures to recognize and protect the rights of indigenous peoples to won, develop, control and use their communal lands, territories and resources, and, where they have been otherwise inhabited or used without their free and informed consent, take steps to return these lands and territories.”). [↑](#footnote-ref-126)
127. *Consideration of reports of States parties: Russian Federation*, note 64 *supra*, ¶ 153. *See also General Comment No. 14,* note 44 *supra*, ¶ 27 (“The vital medicinal plants, animals and minerals necessary to the full enjoyment of health of indigenous peoples should also be protected … [T]he Committee considers that development-related activities that lead to the displacement of indigenous peoples against their will from their indigenous territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.”); *General Comment No. 15,* note 18 *supra*, ¶ 16(d) (stating that “[i]ndigenous peoples’ access to water on their ancestral lands is protected from encroachment and unlawful pollution”). [↑](#footnote-ref-127)
128. *Report of the Committee on Economic, Social and Cultural Rights for the Thirty-sixth and Thirty-seventh sessions, Consideration of reports of States parties: Mexico*, 1-19 May 2006, 6-24 November 2006, U.N. Doc. E/2007/22, ¶ 221. [↑](#footnote-ref-128)
129. *Consideration of reports of States parties: Democratic Republic of the Congo*, note 59 *supra*, ¶ 14. *See also Consideration of reports of States parties: Honduras*, note 23 *supra*, ¶ 132 (“deeply regret[ting] the lack of measures by [Honduras] to address effectively the problem of excessive deforestation, which negatively affects the habitat of indigenous populations”). [↑](#footnote-ref-129)
130. *Consideration of reports of States parties: Australia*, note 32 *supra*, ¶ 100 (encouraging the State Party “to reduce its greenhouse gas emissions and to take all the necessary and adequate measures to mitigate the adverse consequences of climate change, impacting the right to food and the right to water for indigenous peoples.”). [↑](#footnote-ref-130)
131. *Consideration of reports of States parties: Cameroon*, note 38 *supra*, ¶ 337. [↑](#footnote-ref-131)
132. *Consideration of reports of States parties: Argentina*, note 29 *supra*, ¶ 267. [↑](#footnote-ref-132)
133. *Consideration of reports of States parties: Chad*, note 30 *supra*, ¶ 30. [↑](#footnote-ref-133)
134. *Consideration of reports of States parties: Cameroon*, note 63 *supra*, ¶ 328. [↑](#footnote-ref-134)
135. *Consideration of reports of States parties: Madagascar*, note 38 *supra*, ¶ 393. [↑](#footnote-ref-135)
136. *Consideration of reports of States parties: Democratic Republic of the Congo*, note 59 *supra*, ¶ 289. [↑](#footnote-ref-136)
137. *General Comment No. 21,* note 56 *supra*, ¶¶ 36–37. [↑](#footnote-ref-137)
138. *Consideration of reports of States parties: Cameroon*, note 63 *supra*, ¶ 319. *See also General Comment No. 21*, note 56 supra, ¶ 49 (“States parties must also respect the rights of indigenous peoples to their culture and heritage and to maintain and strengthen their spiritual relationship with their ancestral lands and other natural resources traditionally owned, occupied or used by them, and indispensable to their cultural life.”). [↑](#footnote-ref-138)
139. *Consideration of reports of States parties: Chad*, note 30 *supra*, ¶ 330. [↑](#footnote-ref-139)
140. *Consideration of reports of States parties: Australia*, note 32 *supra*, ¶ 100. [↑](#footnote-ref-140)
141. *Concluding Observations: Mexico*, note 83 *supra*, ¶¶ 10, 28 (expressing concern that Mexico failed—with respect to the La Parota hydroelectric dam and other projects under the Plan Puebla-Panama—to “properly consult[]” with “local and indigenous communities” notwithstanding that the Committee could flood land and displace people as well as deplete the environment). *See also Concluding Observations on the Country Report of Colombia*, 21 May 2010, U.N. Doc. E/C.12/COL/CO/5, ¶ 9 (recommending with respect to “infrastructure, development and mining mega-projects” that Colombia should “adopt legislation in consultation with and the participation of indigenous and afro-colombian people, that clearly establishes the right to free, prior and informed consent”). [↑](#footnote-ref-141)
142. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Argentina*, 2 December 2011, U.N. Doc. E/C.12/ARG/CO/3, ¶ 9. *See also ibid.* ¶ 10 (noting concern about certain aspects of soy cultivation on indigenous communities in Argentina and stating that such “activities are often carried out without an effective prior consultation with the affected groups of the population”); *Consideration of reports of States parties: Colombia*, note 63 *supra*, ¶ 782 (urging Colombia to “consult and seek the consent of the indigenous peoples concerned prior to the implementation of timber, soil or subsoil mining projects and on any public policy affecting them, in accordance with ILO Convention 169 (1989) concerning indigenous and tribal peoples in independent countries”); *Consideration of reports of States parties: Ecuador*, note 54 *supra,* ¶ 301 (urging Ecuador to “consult and seek the consent of the indigenous people concerned prior to the implementation of natural resource-extracting projects and on public policy affecting them, in accordance with ILO Convention 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries”). [↑](#footnote-ref-142)
143. *Consideration of reports of States parties: Ecuador*, note 54 *supra,* ¶ 301; *Consideration of reports of States parties: Democratic Republic of the Congo*, note 59 *supra*, ¶ 289 (expressing concern that “representatives of indigenous communities were not invited to take part in the second session of the inter-ministerial commission in charge of reviewing illicit logging contracts, although the session was devoted to the signature of contracts between local authorities and logging companies”). [↑](#footnote-ref-143)
144. *Concluding Observations*: *Argentina*, note 142 *supra*, ¶ 9. [↑](#footnote-ref-144)
145. *Concluding Observations: Ecuador*, note 87 *supra*, ¶ 9. *See also Concluding Observations of the Committee on Economic, Social and Cultural Rights: Nicaragua*, 28 November 2008, U.N. Doc. E/C.12/NIC/CO/4, ¶ 11 (noting the Committee’s concern relating to the “absence of a consultation process to seek . . . free, prior and informed consent to the exploitation of natural resources in the[] territories” of indigenous peoples); *Concluding Observations: Russian Federation*, note 83 *supra*, ¶ 7(b) (noting Russia should seek the “free informed consent of indigenous communities and give primary consideration to their special needs prior to granting licences to private companies for economic activities on territories traditionally occupied or used by those communities”). [↑](#footnote-ref-145)
146. *Concluding Observations: Ecuador*, note 87 *supra*, ¶ 9. [↑](#footnote-ref-146)
147. *Consideration of reports of States parties: Argentina*,note 29 *supra,* ¶ 268. [↑](#footnote-ref-147)
148. *Ibid.* (urging Argentina to “ensure the effective participation of indigenous communities in decision-making on issues that affect them”). [↑](#footnote-ref-148)
149. *Concluding Observations: Colombia*, note 141 *supra*, ¶ 9. [↑](#footnote-ref-149)
150. *Consideration of reports of States parties: Russian Federation*, note 64 *supra*, ¶ 153. [↑](#footnote-ref-150)
151. *Consideration of reports of States parties: Chad*, note 30 *supra*, ¶ 330. [↑](#footnote-ref-151)
152. *Ibid*. [↑](#footnote-ref-152)
153. *Consideration of reports of States parties: Democratic Republic of the Congo*, note 59 *supra*, ¶ 289. [↑](#footnote-ref-153)
154. *Consideration of reports of States parties: Cambodia*, note 64 *supra*, ¶ 194 (urging the State party to review its policy about concessions by “conducting environmental and social impact assessments, including consultations with relevant stakeholders and communities with due regard to their right to participate in informed decisions that affect their lives”). [↑](#footnote-ref-154)
155. *Consideration of reports of States parties: Democratic Republic of the Congo*, note 59 *supra,* ¶ 289. [↑](#footnote-ref-155)
156. *Consideration of reports of States parties: Cambodia*, note 64 *supra*, ¶ 193. [↑](#footnote-ref-156)
157. *Consideration of reports of States parties: Democratic Republic of the Congo*, note 59 *supra*, ¶ 289. [↑](#footnote-ref-157)
158. *Consideration of reports of States parties: Russian Federation*, note 64 *supra*, ¶ 153. Adequate compensation can sometimes take the form of “alternative accommodation and land for cultivation … provided to the indigenous communities and local farmers affected.” *See* *Consideration of reports of States parties: Mexico*, note 128 *supra*, ¶ 239. [↑](#footnote-ref-158)
159. *Consideration of reports of States parties: Argentina*, note 29 *supra*, ¶ 267; *see also* *Consideration of reports of States parties: Cambodia*, note 64 *supra*, ¶ 193 (expressing concern about economic land concessions causing “the degradation of natural resources, adversely affecting the ecology and biodiversity, resulting in the displacement of indigenous peoples from their lands without just compensation and resettlement”). [↑](#footnote-ref-159)
160. *See Statement in the context of the Rio+20 Conference,* note 6 *supra,* ¶ 6(a). [↑](#footnote-ref-160)
161. *Statement to the Commission on Sustainable Development acting as the Preparatory Committee for the World Summit on Sustainable Development,* 27 May – 7 June 2002, U.N. Doc. E/2003/22-#/C.12/2002/13, annex VI, ¶ 4 (also calling upon “States participating in the World Summit to ensure that positions and commitments taken at the Preparatory Committee for the World Summit and at the World Summit in Johannesburg are consistent with those of prior international agreements on human rights, development and environmental protection”). [↑](#footnote-ref-161)
162. *General Comment No. 15*, note 18 *supra*, ¶ 31. [↑](#footnote-ref-162)
163. *General Comment No. 12,* note 34 *supra*, ¶ 38. [↑](#footnote-ref-163)
164. *Concluding Observations: Ukraine*,note 120 *supra*, ¶ 9. [↑](#footnote-ref-164)
165. *Concluding Observations: Kazakhstan*, note 113 *supra*, ¶ 35. [↑](#footnote-ref-165)
166. *Ibid*. [↑](#footnote-ref-166)
167. *Concluding Observations, Uzbekistan*, note 5 *supra*, ¶ 59. [↑](#footnote-ref-167)
168. *General Comment No.* *15,* note 18 *supra*, ¶ 33. [↑](#footnote-ref-168)
169. *General Comment No. 14,* note 44 *supra*, ¶ 39. [↑](#footnote-ref-169)
170. *Statement on the Obligations of States Parties Regarding the Corporate Sector and Economic, Social and Cultural Rights*, 20 May 2011, U.N. Doc. E/C.12/2011/1, ¶ 1. This statement further notes that under Article 2(1), States Parties’ obligations can be met through “legislative and other appropriate implementation steps, which include administrative, financial, educational and social measures, domestic and global needs assessments, and the provision of judicial or other effective remedies.” *Ibid.* ¶ 3. *See also Consideration of reports of States parties: Ecuador*, note 54 *supra* ¶ 301 (recommending that the State party “implement legislative and administrative measures to avoid violations by transnational companies of environmental laws and rights”); *Concluding Observations: Honduras*, note 73 *supra*, ¶ 36 (stating that “[t]he Committee strongly recommends that the State party implement existing legislative and administrative measures to avoid violations of environmental and labor laws by transnational companies”). [↑](#footnote-ref-170)
171. *Statement to the Commission on Sustainable Development*, note 161 *supra,* ¶ 3. [↑](#footnote-ref-171)
172. *Ibid.* (also stating that “[t]hese negative developments are detrimental to sustainable development, the objectives of which will not be realized if human rights commitments continue to be eroded”). [↑](#footnote-ref-172)
173. *See Statement in the context of the Rio+20 Conference*, note 6 *supra*, ¶ 6(i) (referring to *Statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights*, 12 July 2011, E/C.12/2011/1, which observed that “corporate activities can adversely affect the enjoyment of Covenant rights,” including by having a harmful impact on the natural environment). [↑](#footnote-ref-173)
174. *General Comment No. 15*, note 18 *supra*, ¶ 23. [↑](#footnote-ref-174)
175. *Ibid*. ¶ 44(b). [↑](#footnote-ref-175)
176. *Concluding Observations: Democratic Republic of the Congo*, note 12 *supra,* ¶ 6. *See also Annual Report 2009, Cambodia*, *supra* note 64, ¶ 193 (stating concern “about the reports that the rapid increase in land concessions in the last [several years] … is the major factor in the degradation of natural resources, adversely affecting the ecology and biodiversity, resulting in the displacement of indigenous peoples from their lands …, and in the loss of livelihood for rural communities who depend on land and forest resources for their survival”); *Report of the Committee on Economic, Social and Cultural Rights for the Thirty-fourth and Thirty-fifth sessions, Consideration of reports of States parties: China*, 7-15 November 2005, U.N. Doc. E/2006/22, ¶ 192 (acknowledging the need to evaluate the impact of large infrastructure development projects on the environment). [↑](#footnote-ref-176)
177. *Concluding Observations: Democratic Republic of the Congo*, note 12 *supra,* ¶ 288. *See also Concluding Observations: Azerbaijan*, note 8 *supra*, ¶¶ 14, 28 (recommending that the State party regulate the oil industry more effectively, particularly with respect to its potential adverse effects on the environment). [↑](#footnote-ref-177)
178. *Concluding Observations: Democratic Republic of the Congo*, note 12 *supra*, ¶ 13. [↑](#footnote-ref-178)
179. *Concluding Observations: Dominican Republic*, note 71 *supra*, ¶ 8. [↑](#footnote-ref-179)
180. *Statement to the Commission on Sustainable Development*,note 161 *supra,* ¶ 5. [↑](#footnote-ref-180)
181. *Statement in the context of the Rio+20 Conference*, note 6 *supra*, ¶ 5. [↑](#footnote-ref-181)
182. The Committee has also noted that “[e]conomic, social and cultural rights provide principles and operational strategies to address the problems which are at the centre of the [Millennium Development Goals including] the need for environmental sustainability.” *Joint Statement by the UN Committee on Economic, Social and Cultural Rights and the UN Commission on Human Rights’ Special Rapporteurs on Economic, Social and Cultural Rights: the Millennium Development Goals and Economic, Social and Cultural Rights,* 29 November 2002, U.N. Doc. E/C.12/2002/13, App. VII, ¶ 5. [↑](#footnote-ref-182)
183. *General Comment No. 15*, note 18 *supra*, ¶ 28. *See ibid.* ¶ 11 (“The manner of the realization of the right to water must . . . be sustainable, ensuring that the right can be realized for present and future generations.”). [↑](#footnote-ref-183)
184. *Consideration of reports of States parties:* *Cambodia*, note 64 *supra*, ¶ 193. [↑](#footnote-ref-184)
185. *Consideration of reports of States parties:* *Mauritania*, note 49 *supra*, ¶ 29. [↑](#footnote-ref-185)
186. *General Comment No. 14*, note 44 *supra*, ¶ 13. [↑](#footnote-ref-186)
187. *Statement on the World Food Crises*, note 114 *supra*, ¶ 13. [↑](#footnote-ref-187)
188. *Statement in the context of the Rio+20 Conference*, note 6 *supra*, ¶ 3. [↑](#footnote-ref-188)
189. *Ibid*. ¶ 4. [↑](#footnote-ref-189)
190. *See Bali Statement*, note 50 *supra*, ¶ 1. [↑](#footnote-ref-190)
191. *See, e.g., Concluding Observations: Mauritania*, note 105 *supra*, ¶ 8. The EITI is a global coalition of governments, companies, and civil society working together to improve openness and accountable management of revenues from natural resources. The EITI maintains the EITI Standard. Countries implement the EITI Standard to ensure full disclosure of taxes and other payments made by oil, gas and mining companies to governments. [↑](#footnote-ref-191)
192. *See Concluding Observations: Korea*, note 79 *supra*, ¶ 32 (recommending that the Republic of Korea “ensure that adequate information on health hazards relating to the bottled drinking water that was found to contain carcinogenic substances [be] made available to the public” and noting the importance of affirmative duties on States Parties that require more than the provision of information and that are substantive in nature). [↑](#footnote-ref-192)
193. *Concluding Observations: Chad*, note 13 *supra*, ¶ 36 (specifically asking whether the State party “as a party to the United Nations Convention to Combat Desertification benefits from the subregional and Global Environment Facility programmes of action for the implementation of the Convention”). [↑](#footnote-ref-193)
194. *Concluding Observations: Cambodia*, note 11 *supra*, ¶ 7. [↑](#footnote-ref-194)
195. *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ukraine*, 4 January 2008, U.N. Doc. E/C.12/UKR/CO/5, ¶ 4. [↑](#footnote-ref-195)
196. International Labour Organization, *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989. [↑](#footnote-ref-196)
197. *Concluding Observations: Argentina*, note 142 *supra*, ¶ 9. *See also* *Consideration of reports of State parties: Ecuador*, note 54 *supra,* ¶¶ 278-301; *Consideration of reports of State parties: Colombia*, note 63 *supra,* ¶¶ 761, 782; *Concluding Observations*: *Russian Federation*, note 9 *supra,* ¶ 7. [↑](#footnote-ref-197)
198. *Ibid.* [↑](#footnote-ref-198)
199. *Statement on the World Food Crisis*, note 114 *supra*, ¶ 13. [↑](#footnote-ref-199)
200. *Statement in the context of the Rio+20 Conference,* note 6 *supra, ¶ 5*. [↑](#footnote-ref-200)
201. *See Statement to the Commission on Sustainable Development*, note 161 *supra*, ¶ 5. [↑](#footnote-ref-201)