



Human rights and the cost-of-living crisis

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Abstract

This column explores the intersection between human rights and the ongoing cost-of-living crisis. It opens with an overview of the crisis before turning to the current global state of affairs' impact on human rights enjoyment. Having addressed key issues that arise in terms of State obligations and how international human rights law as it stands might be deployed to address them, it focuses on how the crisis constitutes an opportunity to advance new horizons in human rights, particularly those related to energy and the implications of responses to crises for the right to a safe, clean healthy and sustainable environment. The piece makes clear that if they are to remain effective and relevant, human rights, and those responsible for applying and enforcing them, need to engage with the cost-of-living crisis head-on.

Keywords

Human rights, cost of living, poverty, inflation, economic policy, tax, energy, right to a safe, clean, healthy and sustainable environment, retrogression, equality

I. INTRODUCTION

On 24 February 2022, Russia launched an invasion of Ukraine. In July 2022, a United Nations Development Programme report flagged that the world was being pushed towards a precarious inflationary surge, caused by, amongst other things, supply chain disruptions and price spikes in key commodities resulting from the ripple effects of the conflict, particularly in terms of disrupted energy and food markets.¹ By then, the world was firmly in the grip of a cost-of-living crisis, with

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record energy, fertiliser and food prices, inflationary pressures, conflict-related trade restrictions, and developing countries facing exchange rate devaluation.²

In this column I explore the intersection between human rights and the ongoing cost-of-living crisis. I open with an overview of the crisis before turning to the current global state of affairs' impact on human rights enjoyment. Having addressed key issues that arise in terms of State obligations and how international human rights law as it stands might be deployed to address them, I then focus on how the crisis constitutes an opportunity to advance new horizons in human rights, particularly those related to energy and the implications of responses to crises for the right to a safe, clean, healthy and sustainable environment. The piece makes clear that, if they are to remain effective and relevant, human rights, and those responsible for applying and enforcing them, need to engage with the cost-of-living crisis head-on.

2. A GLOBAL POLYCRISIS

In the summer of 2022, the UN Global Crisis Response Group flagged the vicious cycles emerging along the transmission channels of the crisis: namely, higher energy prices increasing the costs of fertilizers and transport, leading to increased costs of food production, resulting in reduced farm yields and even higher food prices the following season.³ In turn, these issues added (and continue to add) to inflation metrics, contributing to already increasing interest rate pressures and tightening financial conditions. Those latter conditions further erode the buying power of the currencies of developing countries, augmenting the import costs of food and energy, reducing fiscal space, and increasing the costs of servicing debt.⁴ At a human level, higher inflation has led to significantly greater prices for basic essentials, reducing households' real income and both creating and entrenching food insecurity and energy poverty.

Although the cost-of-living crisis is global in scope, its impacts have not been felt equally, whether across or between societies. Higher income countries have been better protected from the shocks, as governments have access to greater public funding to implement rescue packages for citizens and businesses.⁵ Elsewhere, poverty has rocketed, with, for example, a 19% increase in child poverty in Eastern Europe and Central Asia between 2021 and 2022 predicted by UNICEF, directly resulting from the war in Ukraine and subsequent economic downturn.⁶ While billionaire wealth has soared as a result of asset price-boosting pandemic-related cash injections into central banks during the economic shock caused by

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1. George Gray Molina and others, 'Addressing the Cost-of-Living Crisis in Developing Countries: Poverty and vulnerability projections and policy response' (New York: UNDP, 2022), <Addressing-the-cost-of-living-crisis-in-vulnerable-countries.pdf> accessed 17 January 2023.
 2. UN Global Crisis Response Group on Food, Energy 7 Finance, 'Global impact of the war in Ukraine: Billions of people face the greatest cost-of-living crisis in a generation' (New York: United Nations, June 2022), <https://unctad.org/system/files/official-document/un-gcrg-ukraine-brief-no-2_en.pdf> accessed 17 January 2023.
 3. *ibid* 5.
 4. *ibid* 5-6.
 5. UN Global Crisis Response Group on Food, Energy 7 Finance, 'Global impact of the war in Ukraine: Energy Crisis' (August 2022), 9 <https://news.un.org/pages/wp-content/uploads/2022/08/GCRG_3rd-Brief_Aug3_2022_FINAL.pdf?utm_source=UNITED+NATIONS&utm_medium=BRIEF&utm_campaign=GCRG> accessed 17 January 2023.
 6. UNICEF, 'The impact of the war in Ukraine and subsequent economic downturn on child poverty in Eastern Europe and Central Asia' (UNICEF: October 2022) 2.

COVID-19,⁷ the cost-of-living crisis closely follows and compounds the catastrophic impact of the pandemic in terms of global poverty reduction – described by the World Bank as likely the largest setback since World War II – as well as a sharp increase in income inequality.⁸

Far from being a freestanding social and economic shock, the cost-of-living crisis forms part of a polycrisis. That is, the simultaneous occurrence of multiple, overlapping crises, which interact so that the whole of their impact is greater than the sum of their parts.⁹ While chronologically closest to the COVID-19 crisis, its impacts are linked to and have been exacerbated by the legacies of the financial and economic crises of the late 2000s, including the erosion of social protection systems caused by the fiscal austerity policies adopted nationally and promoted supranationally in response to those crises. In addition, the cost-of-living crisis runs side by side with (and is strongly linked to) the Ukraine conflict, while taking place against the backdrop of the ever-strengthening climate crisis. All these crises combine to threaten profoundly the enjoyment of human rights, whether social, political, civil, economic, cultural or environmental in nature.

3. WHAT THE COST-OF-LIVING CRISIS MEANS FOR HUMAN RIGHTS

As yet, there has been very limited express engagement with the cost-of-living crisis on the part of UN treaty bodies and special procedures, or indeed their regional counterparts.¹⁰ However, the dramatic impact of increased cost of living on human rights – particularly economic and social rights (ESR) – enjoyment is clear.

3.1 ECONOMIC AND SOCIAL RIGHTS

Significant drops in household income have near-immediate implications for a range of human rights with an especially direct link to ESR enjoyment. Rising food costs resulting in reduced access to food, and to nutritious food in particular, affect enjoyment of the right to adequate food.¹¹ The increased costs of basic essentials have a knock-on effect on people's ability to manage housing costs, including in particular rent, which affects the right to adequate housing.¹² Energy costs that limit people's capacity to heat homes and

7. See Oxfam, 'Profiting from Pain: The urgency of taxing the rich amid a surge in billionaire wealth and a global cost-of-living crisis' (Oxfam: May 2022) <<https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/2022-05/Oxfam%20Media%20Brief%20-%20EN%20-%20Profiting%20From%20Pain%2C%20Davos%202022%20Part%202.pdf>> accessed 17 January 2023.

8. See World Bank, 'Poverty and Shared Prosperity 2022: Correcting Course' (World Bank: Washington, DC: 2022), <<https://openknowledge.worldbank.org/bitstream/handle/10986/37739/9781464818936.pdf>> accessed 17 January 2023.

9. Adam Tooze, 'Welcome to the World of the Polycrisis' *Financial Times* (28 October 2022), <<https://www.ft.com/content/498398e7-11b1-494b-9cd3-6d669dc3de33>> accessed 17 January 2023.

10. At the time of writing, December 2022, there had been no statement issued directly focused on the cost-of-living crisis by any of the UN treaty bodies or the regional human rights courts or other monitoring bodies. For an example of a Special Procedure input on the issues, see below in note 20. Thus far, none of the Inter-American thematic rapporteurs or African Commission of Human and Peoples' Rights special mechanisms have issued statements on the cost of living.

11. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights 1966.

12. *ibid.*

water or to cook undermine the rights to an adequate standard of living and to food, as well as the right to sanitation.¹³ Cost-induced load-shedding or blackouts affecting the delivery of essential services imperil the right to the highest attainable standard of physical and mental health.¹⁴ Enjoyment of the right to work will be at risk where energy shortages or costs render industry unsustainable.¹⁵ In the context of inflation, where existing wages are not at a level for workers to ensure a decent living for themselves and their families, this will undermine the right to the enjoyment of just and favourable conditions of work.¹⁶ Where levels of social security benefits fail to keep track with the real cost of living, this will lead to their proving inadequate in terms of ensuring that people can realise their rights to family protection and assistance, an adequate standard of living, and adequate access to health care.¹⁷ This then threatens the right to social security.¹⁸ Soaring energy costs for schools may result in cuts to other budget lines that are crucial to ensuring the right to education, such as those related to staffing.¹⁹

In terms of specific obligations imposed by ESR, inflation in the prices of daily essentials create a clear risk of retrogression – that is, a deterioration or reduction in previous levels of progress in the enjoyment of rights²⁰ – across a wide range of ESR. Much of the focus in ESR scholarship on retrogression has centred on specific measures (policy changes or adjustments, frequently fiscal in nature) taken in response to particular crises that reduce enjoyment of ESR.²¹ This reflects the way in which the retrogression obligation has been developed and applied by the UN Committee on Economic, Social and Cultural Rights (CESCR Committee) and other UN treaty bodies in the last decade. Retrogression can only be justified in international human rights terms by establishing that the impugned actions were necessary, non-discriminatory, proportional, and temporary in nature. They must have been taken after due consideration (with alternatives comprehensively examined) and in the context of the use of all resources available to the State. States must have identified the minimum core content of affected ESR (to which I will return below) and ensured the protection of this core content at all times.

13. *ibid.* See ‘General Comment No. 15 on the right to water (Arts 11 and 12 of the Covenant)’, UN Doc. E/C.12/2002/11.

14. Article 12 ICESCR.

15. Article 6 ICESCR.

16. Article 7(a)(ii) ICESCR.

17. UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No. 19 on the right to social security (Art. 9)’, UN Doc. E/C.12/GC/19 (4 February 2008), para 22.

18. See, for example, UN Special Rapporteur on Extreme Poverty and Human rights, ‘Press Release: Increase benefits and wages in line with inflation or lives will be lost: UN poverty expert’ (17 October 2022), <<https://www.ohchr.org/en/press-releases/2022/10/increase-benefits-and-wages-line-inflation-or-lives-will-be-lost-un-poverty>> accessed 17 January 2023.

19. See, for example, Poppy Wood, ‘Schools face bankruptcy as energy bills jump 300% during cost of living crisis’, *iNews* (2 December 2022) <<https://flipboard.com/topic/educationuk/schools-face-bankruptcy-as-energy-bills-jump-300-during-cost-of-living-crisis/a-14MYSnQ0Sz-QF-H8nmVXUA%3Aa%3A2703622235-b03e9a3520%2Fco.uk>> accessed 17 January 2023.

20. Sandra Liebenberg, ‘Austerity in the midst of a pandemic: Pursuing accountability through the socio-economic rights doctrine of non-retrogression’ (2021) 37(2) *South African Journal on Human Rights* 181, 190.

21. See, for example, Aoife Nolan and others, ‘Two steps forward, no steps back? Evolving criteria on the prohibition of retrogression in economic and social rights’ in Aoife Nolan (ed), *Economic and Social Rights after the Global Financial Crisis* (CUP, 2014) 121; Ben Warwick, ‘Unwinding Retrogression: Examining the Practice of the Committee on Economic, Social and Cultural Rights’ (2019) 19(3) *Human Rights Law Review* 467.

They must also have involved the genuine participation of affected groups in examining the proposed measures and alternatives.²²

In situations of inflation, however, retrogression is frequently caused by omission, for instance, by a failure to take necessary measures to ensure the adjustment of salary or social security levels to inflation. However, while the obligation of States to avoid non-retrogression as a corollary of the obligation of progressive realisation is clearly established in international human rights law, it will be necessary for the Committee on Economic, Social and Cultural Rights to develop its criteria for assessing the permissibility of backward steps in rights enjoyment so as to address situations in which this is caused by a lack of proactive State measures.

The Committee has addressed inflation and cost of living in its concluding observations on State reports – urging States, among other things, to protect benefits from the effects of inflation,²³ ensure that minimum wages are regularly adjusted to the cost of living,²⁴ carry out reviews to ensure that both benefits and minimum wages are regularly indexed to the real cost of living,²⁵ adopt measures to offset the negative impact of rising food prices,²⁶ and take steps to control increases in the prices of basic social programme services and to subsidise their costs²⁷. However, its work in this area is nascent and underdeveloped. The Committee has not explicitly applied the ‘non-retrogression’ norm in an inflation context for the purpose of assessing omissions and positive duties to respond to decreasing rights enjoyment. Rather, it has limited its approach to outlining (largely procedural) measures to be taken in situations of inflation. The current global context renders it urgent that this gap in the Committee’s jurisprudence should be filled. Indeed, at the opening of its seventy-seventh session in September 2022, the Chair of the Committee was reported as stating that:

[n]owadays another pandemic was happening: growing inflation which eroded the right to an adequate standard of living’, stressing that ‘the situation was complex and negatively affecting the equality of enjoyment of economic, social and cultural rights and had to be immediately addressed’.²⁸

Non-retrogression is certainly not the only ESR-related obligation at play here. Where the cost of living increases to the extent that people do not enjoy minimum essential levels of ESR (including essential foodstuffs, essential primary health care, basic shelter and housing, the most basic forms of education or social security benefits of a level to enable all individuals and families to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education),²⁹ this will raise a *prima facie* assumption that the State is not

22. This synopsis is derived from the work of the CESCR Committee, see, for example, General Comment No.19 (n 17), para 42; Letter by Chairperson of CESCR to States Parties (16 May 2012) (Ref. CESCR/48th/SP/MAB/SW); *Mohamed Ben Djazia and Naouel Bellili v Spain*, CESCR, Communication No. 5/2015, UN Doc. E/C.12/61/D/5/2015 (20 June 2017), para 17(6).

23. See, for example, Argentina (2018), UN Doc. E/C.12/ARG/CO/4 para 44.

24. See, for example, Sri Lanka (2010), UN Doc. E/C.12/LKA/CO.2, para 19.

25. See, for example, Latvia (2021), UN Doc. E/C.12/LVA/CO.2, para 25 and 29(b).

26. See, for example, Yemen (2011), UN Doc. E/C.12/YEM/CO.2, para 25.

27. See, for example, Argentina (2018), para 44.

28. Comments of the Chair of the CESCR Committee at the opening of its seventy-second session in September 2022 <<https://www.ohchr.org/en/press-releases/2022/09/committee-economic-social-and-cultural-rights-opens-seventy-second-session>> accessed 17 January 2023.

29. See CESCR, ‘General Comment No. 3 on the nature of States parties’ obligations (Art.2, para.1 of the Covenant)’, para. 10; CESCR, ‘General Comment No. 19’ (n 17), para. 60. For more on minimum core obligations, see CESCR, General

satisfying the minimum core obligations of ESR. The State can only counter this presumption by demonstrating that every effort has been made to use all resources that are at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations.³⁰

It is important to note that cost of living issues may be caused by supranational factors (including, in this instance, the Ukraine conflict). Such factors may also reduce the real value of the resources available to States in ways that a particular State has limited control over. However, this in no way negates States' obligation under Article 2(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR) to use all their available resources to progressively realise ESR or their duty to prioritise the vindication of minimum core obligations as part of giving effect to that obligation. Both normatively and in practice, it is about States doing everything they can with what they have to maximise enjoyment of ESR as quickly and effectively as they can.³¹

In assessing whether every effort has been made to use all available resources in the context of inflation, the Committee will need to further advance its work on the Article 2(1) ICESCR 'maximum available resources' obligation, which has been a key Committee concern in the last decade.³² This will require in-depth consideration of State decision-making around resource identification, mobilisation, allocation and deployment – an exercise that will entail judgements about issues of fiscal policy (both tax and government expenditure), development assistance, debt and deficit financing, amongst others. Key players working in the development field have already outlined several fiscal policy measures that will be key to ensuring a human-centred approach to the cost-of-living crisis. These include the choice of targeted cash transfers aimed at poor and vulnerable groups instead of broad subsidies that benefit more advantaged groups who consume more; the prioritisation of public spending for long-term growth; and the adoption of progressive taxation, whereby tax rates increase as taxable income goes up, including the deployment of property, corporate income, and wealth taxes.³³ Another much-discussed option, which has already been taken by EU Member States, are windfall taxes on the profits of energy companies. States' adoption (or not) of these measures are likely to be a key focus of the CESCR Committee when addressing State compliance with Article 2(1) ICESCR in the coming years.

Comment No. 12 on the right to adequate food, UN Doc. E/C.12/1999/5, (12 May 1999), paras. 6, 14, and 17; CESCR, General Comment No. 15 on the right to water, UN Doc. E/C.12/2002/11 (20 January 2003), para. 37; CESCR, General Comment No. 14 on the right to the highest attainable standard of health, UN Doc. E/C.12/2000/4 (11 August 2000), para. 43; CESCR, General Comment No. 13 on the Right to Education, UN Doc. E/C.12/1999/10 8 December 1999), para. 57.

30. CESCR, 'General Comment No. 3' (n 29), para. 10; CESCR, 'General Comment No. 19' (n 17), para 60.

31. See CESCR, 'General Comment No. 3' (n 29), para. 9.

32. For an overview and discussion of the strengths and weaknesses of the CESCR Committee's approach to maximum available resources in recent years, see Olivier De Schutter, 'Public Budget Analysis for the Realization of Economic, Social and Cultural Rights' in Katharine Young (ed), *The Future of Economic and Social Rights* (CUP, 2019) 527; Rodrigo Uprimny, 'Bridging the Gap: The Evolving Doctrine on ESCR and 'Maximum Available Resources' in *ibid* 624.

33. See, for example, World Bank, 'Poverty and Shared Prosperity 2022: Correcting Course' (World Bank:, 2022), <<https://openknowledge.worldbank.org/bitstream/handle/10986/37739/9781464818936.pdf>> accessed 17 January 2023.

3.2 (YET ANOTHER) CRISIS OF INEQUALITY

The disproportionate impact of the immediate effects of the crises on already disadvantaged groups raises clear questions of equality and non-discrimination³⁴ along horizontal (group-based) lines in both the shorter and the longer term. However, the entrenchment of disadvantage that will result from the cost-of-living crisis (which of course compounds the entrenchment caused by the COVID-19 pandemic and other earlier crises at both the supra national and national levels) will be longer term in nature. The role of income inequality and other vertical inequalities (occurring between households or persons) have been strongly evident in this most recent crisis,³⁵ with those with greater income and other resources being shielded from the immediate rights impacts of increased prices – and all against an existing backdrop of a reversal in declining global income inequality from 2020 onwards and in an international context where channels of inter-generational transmission of wealth and income advantage (and poverty) remain intact.³⁶ Engaging with these impacts of the crises will require international human rights law bodies to grapple more directly and effectively with income and wealth inequality than has previously been the case.³⁷ That is not to suggest that existing standards do not present those actors with the tools they need to do this work³⁸ or that this work has not begun. Rather, it is to make clear that much more in this area can and must be done if it is to be possible to adequately identify and propose human rights-framed solutions to the cost-of-living crisis. An important element of this work (and indeed efforts related to the maximum available resources obligation generally) will be to deepen understanding of the extent to which rights under ICESCR contemplate redistribution, whether across or between societies or both. This will necessitate the adoption of a critical perspective on the possibility/desirability of indefinite economic growth as a means to achieve ESR,³⁹ as well as an acknowledgement of the implications of finite planetary resources⁴⁰ for human rights-consistent responses to the cost-of-living crisis.

34. See Article 2(2) and Article 2(1) of ICESCR and the International Covenant on Civil and Political Rights, respectively.

35. For more on vertical inequalities and key debates on the nexus between human rights and income/wealth inequality, see Gillian MacNaughton, 'Emerging Human Rights Norms and Standards on Vertical Inequalities' in Gillian MacNaughton and others (eds), *Human Rights and Economic Inequalities* (CUP, 2021) 1.

36. For more on income and wealth inequality and inter-generational transmission of poverty and privilege, see Special Rapporteur on Extreme Poverty and Human Rights, UN Doc. A/76/177 (19 July 2021).

37. For an overview of UN treaty bodies' engagement with economic inequality, see Sylvain Aubry and others, 'What the UN Human Rights Treaty Bodies Tell Us about Economic Inequalities and Human Rights: An Empirical Analysis of Twenty Years of Practice' in MacNaughton (n 35) 85. For a discussion of economic inequality and UN human rights bodies more generally, see Julia Dehm, 'Righting Inequality: Human Rights Responses to Economic Inequality in the United Nations' (2019) 10(3) *Humanity* 443.

38. For a celebrated claim that international human rights law does not have anything to say anything about material (including income and wealth) inequality, see Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Harvard University Press, 2018). For responses to different aspects of Moyn's claims in this regard, see Philip Alston, 'Extreme inequality as the antithesis of human rights' *OpenGlobalRights* (27 August 2015), <<https://www.openglobalrights.org/extreme-inequality-as-the-antithesis-of-human-rights/>> accessed 17 January 2023; Charles Jones, 'Are Human Rights Enough? On Human Rights and Inequality' (2021) 14(4) *Ethics & Global Politics* 218.

39. For a criticism of this assumption in the context of the work of the CESCR Committee, see Matthias Petel and Norman Vander Putten, 'Economic, Social and Cultural Rights and Their Dependence on the Economic Growth Paradigm: Evidence from the ICESCR System' (2021) 39(1) *Netherlands Quarterly of Human Rights* 53.

40. See, for example, Kate Raworth, *Doughnut Economics. Seven Ways to Think Like a 21st-Century Economist* (Random House Business Books, 2017).

Furthermore, the relative economic resilience of high-income countries in the face of the crises compared to low or middle-income countries suggests that a long-term effect of the crisis will be a deepening of North-South inequalities in terms of ESR enjoyment. The reality of deepening sovereign debt burdens and fiscal deficits faced by States that have a limited ability to borrow to cover the cost of measures needed to secure ESR enjoyment at a time of sharply rising prices plays an important part here. This situation not only raises potential issues of (in)equality but also questions about obligations of international assistance and cooperation and particularly 'the expectation that States parties will take collective action, including through international cooperation, in order to help fulfil the economic, social and cultural rights of persons outside of their national territories', as envisaged by Article 2(1) ICESCR.⁴¹ However, fundamental questions remain about when States are under a duty to cooperate.⁴² In the current global context we see deep and complex inter-relationships between the supranational and domestic causes of the cost-of-living crisis (for example, the Ukraine conflict, legacies of former crises, the predominant neoliberal economic paradigm), experiences of it, and responses to it (for example, central bank approaches to interest rates, supranational monetary policy adjustments, and national fiscal policy). Effective engagement with these elements and their human rights implications will require the careful delineation of obligations of States parties in relation to different groups of rights-holders, both within their own territory and beyond.

3.3 COST-OF-LIVING CONDITIONS AND CIVIL AND POLITICAL RIGHTS

Turning to civil and political rights, the crisis has pushed forward human rights in some instances. For instance, pressures created by costs of living have driven protest, thereby accelerating the exercise of civil and political rights, which has in some cases been met with State repression.⁴³ Similarly, increased worker organisation activity in the face of the falling real value of wages has led to the exercise of the right to freedom of association and trade union rights, including the right to strike.⁴⁴

That said, civil and political rights are also set to be hammered by the crisis. The health impacts of fuel poverty have potential implications for the right to life, particularly that of older persons, disabled persons, and small children and babies.⁴⁵ That right is also engaged in situations where inadequate access to food caused by spikes in food prices threatens survival. When it comes to

41. CESCR, General Comment No. 24 on State obligations in the context of business activities, UN doc. E/C.12/GC/24 (23 June 2017), para. 36. For a discussion of redistributive equality in human rights-based development cooperation interventions in the context of post-growth or growth agnosticism, see Wouter Vandenhole, 'De-Growth and Sustainable Development: Rethinking Human Rights Law and Poverty Alleviation' (2018) 11(2) *Law and Development Review* 647.

42. Meghan Campbell, 'Cooperating to Continuously Improve' in Sigrun Skogly and Beth Goldblatt (eds), *The Right to the Continuous Improvement of Living Conditions* (Hart/Bloomsbury, 2021) 41, 42.

43. See, for example, OHCHR, 'Press Release: Sri Lanka - UN experts condemn crackdown on protests' (8 April 2022), <<https://www.ohchr.org/en/press-releases/2022/04/sri-lanka-un-experts-condemn-crackdown-protests>> accessed 17 January 2023; José María León Cabrera and Megan Janetsky, 'Ecuador Roiled by Protests Set Off by Rising Fuel and Food Prices' *New York Times* (23 June 2022) <<https://www.nytimes.com/2022/06/23/world/americas/quito-ecuador-protests-inflation.html>> accessed 17 January 2023.

44. See, for instance, in the European context, ETUC, 'Cost of Christmas dinner up 7 times more than wages' (12 December 2022) <<https://etuc.org/en/pressrelease/cost-christmas-dinner-7-times-more-wages>> accessed 17 January 2023.

45. See, for instance, Alice Lee and others, 'Fuel poverty, cold homes and health inequalities' (Institute of Health Equity, 2022).

the positive obligations imposed by the right to life, the Human Rights Committee has asserted that the duty to protect life also implies that States parties should take

‘appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity ... [including] where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation’.⁴⁶

The current crisis may well trigger the Committee to consider what measures are necessary and appropriate to address threats to the right to life caused by sharp increases in the cost of essential goods and services.

Moving beyond the right to life, cuts to budgets for staffing and services in institutions necessitated by increasing energy costs – for older persons, for disabled people, for prisoners, for children in care, for persons in need of mental health-related treatment or care – in turn increase the risks that the inhabitants of those institutions face in terms of their right to freedom from torture or cruel, inhuman, or degrading treatment. This is a right upon which any limit or restriction is impermissible.

4. THE COST-OF-LIVING CRISIS AND NEW FRONTIERS IN HUMAN RIGHTS

The current situation is not just significant in terms of forcing us to consider how human rights law as it stands can be utilised or adapted to advance human dignity in a time of precipitously falling real disposable incomes. It also makes clear that there are a number of issues to which human rights law has paid inadequate attention. I will mention two here.

The first of these is energy. While energy for heating and food has been addressed repeatedly by international human rights bodies in the context of the right to adequate housing,⁴⁷ there has as yet been no recognition of a free-standing right to energy. Given the recognised impact of (the lack of) access to energy on a range of different human rights,⁴⁸ it was strongly arguable before the crisis that there should be a derived human right to energy, based on other rights such as the right to housing or to the highest attainable standard of health.⁴⁹ However, the linkage between energy and human dignity has been thrown into sharp relief by the current crisis, on both an individual and a group level. Has the time come to make an argument for a universal human right to energy? If so, what should this right look like? Should it be a right to energy for specific, limited life-sustaining activities (for instance, cooking, home-heating or cleaning) or should it be conceptualised more broadly? How might its components – whether adequacy, availability, accessibility (including affordability), sustainability, appropriateness, acceptability, and quality⁵⁰ – be defined?

46. Human Rights Committee, General Comment No. 36 on Article 6 on the right to life’, UN Doc. CCPR/C/GC/36 (3 September 2019), para. 26.

47. See, for example, CESCR, General Comment No.4 on the right to adequate housing (Article 11(1) of the Covenant)’, para 8(b); European Committee of Social Rights, *European Roma Rights Centre (ERRC) v Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004, para 24.

48. See, in the context of child rights, European Network of Ombudspersons for Children (ENOC), ‘Ad-hoc position statement: A rights-based approach is necessary to urgently address the impact of high energy prices on children and families’ (17 October 2022) <<https://enoc.eu/wp-content/uploads/ENOC-ad-hoc-statement-on-the-impact-of-energy-prices-FV.pdf>> accessed 17 January 2023.

49. See, for example, Lars Löfqvist, ‘Is there a universal human right to electricity?’ (2020) 24(6) *The International Journal of Human Rights* 711.

What obligations (progressive, immediate, core, or otherwise) would it impose? And, crucially, how might the recognition and implementation of that standard impact on, and be balanced against, other human rights, both in the here and now and of future generations? These questions (and their implicit recognition that the right to energy requires careful definition if it is not to undermine other rights) cannot be ignored given the damage done by the established global energy system in relation to ecosystems, as well as the fact that it continues to pose the greatest environmental health hazards to those who have benefited the least from increased energy production.⁵¹

The second key opportunity afforded by the cost-of-living crisis is for human rights bodies, policymakers and academics to engage meaningfully with the implications of shorter and longer-term responses to crises for the right to a safe, clean, healthy and sustainable environment. While the inter-relationship between economic and environmental sustainability was touched on in the context of work focused on the financial and economic crises,⁵² the last decade has seen the environment move to the centre of global discourse, including that related to crises.⁵³ The environmental consequences of crises responses are of normative importance given the recognition of that right by the UN General Assembly in 2022.⁵⁴ However, it is also rendered urgent in practice by the role of polluting fossil fuels' prices in terms of causing the crisis, as well as by the response on the part of some countries to address soaring energy costs through promoting new oil and gas extraction and export infrastructure, including in the global south.⁵⁵ This is not just about ensuring protection of environment-related rights in the here and now. It is also about preventing inter-generational injustice through the crisis serving as a justification for the imposition of a 'one-sided distribution of freedom and reduction burdens to the detriment of the future'.⁵⁶

The cost-of-living crisis both follows and intersects with a series of crises. It will not be the last. On that basis, it is vital that we take up the challenges it poses to human rights – both on paper and in practice.

Declaration of conflicting interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

50. The CESCR Committee has frequently employed these concepts when fleshing out the content of ICESCR rights in its general comments, including those on food, social security, highest attainable standard of health, water and cultural life.

51. See Margaretha Wewerinke-Singh, 'A human rights approach to energy: Realizing the rights of billions within ecological limits; (2022) 31(1) *RECIEL* 16.

52. Aoife Nolan, 'Introduction' in Nolan (n 21) 1, 19.

53. See, for example, United Nations, 'A UN framework for the immediate socio-economic response to COVID-19' (New York: United Nations, April 2020) <<https://unsdg.un.org/sites/default/files/2020-04/UN-framework-for-the-immediate-socio-economic-response-to-COVID-19.pdf>> accessed 17 January 2023.

54. UN General Assembly, 'Resolution: The human right to a clean, healthy and sustainable environment', UN Doc. A/76/L.75 (28 July 2022).

55. See, for example, Evelyn Acham, 'Dash for gas: Europe's cost of living crisis shouldn't cause an environmental disaster in Africa' *Euronews* (2 November 2022), <<https://www.euronews.com/green/2022/11/02/dash-for-gas-europes-cost-of-living-crisis-shouldnt-cause-an-environmental-disaster-in-afr>> accessed 17 January 2023.

56. Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court], Mar. 24, 2021, Case No. BvR 2656/18/1, BvR 78/20/1, BvR 96/20/1, BvR 288/20, para. 192.