

# Adequate Standard of Living Reference Group: Submission to the Just Transition Commission Call for Evidence

## 30<sup>th</sup> June 2020

### **About the Adequate Standard of Living Reference Group**

We are a group of people with lived experience of poverty. We have come together to act as a reference group on the right to an adequate standard of living (Article 11, International Covenant on Economic, Social and Cultural Rights), as part of Scotland's National Action Plan on Human Rights. We are supported by the Scottish Human Rights Commission. We take a **human rights based approach** to tackling poverty in Scotland.

Our collective experiences include, but are not limited to:

- disability and poverty
- mental health and poverty
- caring and poverty
- homelessness
- in-work poverty
- rural poverty
- poverty of opportunity
- food poverty; and
- fuel poverty.

We do not see poverty as only being a problem of money. Poverty is also about powerlessness to live your life as you want to. It is about not having the chance to make decisions or get the opportunities which you want and need. Poverty is about the inability to realise your human rights. All of these things mean that it is very important to take a human rights based approach to solving poverty.

## **Human Rights Based Approaches**

A human rights based approach starts with the person and aims to ensure that their human rights are real. It is underpinned by a series of principles, known widely as the PANEL principles:

**Participation** – People affected by an issue have the right to participate, on an equal footing with politicians and decision makers, in decisions which will affect their human rights, such as policy making. Participation should be meaningful, non-tokenistic and should aim both at informing decisions, but also at holding ‘duty-bearers’ such as Government to account.

**Accountability** – Accountability requires effective monitoring of human rights standards as well as effective remedies for human rights breaches. For accountability to be effective there must be appropriate laws, policies, institutions, administrative procedures and mechanisms of redress in order to secure human rights.

**Non-discrimination** - A human rights based approach means that all forms of discrimination in the realisation of rights must be prohibited, prevented and eliminated. It also requires the prioritisation of those in the most marginalised situations who face the biggest barriers to realizing their rights.

**Empowerment** - A human rights based approach means that individuals and communities should know their rights. It also means that they should be fully supported to participate in the development of policy and practices which affect their lives and to claim rights where necessary.

**Legal/Law** - A human rights based approach requires the recognition of rights as legally enforceable entitlements and is linked in to national and international human rights law.

## **Key Points from the Group**

We welcome the opportunity to put forward our views to the Just Transition Commission’s Call for Evidence. Our discussions together on this matter so far have led us to the following key conclusions:

- All of the elements of a human rights based approach will be important in tackling climate change and reducing emissions down to net-zero compared to 1990 levels. In our response, we have suggested how the different parts of a human rights based response could play a role in tackling climate change, including through reference to already existing laws and standards, such as the UNECE Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (Aarhus Convention)<sup>1</sup> and the UN Framework Principles on Human Rights and the Environment (UN Framework).
- Human rights based approaches recognise the interdependence between different rights. Poverty and climate change are interconnected and interdependent issues; steps to address one of these issues must necessarily address the other. This is articulated by Principles 1 and 2 of the UN Framework.
- Addressing the climate crisis cannot be achieved successfully without a significant redistribution of wealth.
- To achieve the targets set out within the Climate Change Acts and to do so in a way that would respect the principles of a Just Transition, requires economic stimulus and investment, for example in rural connectivity. While much of the discussion in relation to improving rural connectivity has centred around how companies have failed to provide infrastructure because of costs and not getting a profit, we think Government has the duty to provide access to the internet and to information and this improvement to the network must be viewed through that lens.
- While accepting that the Scottish Government has responsibility for ongoing public engagement and that initiatives such as the Citizens Assembly can support broader democratic participation, as a group we felt that the work of the Just Transition Commission could have been more rooted in participation. There now needs to be a much wider set of participatory activities at local level, which enable children and young people to lead the conversation, as the

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<sup>1</sup> <https://www.unece.org/env/pp/welcome.html>

generation which will be most affected by climate change.

(Participation)

- The group is keen that local initiatives, based on meaningful participation of local people, make up the bulk of Scotland's response to the need to reduce emissions to net-zero. Engaging with and listening to communities can help to avoid decisions which would have a disproportionate impact on particular groups. (Participation)
- In relation to the Climate Change (Scotland) Act, it is not clear to the group what accountability mechanisms are in place in relation to the Scottish Government failing to meet targets, or failing to ensure procedural safeguards, such as those set out in the Aarhus Convention on participation and access to information. As a group, we feel that there need to be accountability mechanisms in place for people in Scotland who are disproportionately and adversely affected by climate change. (Accountability and Law)
- Adopting and utilising the UN Special Rapporteur's Framework Principles on the Right to Healthy Environment can ensure that all actors take a rights based approach to the changes which need to be made to protect human rights and the environment. (Accountability and Law)
- Ensuring the procedural rights to information and participation, such as those set out in the Aarhus Convention will ensure that decisions can be made after proper processes. (Participation, Accountability, Empowerment and Law)

**Q1 What do you see as the main economic opportunities and challenges associated with meeting Scotland's climate change targets?**

**Does your response relate to a specific sector?**

The key message from the Adequate Standard of Living Group is that any transition to a net-zero model should understand the inter-relationship between poverty and climate change. Addressing either one of these issues requires the other to be addressed. Ensuring that interventions which address poverty also take into account the potential impact on climate and vice versa is vital.

A rights based approach to climate change recognises this interconnectedness, and this is reflected in the UN Special Rapporteur's Framework Principles on the Right to a Healthy Environment,<sup>2</sup> especially in Principles 1 and 2:

1. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.
2. States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment.

There are many economic opportunities in relation to meeting Scotland's climate change targets, for example investing in the skills needed for a low carbon economy, developing renewable technologies and etc, which will be well articulated by many sectors. In our view, it will also be vital to recognise that the economic cost of failing to combat, mitigate and adapt to climate change will be catastrophic.

## **Q2 What do you think are the wider social (health, community etc.) opportunities and challenges associated with meeting Scotland's climate change targets?**

While the right to a healthy environment has yet to be incorporated into a human rights law as a standalone right, it is of clear relevance to a whole range of other rights, including both civil and political as well as economic, social and cultural rights. These are:

The right to an adequate standard of living<sup>3</sup>

The right to housing<sup>4</sup>

The right to health<sup>5</sup>

The right to private and family life<sup>6</sup>

The right to information and to free expression<sup>7</sup>

The right to peaceful assembly<sup>8</sup>

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<sup>2</sup> UN Special Rapporteur on the

<sup>3</sup> Article 11 of the International Covenant on Economic, Social and Cultural Rights

<sup>4</sup> As above

<sup>5</sup> Article 12 of the International Covenant on Economic, Social and Cultural Rights

<sup>6</sup> Article 8 of the European Convention on Human Rights

<sup>7</sup> Article 10 of the European Convention on Human Rights

<sup>8</sup> Article 11 of the European Convention on Human Rights

The right to democratic participation<sup>9</sup>

The rights to work and to just and favourable conditions of work<sup>10</sup>

As we have set out above, the actions which require to be taken to combat, mitigate and adapt to climate change have the potential to impact enjoyment on all of these rights in a positive way. For example, implementing policy to improve the energy efficiency of homes will have a positive impact on the right to housing, health and adequate standard of living while also reducing emissions. Viewing climate change policy interventions through a human rights lens, and ensuring that decisions are made using rights based processes will have tangible benefits for people across Scotland.

### **Q3 What would a successful transition to net-zero emissions look like for your sector/community?**

In our view, a successful transition would involve and engage the participation of local communities in decisions about how to manage the climate crisis where they live, so they can contribute to national progress. Local initiatives which engage communities are much more likely to be appropriate to the area and to have broad support. In particular, these decisions should engage children and young people, who will be the most impacted by changes to climate in the future. The Aarhus Convention sets out various ways to ensure that participation in environmental decision making is inclusive and not tokenistic. The Convention also exemplifies the importance of participation which goes hand in hand with adequate procedural safeguards for environmental rights, such as access to information.

Local solutions, which ensure local autonomy and control over the use and generation of resources while also maintaining national co-operation represent real opportunities for sustainability. The group notes for example the success of local power generation projects in Orkney, which has the highest proportion of households making their own electricity in the UK, and which harness the natural environment of the islands.

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<sup>9</sup> Article 25, International Covenant on Civil and Political Rights

<sup>10</sup> Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights

#### **Q4 What actions do you think the Scottish Government should take to manage the opportunities and challenges referenced above?**

First and foremost, the Scottish Government should recognise that actions to tackle climate change across different policy areas engage human rights and that therefore human rights standards and norms apply in this situation. This has implications for decisions around the impact assessment of decisions, resource allocation, budget setting, and the design and delivery of services. By adopting the important principles set out by the UN Special Rapporteur on Human Rights and the Environment, the Scottish Government will be able to assure itself that both the process and the outcomes are rights respecting.

#### **COVID-19**

As a group we recognise that the COVID-19 pandemic has had an immediate impact on the way we live and work. We would advocate for an exercise to gather data on the impact of the sudden changes which have had to be made to see what impact this has had on the environment and whether it would be possible to identify some positive changes which could be incorporated into longer-term plans. Are there things we can learn from lockdown? Some examples from our own lives include fewer commutes, the ability to conduct more business virtually (while also ensuring that other mechanisms which are more accessible are available; we are aware that digital first or only approaches can be highly problematic and excluding), being able to work more locally rather than being expected to travel to a central office and the development of cycling and walking lanes.

#### **Q5 Are there specific groups or communities that may be, or feel that they may be, adversely affected by a transition to a net-zero carbon economy?**

##### **What steps can be taken to address their concerns?**

The group is pleased to see that the Just Transition Commission is taking account of the impacts on workers and consumers; however, we would advocate for a more systematic assessment of the impacts on different equalities groups and different intersectional identities. A

human rights based approach is predicated on non-discrimination, and ensures that where there are inevitable and unavoidable disproportionate impacts on specific communities, they will have access to remedy and redress.

As a group, we are concerned that there may be a number of specific groups and/or communities who will potentially be adversely, and in some cases, disproportionately affected by a transition to a net-zero carbon economy. We also draw the Commission's attention to the potential for intersectional impacts upon the groups below, for example disabled people living in rural areas.

In particular, we are worried that the following communities may be left behind:

1. people living in rural areas. This could be of concern on a number of fronts. The first is fuel poverty. The housing stock is significantly different in rural areas and the solutions people will need will also be different
2. disabled people. Disabled people sometimes need to use more resources, such as gas and electricity to keep well, and it is vital that any approach to climate change does not have the unintended consequence of pricing disabled people out of the market.
3. The impact on groups such as Gypsy/Travellers who may use more traditional types of fuel, and whose sites may not always meet the housing standards which we would like to see apply to everyone, albeit within the cultural traditions of this community.

Principle 14 of the UN Framework articulates the duty upon governments to 'take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.' This Principle also sets out in detail which groups may be most at risk and the steps which governments should take to mitigate these.

Approaches which we think would be of assistance include both preventative steps and steps to ensure remedy and redress for

decisions. This double approach would have systematic processes in place to ensure that decisions taken in relation to the environment are not discriminatory and do not impact adversely on the communities who are least able to cope with these, as well as providing mechanisms for justice.

Example of preventative approaches could include integrated Equality and Human Rights Impact Assessments alongside Environmental Impact Assessments. These should identify where impacts may be disproportionate so as to avoid these, or, where such impacts are unavoidable, to ensure that the decision-making takes into account the full range of rights and duties in play. Rights based approaches can also help to identify which actions may be the most proportionate and beneficial in a given situation.

As indicated above, rights based approaches would also ensure that people have formal mechanisms for participation and information, such as those set out in the Aarhus Convention. These procedural guarantees are important in ensuring that people can play an active role in decisions which might affect them.

One of the core principles of human rights is that of accountability. It is not clear to us how people affected adversely by the transition could access appropriate remedy or redress if decisions required to combat climate change affected them adversely. It is also unclear what accountability mechanisms are in place to hold the Scottish Government and local authorities to account if the targets set out in the Climate Change (Scotland) Act are not met. Given that the achievement of these targets may directly impact on individuals' health, lives and livelihoods, stronger accountability than a report to Parliament seems appropriate.

The group also notes that it may be helpful to integrate a Business and Human Rights Approach into general thinking on combating climate change. This would mean that the Three Pillars of Respect, Protect and Remedy could inform the wider change, and would enable discussion around businesses' responsibility to fund moves towards a low carbon

society, as well as to provide compensation and redress for environmental harms.

**Q6 Please provide here any other information, evidence, or research you consider relevant to the work of the Commission.**

The group would direct the Just Transition Commission towards the UN Special Rapporteur's [Framework Principles on the Right to a Healthy Environment](#). These principles set out the basis of rights based approaches to combating climate change, and should be an foundational part of a Just Transition.