

# RESEARCH HANDBOOK ON Energy, Law and Ethics

Edited by Malik R. Dahlan • Rosa M. Lastra Stavo Rochette



# Research Handbook on Energy, Law and Ethics

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# 21. Is there a human right to energy? Estela B. Sacristán¹

### INTRODUCTION

1.

The screen blinks and turns black; the lights go out. One, two, three, four, five seconds; the The secretic value on again. I look for the switch to boot the computer again after the micro-shortage. Was I energy-poor during those five seconds? The answer would most certainly be affirmative if we consider the term 'energy poverty' in the sense of lacking access to energy as a consequence of infrastructure issues, in either of the electric cycle stages (generation, transportation and distribution or commercialization). Nevertheless, it has also been suggested that the concept of 'energy poverty' can include a scenario in which a person, for some reason, (1) cannot afford to lawfully access the electricity distribution grid due to low income or its absence; (2) uses polluting fuels; or (3) uses excessive energy to meet his or her energy needs.<sup>2</sup> The concept behind each of these situations could be identified with one of the components of the energy trilemma: availability, affordability, environmental adequacy and energy efficiency.3

The framework set in the previous paragraph can be viewed from the 'needs' platform, the non-fulfilment of which represents poverty; but this path would lead to a conflict-based approach; the 'lacking' component of the concept of 'poverty' appears to naturally lead us to do so. It also introduces the actors into a confrontation between the energy-rich and the energy-poor; and leads to incommensurable debates because needs, being subjective in nature, can be considered infinite. Therefore, it seems more adequate to approach that working framework, at this preliminary stage, from the point of view of 'freedoms' given that freedom ontologically inherent to human beings. Each of the situations described in the previous paragraph implies the curtailment of a freedom: respectively, freedom of expression; freedom of life; freedom. of life; freedom of living in a clean environment; and freedom of inefficiencies. The moment

Íñigo del Guayo 'Energy Poverty and Energy Access. A Legal Analysis' in Íñigo del Guayo, Lee Orlando N. Zillman Militaria de Luan González (eds.) Energy Justice and research whenever necessary. Godden, Donald N. Zillman, Milton F. Montoya, and José Juan González (eds.) Energy Justice and Institute (OUP 2020) 21, 47, 22

The author would like to thank the editors of this book, Professors Malik R. Dahlan and Rosa Lastra, for their corner Maria Lastra, for their generous invitation to participate in this volume. While this chapter was being written, Gustavo Rook at the contraction of this book, Professors Malik R. Danian and the Maria Lastra, for their generous invitation to participate in this volume. While this chapter was being community, Gustavo Rook at the contraction of this book, Professors Malik R. Danian and the contraction of this book, Professors Malik R. Danian and the contraction of this book, Professors Malik R. Danian and the contraction of this book, Professors Malik R. Danian and the contraction of this book, Professors Malik R. Danian and the contraction of this book, Professors Malik R. Danian and the contraction of the contraction of this book, Professors Malik R. Danian and the contraction of th written, Gustavo Rochette's support and guidance was crucial and Maria Eugenia Mattera's generous levieurs and gave special. comments and gave specialized insight. The work benefited from Maria Eugenia Mattera's generous reviews. Last, but not least reviews. Last, but not least, a young colleague, Rocio Eugenia Sánchez, volunteered to provide timely whenever necessary.

In this chapter, the term 'efficiency' is used meaning 'energy savings.' Therefore, 'environmental acy,' excludes efficiency and Conservation Act of New ? Energy Law (OUP 2020) 31-47, 32. In this chapter, the term 'efficiency' is used meaning 'energy savings.' Therefore, 'environmental 2000 of New Zealand, Section 2. Likewise, the Energy Efficiency and Conservation Law in an increase Zealand, Section 2. <sup>2000</sup> of New Zealand, Section 3, which defines energy efficiency as: 'a change to energy use that results in an increase in net benefits and, which defines energy efficiency as: 'A drian Bradbrook, 'The Role of the Barry Barron, OUP in an increase in net benefits per unit of energy'. See Adrian Bradbrook, 'The Role of the Barry Barron, in Promoting Sustainable Energy'. See Adrian Bradbrook, in Aileen McHarg, Resources (OUP 2012). in Promoting Sustainable Energy Development in the Property Sector, and Natural Resources (OUP 39]. Adrian Bradbrook, and Lee Godden (eds.) Property and the Law in Energy and Natural Resources (OUP along) 391–412, 393. 2010) 391-412, 393.

any of these freedoms is affected, we become aware of the existence of the corresponding any of these freedoms we become conscious of the possibility of claiming that the right any of these freedoms is affected, we obtain of the possibility of claiming that the right be 'right' and that is when we become conscious of the possibility of claiming that the right be reinstalled or that the situation obtains redress.4

installed or that the situation obtains for the installed or that the situation obtains for be traced to ancient times, from the point of view Even if rights, as juridical categories, can be traced to ancient times, from the point of view Even if rights, as juridical categories, can be traced to ancient times, from the point of view Even if rights, as juridical categories, which is the point of view of history, a special set of rights has been subject to recognition after World War II: 'human

rights.'

ghts.'

Human rights may be viewed not only as 'claim-rights', but also as entitlements 'charac.

Human rights may be viewed not only as 'claim-rights', but also as entitlements 'charac. Human rights may be viewed not only

Human rights may be viewed not only

Human rights may be viewed not only

tenized by their universality – all human beings have these rights by the mere fact of being tenized by their universality character, as well as by their resistance to all violation to being terized by their universality — an indicater, as well as by their resistance to all violation. In the human — and by their absolute character, as well as by their resistance to all violation. In the human – and by their absolute characterization, and in the specific field of energy, the natural question is whether light of this characterization, and in the sense of whether anybody, anywhere across in the sense of whether anybody. light of this characterization, and in the sense of whether anybody, anywhere, across the world, there is a human right to energy in the sense of whether anybody, anywhere, across the world, there is a human right to chorg, and the world, just invoking his or her human condition, can, under no restrictions at all, claim for themselves and obtain available, affordable, 'clean' and/or efficient energy.

In fact, there have been several voices advocating a so-called 'human right to energy' or a 'human right to energy services' or even asserting a State's obligation to provide electricity. Recognizing a human right to energy inevitably leads to further reflections regarding its content. For instance: how long should a shortage be in order for a claim relating to one's deprivation of the human right to energy to be legally admissible? What should be the advisable volume and electrical load when electricity is provided by the State (be it national, provincial or municipal) on a gratuitous basis, especially considering that, in winter, high use, for heating in poorer neighbourhoods will affect 'paying' customers of the same distribution grid? Is the purpose for which that energy is used relevant, considering that, in informal settlements, there could be high levels of energy consumption not for obtaining heat but for producing illicit drugs? How can we be sure that the State aid law, that convinced both the energy-rich and the energy-poor of the benefits of clean energy in a given jurisdiction, shall not be repealed after next year's elections following partisan goals? What is the level of education necessary to discern clean sources of energy (and avoid 'unclean' ones)? These are just a few among many other questions.

Allen Buchanan and David Golove 'Philosophy of International Law' in Jules Coleman and Scott ro (eds.) The Oxford Handbook of The Oxford Shapiro (eds.) The Oxford Handbook of Jurisprudence and Philosophy of Law (OUP 2002), 868-934, 888.

Juan Cianciardo (2020) La cultura de los derechos humanos. Razón, voluntad diálogo Universidad nal Autónoma de México. (2020) 30 -144 (2020-L-18) Nacional Autónoma de México, (2020) 30 <a href="https://dadun.unav.edu/bitstream/10171/60039/1/2020-L-L3">https://dadun.unav.edu/bitstream/10171/60039/1/2020-L-L3</a> %20cultura%20de%20los%20DDHH%20%283%29.pdf> accessed 27 March 2022.

The word 'right' is herein used in the sense of 'claim right'; see W.N. Hohfeld, Conceptos juridinadamentales. Genero Carrio (tra cos fundamentales, Genaro Carrió (trs., ontamara 1968),59.

Christophe Krolik 'Por un derecho universal a los servicios energéticos modernos' (2016) y ta Argentina de Derecho de la Energía. Una la servicios energéticos modernos (2016) y ta Contracta de Derecho de la Energía. Una la servicios energéticos modernos (2016) y ta la contracta de Derecho de la Energía. Una la servicios energéticos modernos (2016) y ta la la contracta de Derecho de la Energía. Una la servicios energéticos modernos (2016) y ta la contracta de Derecho de la Energía. Una la contracta de Derecho de la Energía de La contracta de Derecho de la Energía. Una la contracta de Derecho de la Energía de La contracta de Derecho de la contracta de Derec Revista Argentina de Derecho de la Energía, Hidrocarburos y Minería 197. Professor Krolik's view Corte Internacional de Corto Internacional de Resolución Mogro can be contrasted with that of the Corte Interamericana de Derechos Humanos, Resolución de la Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos, Resolución Negro v. Guatemala a Corte Interamericana de Derechos Humanos v. Guatemala a Corte Interamericana de Derechos de Corte Interamericana de Derechos de Corte Interamericana de Corte Corte Interamericana de Derechos Humanos de 25 de mayo de 2017, Caso Masacres de Río Negro supervision de cumplimiento de 25 de mayo de 2017, Caso Masacres de Río supervision de cumplimiento de 25 de mayo de 2017, Caso Masacres de Río supervision de cumplimiento de 25 de mayo de 2017, Caso Masacres de Río supervision de cumplimiento v. Guatemala, Supervisión de cumplimiento de sentencia (2017) <a href="http://www.corteidh.or.cr/docs/supervisiones/rionegro\_25\_05\_17.pdf">http://www.corteidh.or.cr/docs/supervisiones/rionegro\_25\_05\_17.pdf</a>> State must guarantee the provision of electric energy to the inhabitants of the Pacux colony, at affordate a los habitantes de los. ble prices' ('en el plazo de un año (...), el Estado deberá garantizar la provisión de energía a human right to energy a precios casa el se la colonia Pacux a precios casa el se la col a los habitantes de la colonia Pacux a precios asequibles'). Textually, then, there was no declaration of the Tribupal by the control of the Pacux colonia, eléculo a human right to energy on behalf of the Tribupal by the control of the Tribupal by the control of the Pacux colonia, eléculo a los habitantes de la colonia Pacux a precios asequibles'). Textually, then, there was no declaration of the Tribupal by the control of the tri a human right to energy on behalf of the Tribunal; but a State obligation was established, instead.

Against this background, the role of the State is significant, especially when it appeals to its Against this backs of the general welfare, a minimally dignified life for the people or mere function as facilitator of the State, in that role, can, nevertheless land function as tachitated. The introduction of the State, in that role, can, nevertheless, lead to controversial special peace. The introduction of the State, in that role, can, nevertheless, lead to controversial special peace. social peace. The fitted aware of: regulations destined to guarantee energy for all may allow results we should be aware of a commodity in a limitless and there. results we should be sometimed to guarantee energy for all may allow simply anybody to take advantage of a commodity in a limitless and, therefore, unreasonable simply anybody to tall manner, and this state-financing scenario, the Government can assure energy to all at the cost monitoreu, in a destined to other areas (such as education or health services) or, given a budget of public funds of public funds are deficit, by resorting to freshly printed money and, therefore, causing inflation if there is no corresponding capital input.

Unavailable, unaffordable, unclean or inefficient energy may prompt multiple lines of discussion, many of which exceed the province of Law and enter into other fields of study, such as Politics or Sociology, the Public Sector, Economics or even Philosophy and Pedagogy. It

would be clearly impossible to consider them all in these paragraphs.

Methodologically, energy, and particularly electricity, as subject matters, seem to exert a centrifugal force. Approaching the foursome question of energy availability, affordability, environmental adequacy or efficiency can also involve considerations of different aspects of life such as minimum living conditions and welfare; health and medical resources; minimum household income or pre-existence of some governmental aid scheme; safety equipment for households and factories; and availability of environmentally-friendly, and efficient electrical appliances. These aspects could become subjects of inquiry in the fields of study referred to above. In turn, from the platform of those different fields of study, the details involved could become objects of study themselves. Those details could include: (1) what the minimum living conditions are or should be to secure welfare; (2) the concept of health contents and the definition or enumeration of electricity-dependent medical services or appliances to be considered among the medical resources; (3) the determination of the minimum income or else the way in which the public sector will intervene to provide aid to the energy needy; (4) the level of safety that will be expected and adopted as to the electric appliances; and (5) the environmental effects of cooling or warming appliances and their economic benefit compared to other possibilities. Research on these various details would illustrate the centrifugal force mentioned above, and would clearly exceed the province of Law.

The complex scene described in the previous paragraph, however, cannot elude the fact that behind every situation involving energy and its unavailability, unaffordability, environmental inadeans inadequacy or inefficiency, there seems to lie a question that needs to be dealt with before all the others. the others; a question that links moral, ethical and legal considerations. It is the inquiry regarding whether.

ing whether it is possible to conceive that there is a right to energy. The chapter discusses the human right to energy (or access to energy services) from a theoretical perspective. Inquiring into the question of whether the right to energy is a human right per se - or at 1 per se or at least a right – and exploring the guidelines or principles that would eventually govern such a right – and exploring the guidelines or principles that would eventually govern such right, the chapter reviews the positive law at a supranational level. For this purpose, it looks: purpose, it looks into the United Nations (UN) legal framework and that established by certain Bilateral Invest. Bilateral Investment Treaties (BITs). The following section (section 2) analyses the existence of a right to 3. of a right to energy within the UN legal framework, firstly by focusing on existent instru-ments (subsection 2) within the UN legal framework, firstly by focusing on existent instruments (subsection 2.1) and secondly by conducting a brief review of the language of rights within that from 2.1) and secondly by conducting a brief review of a similar right within that framework (subsection 2.1). A short analysis of the framework of a similar right to energy within 12.1). A short analysis of the framework of a similar right to energy within BITs is provided next (subsection 2.3). Section 3 analyses the principles of International Law that may apply to energy ethics and to the right to energy. The conclusions 2 and 3 are included in Section 4.

## IS THERE A RIGHT TO ENERGY SERVICES FROM AN VIEWPOINT? 2.

Morality and Ethics can be considered as synonyms, especially from the etymological point the Greek ethos, meaning customs, habits people deval Morality and Etnics can be considered the Greek ethos, meaning customs, habits people develop, and the Latin mores, meaning the same. In Law norms and the latin mores are the Latin mores. 'morality' is derived from the Latin mores, meaning the same. In Law, norms can be considered from the Latin mores of behaviour of a large number of poorly ered 'the resultant of complex patterns of behaviour of a large number of people over a protracted period of time', 9 id est, the product of socially accepted habits or customary law. The element of acceptance of the habit, or custom, is relevant and it can be illustrated by resorting to the well-known figure of the energy theft: it may be customary, in certain neighbourhoods, to connect to the distribution grid in a clandestine manner, but the reiteration of this behaviour does not convert it into a norm because it would lack social acceptance.

Given the particular semantic link between the three disciplines already mentioned Morality, Ethics and Law - the law-based findings regarding the existence of a 'right' - or perhaps more precisely, a 'human right' - to energy shall also reflect a moral or an ethical conception.

Law can be conceived as a set of norms or rules emerging from mores or habits that do not depend on their written character but, rather, on habit, custom or even convention. They appear in the course of human interaction as 'regularities that take on normative significance' perhaps without a specific design or explicit State mandate. When those rules or norms adopt the form of laws, as the product of human lawmaking, they may recognize 'rights'. This would be the case of a rule or norm establishing the right of the distribution grid company to collect the bills that are regularly sent to its clients.

Moreover, norms or rules coexist with another relevant category: principles. Principles are higher foundations for the norms or rules. It is generally considered that, in the natural law tradition, principles shall not be necessarily written, whereas for the normative or positive tradition, which considers law as a set of norms, principles will always be written and incorporated into the legal system by the authorized human lawgiver.11

The recognition and acceptance of the existence of higher principles – that can be said to beyond and above it is the said to be said to beyond and above it is the said to be s lie beyond and above rights – underpins the idea of fundamental rights, common to all human beings, that no make a make the common to all human beings, that no make a make the common to all human that no make the common to all human the common to all human that no make the common that no make the commo beings, that no rule or norm can affect, alter or ignore. Human rights may be written, unwriten, unwriten,

In this sense, John Finnis, 'Natural Law and the Ethics of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Jurisprudence 53, 61. Stock of Discourse' (1998) 43 American al of Discourse (1998) 43 A Journal of Jurisprudence 53, 61; Stephan Gammel, 'Ethics and Morality' <a href="https://www.philosophie.new.font.pdf">https://www.philosophie.new.font.pdf</a> .tu-darmstadt.de/media/philosophie\_nanobuero/pdf\_2/ethicsportfolio/ethics\_moralitybwnewfont.pdf

Gerald J. Postema, 'Coordination and Convention at the Foundations of Law' (1982) XI Journal Studies 165, 167.

But there are some exceptions. For instance, the Canadian constitutional tradition recognizes he written Constitution, as well as the formula tradition recognizes see Mackagy (Em of Legal Studies 165, 167. both the written Constitution, as well as the 'constitutional convention' and other unwritten rules. Economics and the L Ejan Mackaay, 'Emergence of Legal Rules' in Peter Newman (ed.) The New Palgrave Dictional Economics and the Law (Vol. 2, Macmillan Dec. Economics and the Law (Vol. 2, Macmillan Reference Ltd 1998) 29-33, 30.

ten or implied and, insofar they are based on principles or on a 'higher-order' law, they can ten of implied and, insolations of the human lawgiver, who may oversee or ignore certain situations overcome the limitations, or who may change his mind from time to the overcome the limitations, or who may change his mind from time to time, repealing or in need of equitable solutions, or who may change his mind from time to time, repealing or in need of existing rules and rights associated to them.

To illustrate this: no one would deny that contracts must be honoured, and that all human To illustrate this had and enjoy dignity. In this context, an agreement between the private beings are created of the being distribution grid control distribution grid di bills corresponding to served area. However, this general contractual right that assists the company under a contract protected by law, does not exclude the possibility that a different scheme be adopted for poorer and informal neighbourhoods or settlements for reasons of equality and dignity. In this latter case, it can be agreed, between the local government and the distribution company, that the bills – subject to certain caps, and corresponding to served points located in specific poorer neighbourhoods or even in informal settlements – be paid by the corresponding local government. This special scheme would aim at eliminating clandestine connections that can cause blackouts in the dwellings of the paying-customers connected to the same network. That payment to the company, by the local government, shall (i) honour the principle to protect the dignified life of those living in those previously specified locations as if they were paying customers; and also (ii) protect the company's contractual rights because there will be no obligation of the company to deliver electricity, to the beneficiaries who live in those informal neighbourhoods, on a gratuitous basis. This local government payment scheme would, in turn, appear to be fully justified because it would pursue objectives such as human health and integrity.14 Another illustration could be the following:

The general contractual clause shall reflect, in turn, an equality principle set by the legislator in the formal law under which the agreement was entered into. The overbreadth of the general legal and contractual clause shall reflect, in turn, an equality principle set by the formal law under which the agreement was entered into. The overbreadth of the general legal and contractual clauses are the general legal and contractual clauses. contractual clauses oversees the fact that not all served points are the same. Therefore, distinctions are needed. In Aristotelian terms, the general solution established in the law and the general contractual clause requires first. Robledo tr, 19th edge Rosses the fact that not all served points in the law and the general conscious Robledo tr, 19th edge Rosses Robledo tr, 19th edge Rosses Rosses Robledo tr, 19th edge Rosses Ro Robledo tr, 19th edn, Porrúa 2000).71 (in Spanish) or the corresponding text in English in Patricia Smith (1993), The Nature this 'Corrective' use, see also Juan Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho en el Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho (Abeled 1) and Carlos Cassagne, Los principios generales del Derecho (Abeled 1) and Carlos Cassagne, Los principios generales (Abeled 1) and Carlos Cassagne, Los principios (Abeled 1) and Carlos Cassagne, Los principios (Abeled 1) and Carlos Cassagne, Los prin

Administrativo (Abeledo Perrot 1988), 44. The alternative would be a cross-subsidy between paying customers, and non-paying customers of but cross-subside the cro the grid, but cross-subsidies would be a cross-subsidy between paying customers, and non-paying customers, indispensability and the grid, but cross-subsidies would be contrary to practical reasonableness: they would lack adequacy, indispensability and the grid of the contrary to practical reasonableness: they would be contrary to practical reasonableness: indispensability and allocation efficiency. Laws regulating the electricity sector usually prohibit them on services. See Allocated to the services and services are services are services and services are services are services are services are services and services are services absolute terms. See Argentinean Law 24,065, Section 42.e): 'In no case shall the costs, allocated to the customer dered to a cost of the tariffs charged to the absolute terms. service rendered to a customer or class of customers, be paid by means of the tariffs charged to the other

The concept of 'served area' is used in those countries in which the electricity distribution concessionaire is still under an exclusivity regime. In this sense, Argentinean Law 24,065, Section 9, establishes that the electricity distribution concessionaire shall be defined as 'the one who, within its concession area, is responsible for supplying all the demand of the final users who are not qualified to contract their supply independently (...). At the same time, the decree that enables the application of the said I am D. At the same time, the decree that enables the application of the said Law, Decree 1,398/1992, Section 1, establishes that 'The quality of service public assigned to the electric analysis and the second service public assigned to the electric energy distribution activity is based on its natural monopoly condition. (...)' In this scene, the distribution activity is based on its natural monopoly condition. (...)' in what is usually distribution activity is based on its natural monopoly condition. (...) in what is usually referred to a six resistance of the duty to serve (Decree 1,398/1992, Section 21) in what is usually referred to as its 'served area.'

No one would deny that human life is a precious value; we would all recognize and accept that human life should always be protected, in all situations. Therefore the receipt that human life should always to electricity—one of the receipt that human life should always to electricity—one of the receipt that human life should always to electricity—one of the receipt that human life is a precious value; we would all recognize and accept that human life is a precious value; we would all recognize and accept that human life is a precious value; we would all recognize and accept that human life is a precious value; we would all recognize and accept that human life is a precious value; we would all recognize and accept that human life is a precious value; we would all recognize and accept that human life is a precious value; we would all recognize and accept the recognize and accept that human life is a precious value; we would all recognize and accept that human life is a precious value; we would all recognize and accept the recognize and accept that human life is a precious value; we would all recognize and accept the recognize and accept that human life is a precious value; we would all recognize and accept the recognize and accept No one would deny that human life should always be protected, in all situations. Therefore, it reasonable to rule or regulate access to electricity – one of the most widely the reasonable to rule or regulate access to electricity. No one work a principle stating that human life should access to electricity — one of the most widely used seems only reasonable to rule or regulate access to electricity—one of the most widely used seems only reasonable to rule or regulate access to electricity—one of the most widely used seems only reasonable to rule or regulate access to electricity—one of the most widely used

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inciple of protecting human inc.

while a legal positivist may only see the rules or norms regulating each situation, the natural while a legal positivist may only see the rules or norms regulating each situation, the natural was the principles that lie 'above' those rules. law lawyer shall see the principles that lie 'above' those rules.

w lawyer shall see the principles that he we lawyer shall see the principles that he we have a seeks justification in rules, norms or in the field of principles, the question still whether one seeks justification in rules, norms or in the field of principles, the question still whether there is a 'human right to energy' in international law. Whether one seeks justification in a "human right to energy" in international law. In order to be answered is whether there is a "human right to energy" in international law. In order to do so, the UN legal framework becomes the starting point.

#### The United Nations Legal Framework 2.1

It can be affirmed that the Universal Declaration of Human Rights of 1948 (Declaration) does not establish a specific human right to energy. However, we cannot ignore that the Declaration includes indirect references that could be considered appropriate to support a 'right to energy' argument. 15 In this sense, Article 25 of the Declaration provides that 'everyone has a right to a standard of living adequate for the health and well-being of [themselves] and of [their] family (...). The background to this concern about a specific living standard can be found in the UN International conventional framework, in different bilateral treaties signed between 1950 and 1990 by references to workers' normal living needs and electricity access;16 adequate living conditions, particularly in relation to electricity supply;17 exchange of information in the field of services to housing, including lighting;18 exchange of technical and practical knowl-

States of America and the Union of Soviet Socialist Republics Agreement between the Specific problems of mutual II(d): 'This cooperation on Cooperation in the field of Housing and solution of Socialist Republics on Cooperation in the field of Housing and solution housing the cooperation and solution of Socialist Republics on Cooperation in the field of Housing and solution housing the cooperation and solution and solution and solution housing the cooperation in the field of Housing services to the cooperation and solution and solution and solution and solution and solution housing the cooperation in the field of Housing services to the cooperation and solution Construction (1974), Article II(d): 'This cooperation will be directed to the investigation and solution' with specific problems of mutual interest in the field of housing areas: (...) services to with specific problems of mutual interest in the field of housing areas: (...) services to with specific problems of mutual interest in the field of housing areas: (...) services to with specific problems of mutual interest in the field of housing areas: (...) services to the investigation and solution with specific problems. specific problems of mutual interest in the field of housing and other buildings, including water supplied of housing (...) in the following areas: (...) services of UNTS/Vol... reference to including water supplied to the investigation and solution. housing and other buildings, including water supply, waste disposal, heating, lighting, and ventilation willings and other buildings water supply, waste disposal, heating, lighting, and ventilation willings and ventilation with special reference to combined utility function. with special reference to combined utility functions (...) waste disposal, heating, lighting, and ventilation functions (...). Abreed 2021. UNTS/Volume%20961/volume-961-I-13802-English pdf> accessed 7 March 2021.

The same as they would converge into a 'right to water' argumentation, or a 'right to ergonomic furniture' argumentation, or even a 'right to access a public library during the pandemic' argumentation, and so on This include a superior and s and so on. This infinite world of possibilities arises if we follow the needs-right link as described in the introduction of this about the introduction of the int the introduction of this chapter because needs themselves are infinite; a different line of thought can be followed adopting the libertian interest and the libertian interest are infinite; and infinite interest and the libertian interest are infinite; and infinite interest are infinite; and infinite interest are infinite.

followed adopting the liberties-rights approach, much more specific and textually circumscribed.

Linited States of American approach, much more specific and textually circumscribed. United States of America – Mexico (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexico (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexico (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of America – Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of Mexicon (1961) Exchange of Notes Constituting an Agreement between the United States of Mexicon (1961) Exchange of Notes Constituting and Exchange of Notes Constitution (1961) E the United States of America – Mexico (1961) Exchange of Notes Constituting an Agreement Agricultural Workers Mexico (11) America and Mexico Relating to Employment in the United States of Mexico (11) Agricultural Workers Mexico (11) Agricultural Workers. Mexico (11 August 1951), Standards 23, 30, 80, among others. <a href="https://trealies.ii/">https://trealies.ii/</a>. Org/doc/Publication/UNTS/Volumes/2021

org/doc/Publication/UNTS/Volume%20461/volume-461-I-2133-English.pdf> accessed 3 March 2021.

UNGA, Convention on the Elizabet Women (8 UNGA, Convention on the Elimination of All Forms of Discrimination against Women (18 nber 1979, entered in force 3 Scattering Parties Planties Shall December 1979, entered in force 3 September 1981) 1249 UNTS 13, Article 14(1): 'States Parties Parties which rule women plant the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule women plant to the particular problems for 181 1249 UNTS 13, Article 14(1): 'States Parties which rule take into account the particular problems faced by rural women and the significant roles which rural of the geometric survival of the significant roles which rural women are significant roles which rural women and the significant roles which rural women are significant roles which rura women play in the economic survival of their families, including their work in the non-monetized sections this Convention, and shall take all appropriate of the economy, and shall take all appropriate measures to ensure the application of the provisions discrimination are women in rural areas 2. State the state of the provisions of the provisio this Convention to women in rural areas. 2. States Parties shall take all appropriate measures to ensure the application of the provisional that they participate women in rural areas. discrimination against women in rural areas. 2. States Parties shall take all appropriate measures to elliment that they participate in and benefit from rural areas in order to ensure, on a basis of equality of men and wonten the right: (...) (b) To a state of the right of the that they participate in and benefit from rural areas in order to ensure, on a basis of equality of men and work electricity and water enjoy adequate living and electricity and water to housing, sanitation,

the right: (...) (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation.

United States of the right: (...) (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation. electricity and water supply, transport and communications.' [CEDAW].

United States of Amorian Populations and Communications.' United States of America – Union of Soviet Socialist Republics Agreement between the United Interview of America (1974), Article IV of Socialist Republics Agreement between the Union of Socialist Republic Socialist Sociali

edge as factors that contribute to develop human resources of the nations, including, among edge as factors that courses of the nations, including, among those factors, energy. 19 However, this interest in living conditions and energy before the 1990s those factors, energy before the 1990s with the interest in various other forms of energy, especially solar, 20 and, in general, coexists with the growing reliance on alternative sources of energy for low income human settlements, with the growing rural areas.<sup>21</sup> So, these international instruments appear to be with the growing remarks. So, these international instruments appear to be somehow conparticularly in the aspects of the 'energy trilemma' set out in our introduction.

In the UN legal framework, a most important Convention stands out for literally according In the UN regarded areas a right to electricity: The Convention on the Elimination of all Forms of Discrimination against Women ('the Convention'). Its Article 14.2(h)<sup>22</sup> establishes that: of Discrimination and States Parties shall take all appropriate measures to eliminate discrimination against women states order to ensure, on a basis of equality of man and states against women 'States Patrices States Patrices on a basis of equality of men and women, that they participate in rural areas are in rural development and, in particular, shall ensure to such women the right: in and belief to such women the right:
(...) (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications. 23

Nevertheless, the field of application of this article is restricted to the particular group of women as embraced by its wording and by its antidiscrimination objective. As Azaria explains, '[th]is provision focuses on a particular group of beneficiaries ("women in rural areas"), owing to their vulnerability, and is limited in terms of purpose ("elimination of discrimination"). 24 The specific beneficiaries and the restricted purpose would make a general rule, establishing a right to a particular form of energy (electricity) for all human beings under Article 14.2(h) CEDAW, to be ungrounded.

The first tangible link between human beings and energy in the UN system can be traced back to the 1990s in a handful of resolutions related to 'sustainable development' and modern forms of energy (especially solar). It is worth bearing in mind that, a few years after the World Summit for Social Development in Copenhagen (1995) declared the eradication of poverty to be a priority and recommended the launch of a United Nations decade devoted to the achieve-

Netherlands – Venezuela, Agreement on economic and technological cooperation (20 February 1987), Article IV.1 <a href="https://treaties.un.org/doc/Publication/UNTS/Volume%201547/volume-1547-I

<sup>-26908-</sup>English.pdf> accessed 7 March 2021. United States of America – Somalia, Agreement for the sale of agricultural commodities under public law 480, Title I Program (25 June 1980), Item VI(B)(7): 'Approximately 60 percent of Somalia's Population is population is nomadic or semi- nomadic. They exist in a harsh environment and are largely dependent on their animals. their animals for physical and economic survival. Range managements and animal health projects will implement and animal health projects will be a supplement and a supplem implement grazing systems and animal health programs while emphasizing conservation of the limited resources found in the systems and animal health programs while emphasizing and heating is wood or resources found in these dry lands. As the basic sources of energy for cooking and heating is wood or charcoal, projects. charcoal, projects will be developed emphasizing the more efficient use of these items and in the use of unsophisticated older. unsophisticated alternate sources of energy, such as solar cookers and simple bio/gas converters. (...). https://treaties.unsophisticated alternate sources of energy, such as solar cookers and simple bio/gas converters. (...). <a href="https://treaties.un.org/doc/Publication/UNTS/Volume%201252/volume-1252-I-20417-English.pdf">https://treaties.un.org/doc/Publication/UNTS/Volume%201252/volume-1252-I-20417-English.pdf</a>

accessed 7 March 2021. Agreement establishing the Latin American Housing and Human Settlements Development Inization (OI AVI) C. Article 5(b). <a href="https://treaties.un.org/">https://treaties.un.org/</a> Organization (OLAVI). Concluded at Quito on 14 January 1982, Article 5(b). <a href="https://treaties.un.org/doc/Publication/Invited Invited In doc/Publication/UNTS/Volume%201397/v1397.pdf> accessed 7 March 2021.

CEDAW (n 17).

See Danae Azaria (2018) 'Community Interest Obligations in International Energy Law' in Eyal and Georg Note: (OUP 2018), 297–315, See Danae Azaria (2018) 'Community Interest Obligations in International Energy Law in 2013 and case law and limit (eds.) Community Interests Across International Law (OUP 2018), 297–315,

<sup>303</sup> and case law and limited state practice cited therein.

ment of that objective, a Resolution adopted by the UN General Assembly (UNGA)25 ment of that objective, the elimination of poverty and the improvement of the quality of t ment of that objective, a Resolution adopted by and the improvement of the quality of line invoked, as a priority, 'the elimination of poverty and the improvement of the quality of line invoked, as a priority, 'the elimination of the decisions, invited all States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the World States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the world States Members of the successful implementation of the successful implementation of the successful implementation of the successful implementa ment of that objects, the elimination of povers invoked, as a priority, the elimination of povers invoked, as a priority, the elimination of the quality of life invoked, as a priority, and, among other decisions, invited all States Members of the millions living in misery', and, among other decisions, invited all States Members of the World Solar Propriet invoked, as a priority, and, among outer the millions living in misery', and implementation of the World Solar Programme 2005

nited Nations 10-196-2005.

Accordingly, eliminating poverty and improving people's quality of life were objective the language of Section 25 of the Universal Declaration of Human Right. Accordingly, eliminating poverty and improved property of life were objective embedded in the language of Section 25 of the Universal Declaration of Human Rights were objective embedded in the language of Section was recalled in the following years in Resolution was recalled in the implantation of the imp embedded in the language of Section 25 of the second of the language of Section was recalled in the following years in Resolution of the new and renewable sources of energy, including the implementation of the new and renewable sources of the second of the new and renew and r can be stressed that the 1998 Resolution can be stressed that the 1998 Resolution of energy, including the implementation of the work relating to new and renewable sources of energy, including the implementation of the work relating to new and renewable sources of energy, including the implementation of the work relating to new and renewable sources of energy, including the implementation of the work relating to new and renewable sources of energy, including the implementation of the work relating to new and renewable sources of energy, including the implementation of the work relating to new and renewable sources of energy. relating to new and renewable sources of the special aspects of the energy trilenma' into the work solar Programme 1996–2005. 26 These findings bring aspects of the energy trilenma' into the solar Programme 1996–2005. 26 These findings bring aspects of the energy trilenma' into the solar Programme 1996–2005. 26 These findings bring aspects of the energy trilenma' into the solar Programme 1996–2005. 26 These findings bring aspects of the energy trilenma' into the work of the energy trilenma' into the energy Solar Programme 1996–2003. These includes the spotlight, but it is still difficult to find in them the 'consecration' of a human right to energy and human rights may be found in the Resolution and the Re

A closer link between energy and human rights may be found in the Resolution adopted by A closer for 'all human rights' which reaffirmed respect for 'all human rights'. A closer link between energy and managed the UNGA on 16 September 2005, 27 which reaffirmed respect for 'all human rights', invoked the UNGA on 16 September 2005, 27 which reaffirmed respect for 'all human rights', invoked the UNGA on 16 September 2005, 27 which reaffirmed respect for 'all human rights', invoked the unit of the the UNGA on 16 September 2003, the aim of achieving progress in – among other areas – the area of 'development and human rights', invoked the existence of four sets of problems: development and human rights', invoked the existence of four sets of problems: the aim of achieving progress in an acknowledged the existence of four sets of problems: development; peace and the rule of law: and the strengthening of the Tue rights', and acknowledged the Calletine of law; and the strengthening of the UN system to development' among the human rights 28 This system This Resolution included a 'right to development' among the human rights. 28 This finding should allow us to consider the recognition of a human right to sustainable development, a characterized in the 1998 Resolution or, perhaps, to 'economic development' invoked in the

More relevant still, the 2005 Resolution, in its Development chapter, declares that the existing challenges include 'meeting energy needs'30 (apart from achieving sustainable devel opment). It also individualizes 'energy needs and priorities' of developing countries," and bears in mind that, in the field of development, 'access to energy facilitates the eradication of poverty'.32 Moreover, in the Human Rights and Rule of Law chapter, the Resolution resolution to pursue the aim of 'effective enjoyment by all of all human rights (...) including the rights

In view of these considerations, it can be affirmed that a human right to energy can only k indirectly inferred from the 2005 Resolution, given the general rule of interrelatedness of a human rights,<sup>34</sup> and the semantic link between human rights and the rule of law, the right development as a human right, and the inclusion of energy needs within the field of development

<sup>&</sup>lt;sup>25</sup> UNGA (16 October 1998) UN Doc A/RES/53/7 <a href="https://documents-dds-ny.un.org/doc/UND00">https://documents-dds-ny.un.org/doc/UND00</a> GEN/N98/775/21/PDF/N9877521.pdf?OpenElement> accessed 3 March 2020. UNGA, (15 February 2001) UN Doc A/RES/55/205 <a href="https://documents-dds-ny.un.org/doc/UND0">https://documents-dds-ny.un.org/doc/UND0</a>

GEN/N00/571/45/PDF/N0057145.pdf?OpenElement>; UNGA (15 February 2002) A/RES/56/NUNGA (12 February 2004) UNGA (13 February 2002) A/RES/56/NUNGA (13 February 2003) A/RES/56/NUNGA <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/N01/492/91/PDF/N0149291.pdf?OpenElement">https://documents-dds-ny.un.org/doc/UNDOC/GEN/N01/492/91/PDF/N0149291.pdf?OpenElement</a> 507/12/PDF February 2004) A/RES/59/210 

<sup>507/12/</sup>PDF/N0350712.pdf?OpenElement> all accessed 3 March 2020. UNGA, World Summit Outcome (24 October 2005) UN DocA/RES/60/1 <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/DDDCA/RES/60/1">https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/DDCA/RES/60/1 <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/DDCA/RES/60/1">https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/DDCA/RES/60/1 <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/DDCA/RES/60/1]
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"https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/DDCA/RES/60/DCA/RES/60/DDCA/RE -ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement> accessed 3 March 2020.

ibid, para 24(b).

ibid, para 24(b).

ibid, para 24(d) in fine. ibid, para 50.

ibid, para 55(b).

ibid para 56(i). ibid, para 123. ibid, 13.

However, no original, straightforward declaration regarding the existence of such a right

rall can be read in the state of the Outcome Document entitled The Future We Want, Similar considerations Similar considerations of Similar consideration which was endotsed by which was endotsed by which was annexed to UNGA Resolution 66/288,35 which recognized the critical role energy and was an the development process, insofar as access to sustainable modern and energy and was annexed to constant process, insofar as access to sustainable modern energy performs in the development process, insofar as access to sustainable modern energy services to poverty eradication, saves lives, improves health and below performs in the development of the powerty eradication, saves lives, improves health and helps to satisfy basic human needs.

Regarding the organizations within the UN system, the United Nations Educational, Regarding the organization (UNESCO) has made its contribution in the field of Scientific and contribution in the field of energy production and increased provision of energy to rural people, relying on low-cost renewable energy resources.<sup>36</sup> The same has been done by the United Nations Children's Fund (UNICEF) regarding children and their quality of life, as sustainable energy enables and improves the quality, accessibility and reliability of other services that children rely on for their survival and well-being.37

All these efforts, in the specific field of access to electricity, can be said to have paved the way for positive results. As the World Bank explains, '[s]ince 2010, more than a billion people have gained access to electricity. As a result, 90 percent of the planet's population was connected in 2018.'38 This extract has crucial significance because, as UNGA says, 'energy facilitates the eradication of poverty.'39

Consequently, it can be affirmed that energy has found its way into the UN legal framework by means of two different paths that coexist under the wider umbrella of sustainable develop-

UNGA, (27 July 2012) UN Doc A/RES/66/288, para 125: 'We recognize the critical role that energy plays in the development process, as access to sustainable modern energy services contributes to Poverty eradication, saves lives, improves health and helps to provide for basic human needs. We stress that these stress is also a key that these services are essential to social inclusion and gender equality, and that energy is also a key input to really a social inclusion and gender equality, and that energy is also a key input to really a social inclusion and gender equality, and that energy is also a key input to really a social inclusion and gender equality, and that energy is also a key input to really a social inclusion and gender equality. input to production. We commit to facilitate support for access to these services by 1.4 billion people worldwide at Worldwide who are currently without them. We recognize that access to these services is critical for achieving and to address the challenge of achieving sustainable development.') and § 126 ('We emphasize the need to address the challenge of access to great in the poor who are unable to afford access to sustainable development.') and § 126 ('We emphasize the need to address the channels of access to sustainable modern energy services for all, in particular for the poor, who are unable to afford those services services are the need to take further action to improve those services even when they are available. We emphasize the need to take further action to improve this situation include: this situation, including the mobilizing adequate financial resources, so as to provide these services in a reliable, affordable a reliable, affordable, economically viable and socially and environmentally acceptable manner in developing countries? oping countries') <a href="https://www.un.org/en/development/desa/population/migration/generalassembly/bk/globalcompact/">https://www.un.org/en/development/desa/population/migration/generalassembly/bk/globalcompact/</a>

United Nations Educational, Scientific and Cultural Organization, UNESCO's Contribution to Carty Eradication within the Contribution of Contribution of Contribution and Cultural Organization, UNESCO's Contribution to Carty Eradication within the Contribution of Contribution to Contribution to Carty Eradication within the Contribution to Contribution to Contribution to Carty Eradication within the Contribution to Contribution to Carty Eradication within the Contribution to Carty Eradication within the Contribution to Carty Eradication within the Carty Eradication with the Carty Eradication within the Carty Eradication with the Carty Eradication docs/globalcompact/A\_RES\_66\_288.pdf> accessed 7 March 7 2021. United Nations Educational, Scientific and Cultural Organization, UNESCO's Contribution to Poverty Eradication within its Fields of Competence (28 March 1996) 9 <a href="https://unesdoc.unesco.org/3/148223/pf0000102402">https://unesdoc.unesco.org/3/148223/pf0000102402</a>

This is why UNICEF has conducted a Voluntary National Review for Governments as part of ustainable Development C. Voluntary National Review for Governments as part of Water National Review for Governments as part of United States as a top priority for children, by 2030, and 2030, as a top priority for children, by 2030, and 2030, as a top priority for children, by 2030, and 2030, and 2030, as a top priority for children, by 2030, and 2030, This is why UNICEF has conducted a Voluntary National Review for Governments as part of the Sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include, as a top priority for children, by 2030, ensuring universal access to the sustainable Development Goals 2020 targets, that include the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets, the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustainable Development Goals 2020 targets are considered to the sustain ensuring universal access to affordable, reliable and modern energy services. See: UNICEF, Key Asks for 64346/gr. Voluntary National Revision of Clean Energy Overling universal access to affordable, reliable and modern energy services. See: UNICEF, Key Asks John Story SDG Voluntary national Reviews. Affordable and Clean Energy <a href="https://www.unicef.org/media/346/file/sdg7">https://www.unicef.org/media/346/file/sdg7</a> 2020

The World Bank, 'Covid-19 Intensifies the Urgency to Expand Sustainable Energy accessed 7 March 2021.

Press release 29 March 2020 (Supplemental Press release) 2020 (Supplement The World Bank, 'Covid-19 Intensifies the Urgency to Expand Sustainable Energy Solutions of S/28/covid-19-intensifies the Urgency to Expand Sustainable Energy Solutions of S/28/covid-19-intensifies the Urgency to Expand Sustainable Energy Solutions of "orldwide' Press release, 28 May 2020 <a href="https://www.worldbank.org/en/news/press-release/2020/38/covid-19-intensifies-the-urgency-to-expand-sustainable-energy-solutions-worldwide-accessed 7">https://www.worldbank.org/en/news/press-release/2020/38/covid-19-intensifies-the-urgency-to-expand-sustainable-energy-solutions-worldwide-accessed 7">https://www.worldbank.org/en/news/press-release/2

UNGA A/RES/60/1 (n 27) para 55(i) <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/0/PDF/N0548760.pdf?OpenEllowstall.">https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/0/PDF/N0548760.pdf?OpenEllowstall.</a>

<sup>&</sup>lt;sup>487</sup>/<sub>60</sub>/PDF/N0548760.pdf?OpenElement> accessed 3 March 2021.

ment: poverty eradication, on the one hand; and the use of both low cost and clean forms the other. As UNESCO itself explains, '[t]he international community recommends to the other. As UNESCO itself explains, '[t]he international community recommends to the other. ment: poverty eradication, on the one harms, '[t]he international community recognition on the other. As UNESCO itself explains, '[t]he international community recognition of hasic rights: the right to water, the right to food, the right to health, the right to health to health, the right to health, the right to health to h ment: povering the right to water, the right to food, the right to health, the right to health, the right to take part in a loop. Safe, sufficient and reliable a number of basic rights: the light to make a living through work and the right to take part in culture adequate housing, the right to make a living through work and the right to take part in culture adequate housing, the recognise a right to clean, safe, sufficient and reliable energy supplies a number of the right to make a right to clean, safe, sufficient and reliable energy supply. A life, but it is yet to recognize a right to energy access' recognized as such in the ID. life, but it is yet to recognise a right to energy access' recognized as such in the UN legal framework.

#### An Appraisal: The Language of Rights 2.2

There seem to exist no binding international commitments in Public International Lawin There seem to exist no shadow relation to a universal right to energy. In addition, access to modern energy services is not relation to a universal right in any internal services is not relation to a universal right in any internal services is not relation to a universal right in any internal services is not relation to a universal right in any internal services is not relation. expressly recognized as a specific universal human right in any international human right instrument. 41 However, from what was concluded above, it is possible to discern attitude towards the consecration of a right to energy.

There is an evident right to enjoy adequate living conditions, particularly pertaining to electricity, accorded by the clear wording of CEDAW but it is a sectorial right, restricted in 'women in rural areas'42 and aimed at avoiding discrimination. CEDAW is the only instrument that stands out for linguistically recognizing a 'right' to electricity directly or immediately in favour of the abovementioned group and for antidiscrimination reasons. Besides, the provision can be logically linked to the principle of life protection and freedom. In other words, electric ity access for a woman in a rural area may signify the difference between her being exposed to or being safeguarded against gender-based violence, 43 or the difference between the mer possibility of her going out for a walk or for a bike ride after sunset instead of being restricted to stay indoors.

Rules according rights are expected to use a prescriptive language; we expect them to be ally included. erally include the term 'right' followed by, at least, the details regarding that right. Regarding a possible right to energy, the language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various UNGA Resolutions differs from the prescriptive language used in various used in various used in various used used in various prescriptive language present in written rules or norms; however, this non-prescriptive guage succeeds in more rules or norms; however, this non-prescriptive and rules or norms. guage succeeds in putting into words, albeit at different degrees, a concern regarding that convinces us of its property in the convinces us of its property in the convinces are of its property in that convinces us of its relevance. Therefore, even if the prescriptive or normalive

UNESCO Office Bangkok and Regional Bureau for Education in Asia and the Pacific ECCA Troject Washington (2012) From the Pacific (ECCA) Equity and Environmental Security (2012) Ethics and Climate Change in Asia and the Pacific (ECA) accessed 7 Maria Group 7 Report 30 characteristics and Climate Change in Asia and the Pacific (ECA) Project, Working Group 7 Report, 30 <a href="https://unesdoc.unesco.org/ark:/48223/pf0000218271.local-pai/black-accessed">https://unesdoc.unesco.org/ark:/48223/pf0000218271.local-pai/black-accessed 7 March 2021</a>.

Alexandra Wawryk 'International Energy Law. An Emerging Academic Discipline' in Paul Brushin of Adrian and Leadbeter Paul (eds.), Law as Change: Engaging with the Life and Scholarship of Adrian Brailing Energy Law. An Emerging Academic Discipline in Paul (University of Adelaide Press 2014), 223-256, 240 (University of Adelaide Press 2014), 223–256, 248 <a href="http://www.jstor.org/stable/10.20851/j.ct/square/">http://www.jstor.org/stable/10.20851/j.ct/square/</a> (OUR 2008) International Energy Law. An Emerging Academic Discipline in Bradien 14 accessed 7 March 2021. Likewise Dance (OUR 2008) Academic Discipline in International Energy Law in Eval Page 14 (OUR 2008) Academic Discipline in Bradien 14 (OUR 2008) Academic Discipline in Bradien 15 (OUR 2008) Academic Discipline in Bradien 16 (OUR 2008) Academic Discipline in Bradien 17 (OUR 2008) Academic D 14> accessed 7 March 2021. Likewise, Danae Azaria 'Community Interest Obligations in International Community Interest Obligations in International International Community Interest Obligations in International Int Energy Law' in Eyal Benvenisti and Georg Nolte (eds.) Community Interests Across International Energy Lawy, Lee Co.; Íñigo del Guayo, Lee Co.; Íñigo del Guayo, Lee Co.; (OUP 2018) 297-315, 303; Íñigo del Guayo, 'Energy Poverty and Energy Access. A Legal Analysis Laurice and From Control of Iñigo del Guayo, Lee Godden, Donald N. Zillman, Milton F. Montoya, and José Juan Gonzalez See Joy (n 17).

Energy Justice and Energy Law (OUP 2020), 31-47, 42.

See Joy S. Clancy, Soma Dutta, Nthabiseng Mohlakoana, Ana Victoria Rojas, International Property. The Emons of W. Njirambo Matinga, (2016) 'The Predicament of Women' in Lakshman Guruswamy (ed.) International Contours (P. 2020), 31–47, 42.

Njirambo Matinga, (2016) 'The Predicament of Women' in Lakshman Guruswamy (ed.) International Contours (P. 2020), 31–47, 42. Energy and Poverty. The Emerging Contours (Routledge 2016) 24-38, 27.

cannot be said to be achieved by those Resolutions, they succeed, at the social level, in communicating and convincing us of the relevance of the good or commodity involved.

municating and convincing the Annex of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the Third International Convention of the 2015 Addis Ababa Action Agenda of the 2015

municating and convincing and convincing and convincing for Development (Addis Ababa Action Agenda), 44 Section 12 'encourages' on Financing for Development (Addis Ababa Action Agenda), 44 Section 12 'encourages' countries to consider setting nationally appropriate spending targets for quality investments in essential public services for all, including, among others, energy, in a manner consistent with national sustainable development strategies. Also, Section 14 'establishes a new forum' to bridge the infrastructure gap, stating that investment in energy (among other services) is a pre-requisite to achieve the 'sustainable development goals', while Section 49 establishes the aim of 'ensuring' universal access to affordable, reliable, modern and sustainable energy services for all for 2030, 'recognizing' the special vulnerabilities and needs of certain developing States. 45

The language used in those Sections appears to be the one typically used in written norms or prescriptions; there, those Sections can be said to hold normative or prescriptive value. But what is prescribed in those Sections relates not to human beings directly, but to indirect encouragement (via each country), exchanges (via forums), prospective assurance (aiming at 2030) and recognition (of the needs in developing States). This is also the case of the Resolution adopted by the UNGA on 19 December 2019, 46 which, notwithstanding its ambitious grounds or justifications, 47 only succeeds, at the normative or prescriptive level, in 'calling' impersonally (for ensuring access to affordable, reliable, sustainable and modern energy for all, among other goals) and in 'encouraging' Governments, among others, where 'feasible and appropriate' (to leverage the cost-competitiveness of renewable energy 'in order to' achieve universal energy access). 48

UNGA (21 January 2020) UN Doc A/RES/74/225 <a href="https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/436/54/PDF/N1943654.pdf">https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/436/54/PDF/N1943654.pdf</a>? OpenElement> accessed 1 March 2020).

ibid. In the written expression of its grounds or justifications, this Resolution 'reaffirms' the soverdeep concern' as to the amount of people with no access to electricity or the ones relying on traditional
The Resolution puts forth all these concepts in its grounds or justifications, which lack normative value
the reasons for the most

the reasons for the measures adopted in the Resolution).

dibid. In the normative or prescriptive part of the Resolution, Section 5, 'calls for ensuring' access an 'enabling environment' at the national and international levels for the increased use of sustain-section 7 'enabling environment' at the national and international levels for the increased use of sustain-section 7 'encourages Governments,' among others, where 'feasible and appropriate,' to leverage the 'calls upon Governments' to expand the use of renewable energy beyond the power sector.

The Resolution adopted by the UNGA on 23 December 2016<sup>49</sup> establishes, in Section 54. The Resolution adopted by the officer of renewables, in Section 54, the 'commitment' that acts as the foundation for the Resolutions cited above. The object of renewables, 'affect of the 'commitment' that acts as the foundation the generation and use of renewables, 'affordable the 'commitment' comprises, apart from the generation and use of renewables, 'affordable the Resolution 'notes' the effects of renewable energy cost reductions the 'commitment' comprises, apart to the 'commitment' comprises, 'affordable energy'. Besides, the Resolution 'notes' the effects of renewable energy cost reductions on the energy'. Besides, the Resolution 'notes' the effects of renewable energy cost reductions on the energy'. Besides, the Resolution 'notes' the effects of renewable energy cost reductions on the energy'. energy'. Besides, the Resolution flowering of energy supply costs for cities and human settlements. It also emphasizes giving lowering of energy to the energy needs of the people, particularly those living on lowering on l lowering of energy supply costs for controlled lowering on lowerin particular attention' to the energy needs, the 'poorest and those in vulnerable situations' and in informal settlements; in other words, the 'poorest and those in vulnerable situations' and in informal settlements. The prescriptive value of 'committee employment. The prescriptive value of 'committee employment. and in informal settlements, in other and in informal settlements, in other settlements. The prescriptive value of 'committing' and who deserve full and productive employment. The prescriptive value of 'committing' and who deserve full and productive employment. The prescriptive value of 'committing' and who deserve full and productive employment. who deserve full and productive starting from contracts or agreements. Nevertheless, and the purpose of communicating attentiveness toward 'noting' moves away from the constraint of the wording used serves the purpose of communicating attentiveness towards a specific concern internationally: the needy.

Finally, in the Resolution adopted by the UNGA on 20 December 2018, the language addressing the issue of 'energy for all' is located in the written expression of the grounds or justifications of the measure contained in the Resolution, and we know grounds or justifications lack normative or prescriptive value and only serve the purpose of providing the grounds or reasons for the decision or measure. Those grounds or justifications 'emphasize' or transmit 'deep concerns' regarding energy for all. At the prescriptive level, that Resolution, in Sections 3, 5, 6, 7 and 10, aims at 'encouraging' or 'calling upon' Governments to ensure access to affordable, reliable, sustainable and modern energy for all.52 It thus addresses the issue of energy for all via Sections with normative value, but in an indirect or mediate manner by way of encouragement or formal petition to the Governments.

From the Convention on the Elimination of all Forms of Discrimination against Women, it can be inferred that, whenever an international instrument purports to accord or sanction a right, it does so in a clear manner. The language adopted in the abovementioned Resolutions - which shows a considerable use of adjectives, condition-setting and the consideration of particular situations, and subjects implementation to intermediate steps – does not sanction a right to energy. Despite its circumlocutory tenor, it succeeds in expressing at the global level a deep concern towards energy in relation to all human beings. However, at the normative of prescriptive level and a second prescriptive level and a second prescriptive level and the second prescriptive level a prescriptive level, no human right to energy seems to be established in the abovementioned

UNGA (25 January 2017) UN Doc A/RES/71/256 <a href="https://documents-dds-ny.un.org/doc">https://documents-dds-ny.un.org/doc</a>
It reads as follows follows as follows. UNDOC/GEN/N16/466/55/PDF/N1646655.pdf?OpenElement> accessed 1 March 2020.

It reads as follows: '54 W/s 2020. It reads as follows: '54. We commit ourselves to the generation and use of renewable and efficient transport in the generation and use of the generation and ble energy and sustainable and efficient transport infrastructure and services, where possible, achieving the six of connectivity and reducing the first infrastructure and services, where possible health costs of infrastructure and services, where possible health costs of infrastructure and services. the benefits of connectivity and reducing the financial, environmental and public health costs of interior to giving particular attention, air pollution, urban book in the politic health costs of th cient mobility, congestion, air pollution, urban heat island effects and noise. We also commit ourse living in informal settle. to giving particular attention, air pollution, urban heat island effects and noise. We also commit of the energy and transport needs of all people, particularly the poor and human settlements an account to the energy and transport needs of all people, particularly the poor control of the energy costs give cities and human settlements and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people, particularly the poor cities and transport needs of all people and transport needs of a those living in informal settlements. We also note that reductions in renewable energy costs give cities and Res 71/256 (n. 40).

and human settlements an effective tool to lower energy supply costs.' UNGA (15 January 2019) A/RES/73/236 <a href="https://documents-dds-ny.un.org/doc/UNDOC/OFN/N1846088.pdf">https://documents-dds-ny.un.org/doc/UNDOC/OFN/N1846088.pdf</a>?OpenElement N18/460/88/PDF/N1846088.pdf?OpenElement> accessed 1 March 2020.

# principles in Bilateral Investment Treaties - A Short Reference

2.3

2.3

Discerning a human right to energy in the context of Bilateral Investment Treaties (BITs)53

the human rights regime itself does not acknowledge it, might be misplaced to (BITs)53 piscerning a human rights regime itself does not acknowledge it, might be misplaced. Indeed, no when the human rights regime itself does not acknowledge it, might be misplaced. Indeed, no piscent human rights regarding the human rights logarity when the human rights logarity when the human rights logarity when the human rights logarity with the object of the human rights logarity logarity with the object of the human rights logarity logari BIT establishes such a right such a specific extract from them potentially valuable principles regarding energy in the human sphere, the other considerations that relate to human beings and human life. tive to extract from siderations that relate to human beings and human life.

tis generally acceptable that living standards may improve by means of a stable framework It is generally acceptable stable framework for investment. 54 Individuals 55 or nationals 56 engaged in economic activities have been recognized in the economic life of the contracting countries. for investment. His results as included in the economic life of the contracting countries, but only in nized in some BITs alongside international to the sphere of cooperation. The consumer, as object of protection, has also been included in the sphere of cooperation of some BITs alongside internationally recognized labour rights.57

Alternatively, some BITs have 'laid their eyes' on the necessity to protect human life or health, alongside the life of plants and animals.58 In this case, for the purpose of the

BITs are treaties 'concluded between two states that establish obligations owed by each contracting state to investors within their territory. At the most basic level, BITs are intended to protect foreign investors from interference by host states and to ensure that host governments honour promises made to attract foreign investment. BITs are supposed to mitigate some of the risks investors assume when investing abroad, particularly in developing countries.' In Annie Leeks, 'The Relationship between Bilateral Investment Treaty Arbitration and the Wider Corpus of International Law: The ICSID Approach' (2007) 65(2) University of Toronto Faculty of Law Review 1, 5.

United States of America - Uruguay BIT (2005) <a href="https://investmentpolicy.unctad.org/international">https://investmentpolicy.unctad.org/international</a> investment-agreements/treaty-files/2380/download>; North Macedonia, Republic of - Kazakhstan, Republic of BIT (2012) <a href="https://investmentpolicy.unctad.org/international-investment-agreements/">https://investmentpolicy.unctad.org/international-investment-agreements/</a> treaty-files/1782/download> accessed 1 March 2020.

Netherlands-Sudan BIT (1970) <a href="https://investmentpolicy.unctad.org/international-investment">https://investmentpolicy.unctad.org/international-investment -agreements/treaty-files/5197/download> accessed 1 March 2020.

Kenya – Netherlands BIT (1970) <a href="https://investmentpolicy.unctad.org/international-investment">https://investmentpolicy.unctad.org/international-investment -agreements/treaty-files/1793/download> accessed 1 March 2020.

United States of America—Uruguay BIT (2005) <a href="https://investmentpolicy.unctad.org/international/stment">https://investmentpolicy.unctad.org/international/stment/st investment-agreements/treaty-files/2380/download>; Kenya-Korea, Republic of BIT (2014) <a href="https://investment-agreements/treaty-files/2380/download">https://investment-agreements/treaty-files/2380/download>; Kenya-Korea, Republic of BIT (2014) <a href="https://investment-agreements/treaty-files/5261/download">https://investment-agreements/treaty-files/5261/download</a>; investmentpolicy.unctad.org/international-investment-agreements/treaty-files/5261/download>; Kenya-Korea, Republic of 21. (ameroon treatments/treaty-files/5261/download>; Cameroon treatments/treaty-files/5261/download>; Cameroon - Korea, Republic of BIT (2013) <a href="https://investmentpolicy.unctad.org/international-investmentpolicy.unctad.org/international-investmentpolicy.unctad.org/international-investment-agreements/treaty-incs/32013/1009/international-investment-agreements/treaty-incs/32013/investmentpolicy.unctad.org/international-investment-agreements/treaty-incs/32013/investmentpolicy.unctad.org/international-investment-agreements/treaty-incs/32013/investmentpolicy.unctad.org/international-investment-agreements/treaty-incs/32013/investmentpolicy.unctad.org/international-investment-agreements/treaty-incs/32013/investmentpolicy.unctad.org/international-investment-agreements/treaty-incs/32013/investmentpolicy.unctad.org/international-investment-agreements/treaty-investmentpolicy.unctad.org/international-investment-agreements/treaty-investmentpolicy.unctad.org/international-investment-agreements/treaty-investmentpolicy.unctad.org/international-investment-agreements/treaty-investment-agreements/treaty-investmentpolicy.unctad.org/international-investment-agreements/treaty-investment-agreements/treaty-investment-agreements/treaty-investment-agreements/treaty-investment-agreements/treaty-investment-agreements/treaty-investment-agreements/treaty-investment-agreements/treaty-investment-agree -Investment-agreements/treaty-files/5256/download>; Korea, Republic of-Rwanda BIT (2009) <a href="https://investmentpolicia.com/lines/4843/download">https://investmentpolicia.com/lines/4843/download></a>. investmentpolicy.unctad.org/international-investment-agreements/treaty-files/4843/download>.

Saint Vincent Colling PLT (2009) <a href="https://investment-agreements/">https://investment-agreements/treaty-files/4843/download>.</a>

Saint Vincent and the Grenadines—Taiwan Province of China BIT (2009) <a href="https://investmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestmentpolicyad.org/international-investment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreements/treaty-files/40-3/downsestment-agreement-agre Junctad.org/international-investment-agreements/treaty-files/2243/download>; Colombia-Japan BIT (2011) Shttps://iiivestment-agreements/treaty-files/797/ <a href="https://investment-agreements/treaty-files/2243/download">https://investment-agreements/treaty-files/797/Japan\_I Impermentagements/treaty-files/797/Japan\_I Impermentagementagements/treaty-files/797/Japan\_I Impermentage https://investment-agreements/treaty-investment-agreement-agreements/treaty-investment-agreement investments/treaty-files/3284/download>; Chile-Hong Kong, China SAR BII (2010) (Canada-Guinea RIT (2010) (Investment-agreements/treaty-files/5413/download>; Chile-Hong Kong, China SAR BII (2010) (Investment-agreements/treaty-files/5413/download>; China Canada-Guinea BIT (2015) <a href="https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/5095/downless-files/5095/do lreaty-files/5095/download>; Burkina Fas—Canada BIT (2015) <a href="https://investmentpolicy.unctad.org/international-investmentpolicy.unctad.org/internatio Org/international-investment-agreements/treaty-files/3460/download>; https://investment-agreements/treaty-files/3460/download>; Canada-Cole divided (All Cole and Cole at Voltage (Canada-Cole at V download https://investment-agreements/treaty-files/3460/download https://investmentpolicy.unctad.org/international-investmentpolicy.unctad.org/internationa Streaty-files/3239/download>; Canada-Senegal BIT (2014) (2 Cameroon-Canada <a href="https://investment-agreements/treaty-files/3240/download">https://investment-agreements/treaty-files/3240/download</a>; Calleton Calleton

Agreement, a Party may adopt or enforce measures necessary to protect them, sometime Party to adopt or enforce. Certain Billet Agreement, a Party may adopt or emote incurrence incurr under certain conditions such as the absolute of also recognized the power of the Contracting Party to adopt or enforce measures necessary necessary to adopt or enforce measures necessary necessary to adopt or enforce measures necessary nec

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Sometimes BITs resort to the concept of 'minority'; 63 other times, they mention 'commit including minorities instead'. 65 Evidently, the semantic management of the Sometimes BITs resort to the concept of limited, sometimes, they mention 'communities' or even 'groups including minorities instead'. Evidently, the semantic meaning of

3163/download>; Japan-Mozambique BIT (2013) <a href="https://investmentpolicy.unctad.org/international">https://investmentpolicy.unctad.org/international</a> -investment-agreements/treaty-files/3114/download>; Canada-United Republic of Tanzania BIT Anttps://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/6/6 download>; China - United Republic of Tanzania BIT (2013) <a href="https://investmentpolicy.unctad.org">https://investmentpolicy.unctad.org</a> international-investment-agreements/treaty-files/5488/download>; Benin-Canada BIT (2013) <a href="https://example.com/documents/block/libes/5488/download">https://example.com/documents/block/libes/5488/download></a>; Benin-Canada BIT (2013) <a href="https://example.com/documents/block/libes/5488/download">https://example.com/documents/block/libes/5488/download></a>; investmentpolicy.unctad.org/international-investment-agreements/treaty-files/438/download>; Rwanda - United States of America BIT (2008) <a href="https://investmentpolicy.unctad.org/international-investment">https://investmentpolicy.unctad.org/international-investment -agreements/treaty-files/2241/download>; Gambia-Taiwan Province of China BIT (2010) <a href="https://download">https://download</a>; Gambia-Taiwan Province of China BIT (2010) <a href="https://download">htt investmentpolicy.unctad.org/international-investment-agreements/treaty-files/3346/download Canada-Egypt BIT (1996) <a href="https://investmentpolicy.unctad.org/international-investment-agreement">https://investmentpolicy.unctad.org/international-investment-agreement/2006</a> treaty-files/611/download>; BLEU (Belgium-Luxembourg Economic Union)—Guatemala BIT (2005) <a href="https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/364/download/">https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/364/download/</a>

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Canada-Guinea, Republic of BIT (2015) <a href="https://investmentpolicy.unctad.org/internations/">https://investmentpolicy.unctad.org/internations/</a> -investment-agreements/treaty-files/5095/download> accessed 1 March 2020. Japan-Peru BIT (2008) (The Republic of Peru reserves the right to adopt or maintain any measure rights or preferences to socially and ethnic groups...

according rights or preferences to socially or economically disadvantaged minorities and ethnic groups (Chile II) Chile II. https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/1733/download
any measure that Chile-Hong Kong, China SAR BIT (2016) ((...)('(...) Chile reserves the right to adopt or matters. any measure that does not conform to the obligations set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, where the macro according rights or professions set out below with respect to the following sectors, and the macro according rights or professions set out below with respect to the following sectors, and the macro according rights or professions set out below with respect to the following sectors, and the macro according rights or professions set out below with respect to the following sectors, and the macro according rights or professions according rights or p sectors or matters: (...) according rights or preferences to socially or economically disadvantaged nimber as Companies not conform with the action of the social sectors of matters: (...) according rights or preferences to socially or economically disadvantaged nimber as Companies not conform with the action of the social sectors of the social sector ities; where the measure does not conform with the obligations set out below with respect to the following reatment as Compared with a Party's Own Leading time of the obligations imposed by Article 4 (Non-discriminatory Treatment of the obligations imposed by Article 4 (Non-discriminatory Treatment of the obligations imposed by Article 4 (Non-discriminatory Treatment of the obligations imposed by Article 4 (Non-discriminatory Treatment of the obligations imposed by Article 4 (Non-discriminatory Treatment of the obligations of the obligations imposed by Article 4 (Non-discriminatory Treatment of the obligations of Treatment as Compared with a Party's Own Investors), Article 5 (Non-discriminatory Treatment of Performance Party's Investors), Article 5 (Non-discriminatory Treatment of Performance Party's Investors), Article 5 (Non-discriminatory Treatment of Pirectors), Article 5 (Non-discriminator Compared with a Non-Party's Own Investors), Article 5 (Non-discriminatory Treatment agreements/treaty-files/requirements):') <a href="https://example.com/blanks/files/f Article 9 (Performance Requirements); Own Investors), Article 5 (Non-discriminatory agreements/treaty-files/5413/download> access 1 Newstors imposed by Article 5 (Non-discriminatory agreements/treaty-files/5413/download> access 1 Newstors), Article 8 (Senior Management and Boards of Directors) See n 59. -agreements/treaty-files/5413/download> accessed 1 March 2020.

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Israel-Japan BIT (2017) (Israel reserves its right 'to adopt or maintain measures to promote of socially or economically discussional including minorities, and the benefit of socially or economically discussional including minorities, and the benefit of socially or economically discussional including minorities, and the benefit of socially or economically discussional including minorities, and the benefit of socially or economically discussional including minorities, and the benefit of socially or economically discussional including minorities, and the benefit of social including minorities. objectives for the benefit of socially or economically disadvantaged groups, including minorities,

each expression differs, as does their source; for minority seems to be a legal concept while each expression united, according to be a legal concept while community or group are sociological concepts. Also, 'minorities' may be mentioned alongside community or groups'66 by means of the conjunction 'and', according the benefits of the community or group are so the conjunction 'and', according the benefits of the clause to 'ethnic groups that may or may not conform to a minority within the host state certain groups that may or may not conform to a minority within the host-State.

rain groups man rights have found their way into certain BITs but in a mediate or indirect Finally, human rights have established the duty of each Party to encourage Finally, human right but in a mediate or indirect manner: some BITs have established the duty of each Party to encourage enterprises to volunmanner: some bits have established the duty of each Party to encourage enterprises to volunmanner: some bits have established the duty of each Party to encourage enterprises to volunmanner: some bits have established the duty of each Party to encourage enterprises to volunmanner: manner: some Dills have been supported by the encourage enterprises to voluntarily incorporate recognized standards of corporate social responsibility in their practices and tarily incorporate such as statements of principle (endorsed or supported by the statements) tarily incorporate such as statements of principle (endorsed or supported by the Parties). These internal policies, such as rights, among other issues (such as laborated by the Parties). internal policies, such as labour rights, among other issues (such as labour rights, the environment, principles address human anti-corruption). 67 community relations and anti-corruption).67

The consideration of human beings or human rights, from a textual viewpoint, differs from the consideration of the congress that comprise elements such as domestic health, safety or the environment. 68 The scope clauses that comprise elements such as domestic health, safety or the environment. 68 The scope clauses is limited to the recognition of those elements and in no way do they establish or set forth rights – or human rights – in the sense of 'claim-rights'.69

#### PRINCIPLES APPLICABLE TO ENERGY ETHICS 3.

Energy has perhaps become the most precious object of procurance, at least for human beings. As Kimmins stated, '[w]e are living in a world that can no longer do without energy – so much

bled persons, military veterans and first-degree family members of Israeli fallen soldiers and the development of its peripheral areas.' <a href="https://investmentpolicy.unctad.org/international-investment-agreements/">https://investmentpolicy.unctad.org/international-investment-agreements/</a>

Japan-Peru BIT (2008) ('The Republic of Peru reserves the right to adopt or maintain any measure treaty-files/5849/download> accessed 1 March 2020. according rights or preferences to socially or economically disadvantaged minorities and ethnic groups') https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/1733/download>

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This is the accessed 1 March 2020. This is the case of 2007 Kingdom of Norway Model BIT, art. 11 ('Not Lowering Standards) as follows: '1. The Parties recognize that it is inappropriate to encourage investment by relaxing health, safety or are the standards. Accordingly, a Party should wait. domestic health, safety or environmental measures or core labour standards. Accordingly, a Party should waive or otherwise down not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an investor.

If a parties recognize that it is inappropriate to detect the parties of the establishment of an investor. chcouragement for the establishment, acquisition, expansion or retention of an investment of an investment lions under the establishment, acquisition, expansion or retention of an investment of If a Party considers that the other Party has offered such an encouragement, it may request consultations under Article Hoise Considers that the other Party has offered such an encouragement, it may request consultations agreement. lions under Article [Joint Committee]. At Balancia. agreements/treaty-files/2873/download> accessed 4 May 2021). Cited in Ahmad Ali Contemporary Asia Majlancing: Investment The Article (2011) 4(1) Contemporary Asia Majlancing (2011) 4(1) Contempora Article [Joint Committee].' <a href="https://investmentpolicy.unctau.org">https://investmentpolicy.unctau.org</a> Ali Ghouri Fostard Ali Ghouri Fostard Ali Ghouri Fostard Article [Joint Committee].' <a href="https://investmentpolicy.unctau.org">https://investmentpolicy.unctau.org</a> Ali Ghouri Fostard Ali Ghouri Fostard Article [Joint Committee].' <a href="https://investmentpolicy.unctau.org">https://investmentpolicy.unctau.org</a> Article [Joint Committee].' <a href="https://investmentpolicy.unctau.org">https://investm Arbitration Journal 95, 109 <a href="http://sro.sussex.ac.uk/id/eprint/49153/1/Annex\_Article\_3.pdf">http://sro.sussex.ac.uk/id/eprint/49153/1/Annex\_Article\_3.pdf</a> accessed 4 May 2021). Cited in Annual Contemporary Asia May 2021 in Property Asia May 2021. Cited in Annual Contemporary Asia May 2021 in Property Asia May 2021 in

See n 4.

so that some people are calling for a declaration of the universal 'right to energy'. In light of this, as Frigo reminds us, a change of mentality was overdue.<sup>71</sup>

is, as Frigo reminds us, a change of including said to have transferred the issues surrounding energy itself. The change of mentality can be said to have transferred the issues surrounding energy itself. The change of mentality can be said to the paradigm of determinism, which even governed to a human-being context, leaving behind the paradigm of determinism, which even governed to a human-being context, leaving buman beings at the centre, the Ethics of energy, today, will not be said to the paradigm of determinism, which even governed to a human-being context, leaving behind the paradigm of determinism, which even governed to a human-being context, leaving behind the paradigm of determinism, which even governed to a human-being context, leaving behind the paradigm of determinism, which even governed to a human-being context, leaving behind the paradigm of determinism. to a human-being context, leaving context, the Ethics of energy, today, will necessarily moral choices. Having human life protection. The principle of human life protection. moral choices. Having numan life protection. The principle of human life protection, in turn privilege the principle of human life protection, in turn dionity. In this sense, the needs that converge into an internal dionity. privilege the principle of numerical projection, in turn, shall entail protecting human dignity. In this sense, the needs that converge into an undignified shall entail protecting human dignity. In this sense, the needs that converge into an undignified shall entail protecting numer and undignified and tackled from a moral standpoint: at the legislife when not fulfilled, have to be reasonableness, 72 which means choosing the most suitable means lative or regulatory level, a) reasonableness, 72 which means choosing the most suitable means lative or regulatory level, a) reasonableness, 72 which means choosing the most suitable means establishing the least burdensome measure, and securing proportionality strictu sensu, 3 and on behalf of the courts of law, b) equity or equitable solutions as enabling exceptions to general measures.

Would the Ethics of energy need to be individualistic? The answer Kimmins suggests appears to be negative; he approaches the challenges energy poses not from a selfish or individualistic or person-based standpoint, but from the point of view of networks and interconnectedness, whether physical, political or social: 'The complexity of energy issues, and their interconnectedness to every other issue (...) shows that all potential solutions to individual energy questions involve a social cost, an ethical dilemma and an impact on the way other problems are resolved. Thus, they can only be looked at within a broader consideration of the functioning of the world system of which energy is but one interwoven component'.74 In this way, his contribution virtually serves the purpose of building a system-based energy ethics principle or an interconnectedness energy ethics principle that involves much more than physical wires or switches; it includes a consideration of the whole surroundings that have accompanied, accompany and shall accompany an energy issue. An interconnectedness principle, in these terms, allows us to face the 'energy trilemma' with a sense of obligations towards both current and future generations. This is how the principle of intra-generational justice and the principle of inter-generational justice are introduced in the arena of issues surrounding energy. 75 However, we must bear in mind that those two principles operate in a Rawlsian cooperation and the state of the eration scheme that differs from the Natural law concept of common good. Cooperation aims at social justice, while the common good is justice itself or the just (or fair) order. When all the users of the distributions of the distribution of the distributio users of the distribution grid pay the same tariff, regardless of how long they have belonged to the network there is an an analysis when the network, there is an apparent cross-subsidy that resembles social justice;<sup>76</sup> likewise, when

Giovanni Frigo 'Energy Ethics. A Literature Review' (2018) 6(2) Relations, 177, 205. See, in general, John Finnis (7) A Literature Review' (2018) 6(2) Relations, 177, 205. See, in general, John Finnis 'The Nature of Law' in John Tasioulas (ed.) Cambridge Companion SingleSp271. to Philosophy of Law (CUP 2017) 4 <a href="https://www.kcl.ac.uk/law/c-ppl/philo-workshops/The-Nature-of-">https://www.kcl.ac.uk/law/c-ppl/philo-workshops/The-Nature-of-Day Grant Cipped accessed 5 May 2021</a>

James Peter Kimmins (Marcia Lord colab.) The Ethics of Energy: A Framework for Action (SCO, World Commission on the Ethics) (UNESCO, World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) 2001) 6 <a href="https://unesdoc.unesco.org/ark:/48223/pf0000123511">https://unesdoc.unesco.org/ark:/48223/pf0000123511</a> accessed 5 May 2021.

Juan Cianciardo, El principio de razonabilidad. Del debido proceso sustantivo al moderno de cho. Una aprovincia de del Abaco 2009) 64 67. -LawSingleSp27Jan17.pdf> accessed 5 May 2021. de proporcionalidad (2nd edn, Ábaco 2009) 64-67; id., Principio de proporcionalidad y concepto de James Peter V: Derecho. Una aproximación desde las tesis del positivismo jurídico (Ad Hoc 2009) 59-61.

James Peter Kimmins (Maria de la tesis del positivismo jurídico (Ad Hoc 2009) 59-61.

On the concept of inter-generational justice, see John Rawls, Teoria de la Justicia (de María According to Johann 1971) (Fonda de Control de 1971) (Fonda de 1971) James Peter Kimmins (Marcia Lord colab.) (n 70), 35. According to Johannes M. Bauer, 'Network Expansion and Pricing in Aires, 16-17 May 5. González tr. de la la ed. en inglés de 1971) (Fondo de Cultura Económica 1979) 323 et seq.

According to Johannes M. D. Frieing in Transn According to Johannes M. Bauer, 'Network Expansion and Pricing in Aires, 16-17 May 1996.

ourent users do not pay the costs associated to potential users (and potential users may have to a just (or fair) order is achieved. ourrent users do not pay the costs associated to potential users (and potential users do not pay the costs associated to potential users (and potential users do not pay the costs to receive electricity), 77 a just (or fair) order is achieved.

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applicable to questions of and production, environmental implications, and obligations toward and production and production are considered. pay additions argued that there are solvered current principles applicable to questions of it has been argued that production, environmental implications, and obligations towards future energy access and principle include, among others: (i) accessibility or available to individual. energy access and production, and obligations towards future energy access. Those principle include, among others: (i) accessibility or availability, which generations. Those principle include available to individuals on an equitable basis and at a generations. Those principle included and the principle included in the principle in the principle included in the principle in general that energy should be a state of their geographical origins and level equitable basis meaning that all persons, regardless of their geographical origins and level equitable basis must have access to energy; (ii) sustainability in terms of interest of equitable basis incumes to energy; (ii) sustainability in terms of intergenerational status, must have access to energy sources should be objectively sustainable or fit to energy which means that energy sources should be objectively sustainable or fit to energy sources. social status, must have access should be objectively sustainable or fit to satisfy the equity, which means that energy sources without impairing the ability of future equity, which means that the satisfy the equity, which means or current generations without impairing the ability of future generations to needs of present or current generations without impairing the ability of future generations to needs of present own foreseeable needs; still, nowadays it has also been proposed that the needs of present of the ability of tuture generations to meet their own foreseeable needs; still, nowadays it has also been proposed that they should meet their own foreseeable needs; (iii) precaution, a principle that meet their own roles generational needs; (iii) precaution, a principle that can lead to virtual also contemplate intra-generational needs; (iii) precaution, a principle that can lead to virtual also contemplate the bound of the paralysis if not associated to reality and foreseeable human abilities; under this principle, creparalysis if not associated to reality and foreseeable human abilities; under this principle, creparalysis if not associated to reality and foreseeable human abilities; under this principle, creparalysis if not associated to reality and foreseeable human abilities; under this principle, creparalysis if not associated to reality and foreseeable human abilities; under this principle, creparalysis if not associated to reality and foreseeable human abilities; under this principle, creparalysis if not associated to reality and foreseeable human abilities. paralysis 11 not associated should be avoided given that there is factual evidence that today ating irreversible situations should be avoided given that there is factual evidence that today ating irreversions stated by free of drawbacks; (iv) environmental responsibility, aiming at the no energy source is totally free of drawbacks; (iv) environmental responsibility, aiming at the no energy source and research. (vi) advertation and research. (vi) reduction of the last three research; (vi) education and transparency; (vii) internation, adaptation and research; (vi) education and transparency; (vii) internause, (v) minoration, (vii) interna-tional cooperation given the fact that the implications of energy production, transportation, distribution and use may transcend the boundaries of a given country.80

This enumeration can be viewed as desiderata, but it must be read carefully. Regarding the first principle; it comprises two different issues that have been distinguished: affordability (and unaffordability), as opposed to availability (and unavailability). Someone may be able to afford the energy bill but may suffer unavailability due to a blackout. Similarly, someone may know that the distribution grid is available across the street but may not be able to afford connecting to it. The second principle refers to intergenerational equity, but contemplating intra-generational needs, which may be arguable from the point of view of coherence of the system. The principle of precaution can freeze a project for years, regardless of the fact that it may be aimed at helping the energy-poor. The same outcome may arise from the environmental responsibility principle. Innovation, adaptation and research, especially when there are aimed

Likewise, National Association of Regulatory Utility Commissioners (2017) Report of the NARUC ask Force on National Association of Regulatory Utility Commissioners (2017) Report of the NARUC Task Force on Natural Gas Access and Expansion, November 2017, p. 9. Available at: <a href="https://pubs.natuc.org/pub.ef-poi-1-07628">https://pubs.natuc.org/pub.ef-poi-1-07628</a>

naruc.org/pub.cfm?id=8F38EF6F-D44F-80A0-578C-CF1610C47520> accessed 5 September 2020.

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P. 10 A Paper February Commission on the F Recommendations on the Ethics of Scientific Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), P. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Knowledge and Technology (COMES 1) (2002), esp. 10. Available at characteristic Know esp. p. 10. Available at <a href="https://unesdoc.unesco.org/ark:/48223/pf0000131243\_spa">https://unesdoc.unesco.org/ark:/48223/pf0000131243\_spa</a> accessed 15 May

at renewables, pose the challenge of how appealing those areas may prove to be for the private at renewables, pose the challenge of keeping them in a politically neutral arena when publicly so that fulfilment of prior needs at renewables, pose the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor, or the challenge of keeping them in a politically neutral arena when publicly funded investor in the challenge of keeping them in a politically neutral arena when publicly funded investor in the challenge of keeping them in a politically neutral arena when publicly funded investor in the challenge of keeping them in a political publicly neutral arena when publi at renewal at renewal at renewal at renewal at renewal publicly funded investor, or the challenge of keeping the investor of keeping the i The principle of education presupposed the energy sector, involving the alleviation of hunger. Transparency extends itself beyond the energy sector, involving the institutions of hunger. Transparency and the active role of its civil society. International cooperations of of hunger. Transparency extends its role of its civil society. International cooperation is the corresponding country and the active role of its civil society. International cooperation is the corresponding country and the design the corresponding country and the design that the regional integration of energy systems, but it may suffer the a relevant strategy to attain the regional integration invariably held constitutionally volid a relevant strategy to attain the regarding these principles, would focus on the relationally valid, A concluding remark, regarding these principles, would focus on the relationship between

A concluding remark, regarding – id est, between facts, values, and norms. 'Law's nature human needs, principles and rules – id est, between facts, values, and norms. 'Law's nature human needs, principles and rules for meeting human needs, nature must be described / explained as a system of institutions and rules for meeting human needs, he must be described / explained as a system of institutions and rules for meeting human needs. must be described / explained as a sylvanian needs' because the implementation of course, 'human needs' does not mean 'all human needs' because the implementation of Of course, numan needs account to considered divorced from tangible, genuine finanpolicies, by means of legislation, the policies, by means of legislation, genuine financial resources available. Those human needs shall be backed by human values. It is the task of cial resources available. These values in order to foster them by means the institutions to familiarize themselves with those values in order to foster them by means of rules aimed at channelizing specific human needs. Those rules may adopt the form of laws or regulations (depending on which the competent government branch or agency is) and may accord rights, but rights - and, specifically, a right to energy - should be accorded in a clear and intelligible manner (under the rule of law principle). Those laws or regulations, in turn, shall embody a decision-making process that bears a political nucleus and that dwells within a margin of legislative discretion. The emerging rights shall be fit to be exercised by anyone under the principle of equality. But the sources of rights are not restricted to rules: there may be rights arising from agreements, covenants, or contracts, and the consecration of said rights, when financed by the State, should presuppose the necessary budgetary genuine resources.

#### CONCLUDING REMARKS 4.

At the international level, there are tangible links between human beings and energy in a handful of UN Resolutions that later converged into the proclamation of a right to development and the month and ment and the recognition of the challenge to meet energy needs. Therefore, if a right to energy is to be recognition. is to be recognized, albeit indirectly, it can be justified under the wide 'umbrella' provided by the concepts of the last of of the concepts of development and sustainability, as associated to poverty eradication and the use of clean energies use of clean energies.

From the point of view of language, the international treaty-making experience shows unique case in which a house shows a unique case in which a human right to electricity might be said to have been accorded access to electricity in forever a access to electricity in favour of women living in rural areas for the purpose of preventing the crimination. The remaining interest of the purpose of preventing the crimination. crimination. The remaining international instruments reviewed are mostly far from using prescriptive language expected in an analysis of preventions. prescriptive language expected in rules that establish rights. Even when they are close enough, energy is adjuvant to the fulfilment. energy is adjuvant to the fulfilment of some other right. More often than not, international instruments avoid the language of a language of the language of t instruments avoid the language of rights and merely establish objectives such as 'ensuring' access to energy services for the first access to energy services for the future.

Finnis, John (2017) 'The Nature of Law', in Tasioulas (ed.) Cambridge Companion to Philosophy, esp. p. 4. Available at <a href="https://www.lad.">https://www.lad.</a> of Law, esp. p. 4. Available at <a href="https://www.kcl.ac.uk/law/c-ppl/philo-workshops/The-Nature-of-LawSingleSp27Jan17.pdf">https://www.kcl.ac.uk/law/c-ppl/philo-workshops/The-Nature-of-LawSingleSp27Jan17.pdf</a> accessed 15 May 2021 -LawSingleSp27Jan17.pdf> accessed 15 May 2021.

Notwithstanding the apparently 'soft' language at the international level, there has been Notwithstanding the applicational level, there has been so the governance of energy matters. This change has allowed for the identification of the governance of energy matters. change of attitude to the governance of energy matters. This change has allowed for the identification of the governance of energy matters. This change has allowed for the identification of the identification of the governance of energy issues when carefully read and Ethics to the government of the identification of various principles that are apt to govern energy issues when carefully read and construed: (i) various principles that sometimes of the human being and human life protection, which bring to the principle of principle of human dignity; (ii) the principles of reasonables the principle of principle of human dignity; (ii) the principles of reasonableness and equity; (iii) the principles of interconnectedness; (iv) the principles of interconnectedness; (iv) the principles of interconnectedness; (iv) forefront, the principle of interconnectedness; (iv) the principles of intra- and inter-generational justice.

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