

Center for Environmental Concerns - Philippines

Submission for the Calls for Inputs

1. How can States better advance human rights-compatible energy transition laws and policies that ensure responsible business conduct in all aspects of energy transition efforts and programs (e.g., including, but not limited to, design, approval, financing, implementation, and reporting of energy transition programs)?

The **coal sector should transition to a just and sustainable system**, including complying with the [moratorium on new coal plants](#) and a closure or conversion plan for existing ones. Transforming coal plants to renewable energy or natural gas facilities as “transition” fuels should be explored. Local government units should pass ordinances banning coal mining and plants and encouraging renewable energy. The **Philippine Environmental Impact Statement System (PEISS)** needs strengthening, involving endorsements from people and non-government organizations, with validation on the ground. A Multi-Partite Monitoring Team should monitor compensation for affected communities and they should receive full compensation in severe disruption cases. Research and development funding for renewable energy and minimizing environmental impacts, such as redesigning hydroelectric power projects, are important.¹

2. Are you aware of any measures, both mandatory and voluntary, at national, regional, and international levels to foster business respect for human rights in the extractive sector, especially in the context of energy transition plans, programs and activities? If so, are these measures effectively enforced and do they provide the necessary coverage in light of evolving circumstances, including energy transition plans? Is greater clarity necessary in some areas of law and policy? What measures may reasonably correct this situation?

[In 2023, the SEC made sustainability reporting a requirement for all PLCs, separate from their annual reports](#)—currently, [19 publicly listed mining companies](#) are on the Philippine Stock Exchange (PSE). Notable ones are Benguet Corporation, Philex Mining, Nickel Asia Corporation, and Lepanto Consolidated Mining Company, all of whom have committed or been involved with environmental and human rights violations.

> For this mandate, most civil society organizations, including CEC-Philippines, have been unable to monitor and corroborate the information in the reports. Therefore, we cannot say if it has effectively protected the environment and followed business and human rights standards.

3. What mechanisms or processes should exist at the State level (e.g., inter-ministerial committee, ex ante human rights impact and risk assessment) to assess and ensure that extractive sector operations, including the production and distribution of transition minerals, do not impact negatively human rights? Are these measures effectively enforced and do they provide the necessary coverage in light of energy transition plans, programs and activities?

The Center for Environmental Concerns - Philippines recommends passing these bills as it contains specific provisions to better secure and fulfill human rights in the development context.

> [House Bill 2715, the People's Mining Bill \(PMB\)](#), addresses the lack of human rights provisions in the Mining Act of 1995 in the Philippines. It proposes decentralizing the authority of granting mining permits by **creating the Multi-Sectoral Minerals Council (MSMC)**, which includes affected communities, local government units, and non-government organizations.

> [House Bill 8170: The Environment Defense Bill \(EDB\)](#) emphasizes the government's responsibility to protect environmental defenders from violence, threats, discrimination, or any other arbitrary action due to their work. The bill also highlights that officials must respect the [Indigenous People's Rights Act of 1997 \(IPRA\)](#). It also has provisions to prevent projects that could harm the environment and violate human rights. It also emphasizes that **government must take the lead** in preventing such projects, and **the public has the right to access information about environmental impact assessments and violators** for an inclusive environmental decision-making process.

4. How do States encourage and regulate communication of energy transition efforts by business in the extractive sector, including State-owned enterprises (SOEs), to avoid the publication of misleading or unsubstantiated claims or reporting of an entity's energy transition programs? Do these measures sufficiently ensure the adequacy, accessibility, reliability, and accuracy of information?

> Joining the **Extractive Industries Transparency Initiative (EITI)**: "In order to improve transparency, accountability, and governance in the sector, the government shall support and commit participation in the Extractive Industries Transparency Initiative (EITI). The DENR is mandated to ensure that mechanisms are established to operationalize the EITI in the mining sector, consultation and coordination with the mining industry and other concerned stakeholders."

> The current communications framework enshrined in the Mining Act of 1995 and the principles in the EITI have not been enough to promote and disseminate honest, complete, and accurate information on the extractives sector to ensure that the environment is protected and human rights standards are followed.

5. Do current concessions, contracts, and bilateral investment treaties in the extractive sector aid or constrain domestic regulatory space available to States to meet their international human rights obligations in the context of the energy transition? What further changes in key provisions and licensing/procurement processes are desirable to advance energy transition in alignment with the UNGPs?

> [The Mining Act of 1995 governs all mining operations in the Philippines](#), including Exploration Permits, Mineral Product Sharing Agreements, and Financial or Technical Assistance Agreements. However, the law has [long faced criticism for favoring](#) mining conglomerates over human rights and environmental protection.

Activities that constrain the domestic regulatory space of the extractive sector to fulfill human rights obligations:

1. **[Weak implementation of social and environmental laws on mining operations:](#)**

- The mining audit by former DENR Secretary Gina Lopez found evidence of regulation violations. It revealed that 68.29% of all large-scale mining operations violated environmental, social, and other regulations. This concurred with the previous findings of independent scientific investigations proving some of these companies' operations, such as OceanaGold, Philex, and Nickel Asia.

2. **Conflict of interest and dubious appointments:**

- During the administration of the late Benigno Aquino III from 2010-2016, he appointed Ramon Paje as the Department of Environment and Natural Resources (DENR) secretary. He was a former Mining Development Council Executive Director (MDC) and one of the leading pioneers of the mining liberalization policies of the previous Arroyo administration, which promoted the increased influx of large-scale mining in the country.

Source: Kalikasan People's Network for the Environment, Defend Patrimony! Alliance and the National Council of Churches in the Philippines. (2011). *Philippine Mining Situation 2011*.

- [During the former administration of Rodrigo Duterte, he previously appointed a pro-people and environment advocate, the late Gina Lopez](#). However, the Commission of Appointments rejected her appointment, which was headed by Ronald Zamora, the younger brother of Nickel Asia magnate Manuel Zamora Jr. Her replacement was a former Armed Forces of the Philippines Chief of Staff, Roy Cimatu, who has a history of utilizing military forces to protect logging activities and companies and has a poor track record.

6. What are the gaps in the development and implementation of existing National Action Plans, legislation, and domestic, regional, or international frameworks (e.g., the Paris Agreement or climate change laws) on business and human rights, particularly in relation to the extractive sector, which if addressed will advance a just and human rights-based energy transition?

> Since its enactment, the Mining Act of 1995 in the Philippines has failed to deliver on its promises of economic growth and rural development. [Instead, it led to environmental degradation, violated human rights, and provided minimal economic benefits. Mining companies, both local and international, have disregarded environmental protection, revenue sharing, fair wages, and community development commitments. Government officials have engaged in questionable practices to expedite approvals and reopen operations, disregarding social and environmental impacts.](#) Addressing these implementation issues through policy revision or passing the People's Mining Bill is crucial for the country's just and human rights-based energy transition.

7. How can energy transition policies, programs, plans and activities in one State have adverse human rights impacts outside of their territory or jurisdiction (including supply chain issues and sourcing)? What measures may reasonably correct this situation?

> **Mining in the Philippines vis-a-vis foreign-owned mining companies**

Former and late DENR Secretary Gina Lopez cites her [reasons for closing 23 metallic mines](#) in her 2017 mining audit, which involves local and foreign-owned mining companies: ***“My issue here is not about mining. My issue here is social justice. If there are businesses and foreigners that go and utilize the resources of that area for their benefit and the people of the island suffer, that’s social injustice.”***

> With the inevitable rise in demand for the extraction of critical minerals, such as nickel and copper, due to the energy transition, there is a right to assume that rampant violations will also increase.

> **To improve this situation, we recommend:**

- Establishing an inclusive and participative platform for mining operations that involves ALL stakeholders and gives citizens authority in decision-making.
- Enhance global standards in the extractive sector and enforce environmental, business, and human rights laws to prevent conflict.
- Ensure swift judicial processes that hold major stakeholders accountable, including board members, CEO, and officials, for environmental and human rights violations.

8. How can States harness the potential of energy transition to accomplish important policy objectives related to human rights, such as achieving local empowerment, gender equality, protection of the environment, mitigation of climate change and realising the Sustainable Development Goals?

[On generation, transmission, and distribution of energy under the framework of energy democracy for the Philippines:](#)

- Promoting energy democracy is crucial for the energy transition. It should involve community-based generation, transmission, and distribution to reduce environmental

impact and empower local communities. Exploring the use of mini-grids allows for selling excess electricity to other communities. Returning control of the energy sector to the people and weakening monopolies can be achieved through consumer participation in the ERC and the establishment of government-owned power facilities. However, a review of EPIRA is necessary due to its failure two decades after enactment.

Corporate responsibility to protect human rights

9. What roles should business enterprises in the extractive sector play to integrate human rights into ongoing energy transition plans and programs to address adverse human rights impacts? Please provide examples if possible.

Businesses in the Philippines should:

- > Play a leading role in following and implementing FPIC, UNGP, and Environmental principles through proactive action.
- > Prioritize minimizing widespread and large environmental damages that significantly impact communities in future clean energy projects through strict adherence and enforcement of the [PEISS system](#) and by conducting substantial due diligence when conducting impact assessments.
- > In promoting a healthy democracy and adhering to transparency and accountability principles, businesses must be open to independent consultations and meaningful collaborations with civil society when implementing new clean energy projects and policies.

10. Are human rights provisions, for example in existing concessions, contracts, and bilateral investment treaties, effective in encouraging businesses in the extractive sector, including investors, to respect all internationally recognised human rights? If not, what should be done to strengthen their efficacy?

> For the mining sector in the Philippines, the human rights provisions in the Mining Act of 1995 are not enough to fulfill human rights obligations. There is also a substantial lack of political will to enforce related legislation to hold companies accountable for their violations stemming from a culture of corruption within the country's political culture and private sector.

Recommendations:

- > Enact new mining code: The People's Mining Bill.
- > Repeal certain provisions and make amendments to provide a stronger legal framework that ensures the sector takes necessary measures in addressing the ecological crisis, paving the way for the clean energy transition and fulfilling social justice principles.
- > Demilitarization of mining operations.
- > Granting stronger accountability measures, wider jurisdiction, and authoritative powers to

National Human Rights institutions as a check and balance for mining operations.

11. Have you seen extractive sector investors play a role in preventing and mitigating, or in exacerbating, negative impacts of energy transition efforts on human rights? Should investors be required to conduct gender responsive HRDD in meaningful consultation with local communities, civil society organizations, Indigenous Peoples, and human rights defenders? What remediation responsibility should investors have?

Through partnerships and collaborations between the Philippine government and the private sector, the extractives sector has exacerbated the negative impacts of energy transition efforts on human rights through false solutions:

Mega-dams: Kaliwa Dam

The Kaliwa Dam Project (KDP) is a significant infrastructure project approved under the "Build, Build, Build" (BBB) program in 2019. It involves irreversible ecological changes, including the degradation of the Kaliwa Low Watershed and the displacement of 150,000 individuals, including indigenous people. As part of the New Centennial Water Source Project (NCWSP), the KDP aims to address the increasing water demand in Metro Manila. The project, scheduled for completion between 2019 and 2024, has an estimated cost of 12.2 billion pesos, funded through an Official Development Assistance (ODA) China loan scheme. Apart from potential environmental impacts, such as river disruption and loss of biodiversity, the project has raised concerns regarding human rights violations against indigenous communities. First, the project was granted an Environmental Compliance Certificate without obtaining Free Prior and Informed Consent from the affected Dumagat and Remontados tribes, whose ancestral lands fall within the construction site. Additionally, the project threatens their livelihoods, including gathering forest resources, agriculture, and fishing, which could significantly impact their income. The cultural heritage of these tribes is also at risk, as the project will submerge burial grounds, sacred areas, and traditional hunting grounds, disregarding their traditional forms of governance. Furthermore, [indigenous leaders opposing the project have faced red-tagging](#)¹ and potential attacks, posing threats to their lives and families.

12. What role can the informal economy (e.g., artisanal and small-scale mineral exploitation, including supply chains) play in advancing a just and human rights-based energy transition?

¹ Red-tagging is the practice of the Philippine government and its forces to label an individual or organization as part of the New People's Army, the military force of the Communist Party of the Philippines, with which they have an ongoing conflict.

13. Should concessions, contracts, and legislation require all business enterprises producing, purchasing, processing, and distributing transition minerals to apply and implement human rights-based impact and risk assessments and due diligence standards, including gender-responsive HRDD and heightened HRDD for conflict-affected areas? If so, how could such processes ensure meaningful participation of impacted communities, particularly vulnerable and historically excluded groups?

> Yes, businesses must fully adhere to an HRB approach to their operations and policies, especially HRB impact and risk assessments and due diligence standards, with the latter having a poor track record in implementation in the Philippines. If the highest level of due diligence standards is followed and implemented by businesses in the FPIC process, conducting environmental and social impact assessments in future projects can build better trust with civil society, raise transparency and accountability, and minimize potential disasters and conflicts.

14. How could extractive sector associations, higher education institutions and other stakeholders promote awareness and encourage human rights-compatible business practices (e.g., addressing greenwashing and green scamming practices)?

> Through in-depth education and awareness-raising programs: teaching them the intricate relationship of business and human rights, how to assert their rights, the root cause of how issues such as greenwashing and scamming are prevalent in the private sector, how to study, analyze and identify if such issues are happening, and conducting capacity building programs to empower civil society to take preventive action.

Access to remedy

15. What measures and mechanisms should be provided by extractive sector legislation, bilateral investment treaties, concessions, and contracts to allow individuals or communities affected by extractive activities to seek effective remedy for business-related human rights abuses? What remedies are best suited for this sector?

> **The ASEAN Regional Framework on Environmental Rights** should be adopted as the primary guiding framework for governments and businesses. It is essential for maintaining ecological balance and enabling sustainable development. ASEAN representatives should strive for a legally binding consensus to ensure its effectiveness.

> [The Environment Defenders Bill \(HB 8170\)](#) proposes provisions to address environmental rights violations and enhance accountability in the extractive sector. It includes measures such as allowing environment defenders to file a motion to dismiss criminal complaints suspected of strategic lawsuits against public participation (SLAPP). The bill also mandates businesses to allocate a portion of their annual income for insurance against environmental disasters and human rights impacts and funds for calamity prevention, response, environmental rehabilitation, and human rights protection. In cases where the corporate veil is used to evade liability or perpetuate crimes, the bill allows for actions to be filed directly against board members, officers, and shareholders. Furthermore, corporations and their members will be held accountable for environmental rights violations committed by third-party security agencies or government security forces contracted by the corporation. The bill also provides access to remedies, empowers civil society, and promotes transparency and accountability in the extractive sector.

16. Please provide examples of steps taken by States to investigate, punish and redress business-related human rights abuses related to the extractive sector in the context of energy transition projects. Are the steps and redress mechanisms effective in terms of both process and remedial outcomes?

> [Writ of Kalikasan](#): It is a remedy available to assert the constitutional right to a balanced and healthful ecology when it is violated or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants ***in two or more cities or provinces***.

> [Writ of Continuing Mandamus](#): A remedy that asks courts to issue an environmental case or to compel a government agency/institution to perform a series of actions decreed by a final judgment, which shall remain effective until the judgment is fully satisfied.

> The Supreme Court in the Philippines has issued [117 environmental courts](#) to try cases of environmental violations.

> The Supreme Court of the Philippines issued the Rules of Procedure on Environmental Cases on April 29, 2010, to address environmental issues promptly. Among the notable provisions is the ability to issue a Temporary Environmental Protection Order (TEPO), granted by the court in cases where the complainant faces severe injustice and irreparable harm. The document also outlines the procedures and requirements for filing environmental cases.

Source: Center for Environmental Concerns - Philippines. (2020). *Environmental Campaigners' Course (EnviCore)*.

> While the existing laws and policies are commendable, obstacles still need to be addressed. One major challenge is ensuring that indigenous and marginalized communities have access to and can understand these provisions, as they often struggle with technical language and documents. Additionally, there is a risk of attacks, threats, and vilification from state and non-state actors when communities defend their territories and assert their rights.

17. Are you aware of any cases submitted to judicial and/or non-judicial instances (e.g., national human rights institutions, national contact points, mediation, etc.) regarding business-related human rights abuses in the extractive sector, particularly in the context of energy transition projects?

> The global transition to clean energy, [as highlighted by the International Energy Agency \(IEA\)](#), requires increased mining operations to meet the demand for minerals essential to clean energy technologies. The Philippines possesses significant reserves of critical minerals like copper and nickel, which are vital for clean energy infrastructure and battery performance. However, mining operations in the country have been associated with severe environmental destruction and human rights abuses, as [Global Witness's Last Line of Defence Report](#) documented.

Notable case related to energy transition and human rights:

> The Tampakan Copper-Gold Mine in South Cotabato is one of the largest underdeveloped copper reserves in the world. Sagittarius Mines Incorporated owns the mine and aims to start the [operations by 2026](#). The mine has been marred by strong opposition and resistance for decades since its discovery in 1995. [So far, it has resulted in the militarization of the project site and several armed clashes since 2012](#). At least eight people, including indigenous people and security forces, have died. Among them is an indigenous anti-mining activist Juvy Capion. Her two children were allegedly shot by the Philippines Armed Forces [in 2012](#). A [legal case](#) was filed against them but was dismissed in 2013.

18. Are current dispute resolution provisions and frameworks in the extractive sector “fit for purpose” to address complaints related to human rights abuses linked to extractive activities and energy transition projects? If not, what are the alternatives for a legitimate, transparent, and effective dispute resolution system to address such complaints?

Good practices and other comments

19. Please provide examples of good practices regarding the integration of human rights issues in the extractive sector in the context of the energy transition.

20. What specific renewable energy policies, practices and safeguards should be adopted by States and business so that energy transition does not have adverse effects on human rights?

For a just energy transition, the energy sector should prioritize energy democracy and empower marginalized communities. In the Philippines, efforts should focus on passing the People's Mining Bill or amending the Mining Act of 1995 with provisions from the People's Mining Bill. Adopting the United Nations' National Action Plan on Business and Human Rights is also crucial. Furthermore, integrating human rights-based due diligence in the PEISS will ensure compliance with environmental and human rights standards in the extractive sector.

21. Are there any specific recommendations to States, businesses (including investors), civil society, UN bodies and National Human Rights Institutions that would help further advance a just and human rights-based energy transition in the extractive sector? Any other comments or suggestions about the forthcoming report are also welcome.