

# End Uyghur Forced Labour

## State duty to protect human rights

**Q1. 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)?**

Respect for human rights is indivisible from action to address the climate crisis, yet current policy discussions on the energy transition and critical mineral strategies fail to address adverse impacts on human rights. States must ensure human rights are integrated into a just transition policy, to prevent unintended or negligent harms to fundamental rights.

States must implement mandatory human rights and environmental due diligence (mHREDD) laws, which should include provisions to hold companies accountable when they fail to conduct HREDD and to prevent abuses, and also require that companies address the impact of their own business models. Such laws would cover all business conduct in energy transition efforts and programs as businesses in all sectors would be in scope, noting as well the current trend towards retail companies [investing directly](#) in extractive projects.

HREDD laws must apply to all financial institutions, including investors, banks and development finance bodies, and they should be required to include explicit human rights requirements into investment and lending decisions.

States must introduce mechanisms to ban products made in whole or part with forced labour to complement mHREDD laws, which must include a ban on specific goods, entities (e.g. importers, manufacturers) or industries from specific geographical regions to address state-imposed forced labour. Import ban mechanisms have been enacted in the U.S. and Canada and are in development in the EU and Mexico. Since the Uyghur Forced Labor Prevention Act went into force in the U.S., sourcing of targeted goods such as polysilicon, has shifted out of the Uyghur Region, demonstrating that this tool can help to advance alternative sourcing solutions and [diversify global supply chains](#), essential for the global energy transition.

## Corporate responsibility to respect human rights

### **Q9. 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.**

Business enterprises in the extractive sector should play a leading role to integrate human rights into energy transition plans and work alongside state actors, investors, civil society, and impacted communities to address adverse human rights impacts. Respect for human rights, including the right to a healthy environment, should not be treated as separate obligations for business. Business should, at a minimum, implement HREDD that includes access to remedy in operations and supply chains.

Extractive companies' operations have had adverse impacts on human rights; such unethical, harmful business practices are unsustainable and have contributed to increased marginalisation of vulnerable groups, [mass migration and forced labour](#). Demand for minerals needed to produce renewable energy technologies will increase dramatically in the near future, and extractive companies' obligations to respect human rights must remain a central part of transition planning and development.

We note the importance of addressing human rights abuses occurring in the extraction and production of many transition materials, such as the mining of [cobalt](#) and the production of [bauxite](#). A range of human rights abuses by many of the largest companies producing copper, zinc, lithium, and nickel, have been [reported](#).

The focus of this submission is the use of forced labour of Uyghurs and other Turkic and Muslim majority peoples in the supply chains of businesses that are central to the just transition. The Chinese government is perpetrating human rights abuses on a massive scale in the Uyghur Region including arbitrary mass detention of an estimated range of 1 million to 1.8 million people and a programme of re-education and forced labour. This involves both detainee labour inside internment camps and prisons, involuntary labour at workplaces across the Uyghur Region, and [labour transfers](#) across China. These repressive policies are bolstered by a pervasive system of mass surveillance. UN human rights experts have determined the abuses may constitute [crimes against humanity](#), and legal and human rights experts have determined that the abuses amount to [genocide](#).

In an effort to capitalise on the Uyghur Region's resources and dominate the international market in the renewable energy sector, the Chinese government has placed an explicit emphasis on the development of [critical minerals in the Uyghur Region](#), including raw materials mining and processing. Research has shown how Uyghur forced labour is being used in the production of key raw materials and tainting the supply chains of multiple industries.

A [report](#) by Sheffield Hallam University found that Uyghur forced labour enters the solar supply chain in the first step - mining quartz and making metallurgical silicon - resulting in up to 97% of all polysilicon-based solar panels being exposed. The report also found that all four of the Uyghur Region's polysilicon manufacturers are implicated in Uyghur forced labour. Furthermore, the four largest solar panel suppliers globally all source from at least one of these polysilicon manufacturers.

Electric vehicles (EVs), including component parts, inputs, and batteries, are also significantly exposed to Uyghur forced labour. Although sourcing of raw materials for EVs is global, the processing and manufacturing of the materials is increasingly happening in the Uyghur Region. A [report](#) by Sheffield Hallam University and NomoGaia found that key actors in lithium processing and distribution are deeply implicated in the Uyghur Region's state-sponsored labour transfer programs. The market dominance of just two of these companies in the Uyghur Region means that practically all EV battery manufacturers are exposed to forced labour.

The [same report](#) states that the Chinese government has accelerated investment and movement of the steel industry to the Uyghur Region. The world's largest steel producer has advertised its participation in state-sponsored labour transfers.

Aluminium is widely used to build renewable energy platforms like solar panels and wind turbines, and the frames of EVs. Bauxite, which goes through a smelting process to produce aluminium, is primarily sourced from Guinea (64%), yet the Uyghur Region accounts for almost 12% of the world's aluminium production capacity, surpassing India, Russia, Canada or other major producers outside of China in 2021.

Research by [Horizon Advisory](#) found that eight aluminium producers operating in the Uyghur Region were involved in forced labour transfers. Two of those producers are part of the Xinjiang Production and Construction Corps (XPCC), the Chinese government's state-run paramilitary corporate conglomerate, which has been [sanctioned](#) for human rights abuses in the Uyghur Region.

The production of materials in the Uyghur Region is also environmentally damaging. [100% of polysilicon](#) produced in the region is reportedly manufactured with coal power. Most major polysilicon manufacturers in the Region also own aluminium smelters and coal-fired power plants, capitalising on this low-cost energy source to produce both polysilicon and aluminium. This is particularly concerning as the use of coal [undermines](#) the very objectives of the energy transition to combat the climate crisis.

Business enterprises in the extractive sector should map and trace supply chains down to raw material level, using methods deployed by Sheffield Hallam University, NomoGaia and Horizon Advisory. This must be done to identify all links that energy transition plans and programs have to the Uyghur Region and end business relationships with entities linked to the Region. Businesses should reconsider their own sourcing and procurement practices to determine how

they contribute to the reliance on Uyghur forced labour in the energy transition. A failure to take these measures increases business complicity in potential crimes against humanity. A just transition must not rely on the use of forced labour, nor can it rely on the use of coal and other processes that do not follow internationally recognised environmental standards.

**Q10. 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?**

To be effective, human rights provisions must place legally binding requirements on business and include mechanisms with which to hold them accountable for non-compliance. They must be properly implemented and enforced so as to not be perceived as purely aspirational or serve merely as a tick-box exercise.

Human rights, and in particular labour practices in supply chains, are coming under increasing regulatory scrutiny. Responsible and ethical contracting practices will be an important tool for businesses and investors to prevent and address negative human rights impacts throughout supply chains and value chains.

**Q11. 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 organisations, Indigenous Peoples, and human rights defenders? What remediation responsibility should investors have?**

There are a small number of investors publicly utilising [divestment options](#), to mitigate Uyghur forced labour risk and promote their commitment to Environmental, Social, and Governance (ESG) priorities. Some investment funds are shifting their portfolios to exclude Volkswagen shares after index provider MSCI [issued a warning](#) on its ESG rating for the carmaker because of its Xinjiang plant. Some sustainable investment portfolios that invest in companies linked to Uyghur forced labour risk being [downgraded](#). [Coordinated collective engagement](#) by investors is ongoing across sectors including the solar sector and the automotive sector relating to EV batteries. However, these remain limited actions on the part of responsible investors that prioritise social issues as part of their decision making process rather than main-stream industry practice. Investors must be legally required to address the risk of forced labour in its investments, including in portfolio companies and transition projects, under HREDD laws. Complementary forced labour import bans will also push investors to use their leverage and engage companies on the material risk of failing to shift their supply chains out of the Uyghur Region.

**Q13. 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. All business enterprises in the transition minerals supply chain should be required to apply and implement HREDD and impact and risk assessments across the supply chain, and should always include a gender-responsive approach as women and girls experience particular and intersectional forms of abuse. Particular attention should be paid to the intermediate tiers of the transition minerals supply chain, specifically the production, refining and processing stages of minerals and raw materials which is increasingly occurring in the Uyghur Region.

The same due diligence requirements should also apply to commodities traders and commodity exchanges, and they should be required to disclose supply chain data including the origin of ore, and the locations for mining, processing, smelting, other refining, and trading undertaken.

Accessibility to the Uyghur Region to conduct on-the-ground due diligence is a practical impossibility. Therefore, business should engage with Uyghurs in the diaspora working to address oppression and exploitation in the Uyghur Region.

**Q14. 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)?**

Sector associations are key to setting industry standards on responsible business conduct. They enable industry to move as a whole, which is particularly important on highly sensitive issues such as Uyghur forced labour, where individual companies have been reluctant to speak out or take the necessary steps to exit the Region.

### **Access to remedy**

**Q15. 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?**

Measures and mechanisms to allow access to remedy for business-related human rights abuses does not need to be sector specific and should reflect the UN Guiding Principles on Business and Human Rights. However, in the context of state-imposed forced labour in the Uyghur Region, remediation is rarely possible. In such cases, disengagement is considered by representative civil society actors as the only responsible way to ensure business (and investors) do not contribute to such abuses. Companies are recommended to collaborate with

raw metals industries and industry associations to provide support to Uyghurs in the diaspora working to address oppression and exploitation in the Uyghur Region.

### **Good practices and other comments**

#### **Q19. Please provide examples of good practices regarding the integration of human rights issues in the extractive sector in the context of the energy transition.**

Solar and EV companies are conducting or commissioning supply chain mapping of raw materials mining and processing and parts manufacturing in the Uyghur Region, a practice that should be undertaken by all businesses. The majority of processing of transition minerals and metals in the Uyghur Region has been documented to be reliant on state-imposed forced labour.

Some businesses have ceased sourcing from the Uyghur Region by ending business relationships or contracts, whether direct or indirect, with all companies that have operations in the Uyghur Region or with companies in other parts of China that have accepted government-supplied labourers from the Uyghur Region.

Some mining companies are evaluating and cascading human rights commitments in their downstream contracts, which is a critical shift in thinking and practice.

#### **Q21. 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.**

- States should develop a clean energy economic plan including incentives and other investments to accelerate innovation and deployment of clean energy programs with an emphasis on the global diversification of supply chains. This will attract investment and finance into renewables projects. Plans must integrate human rights considerations by making receipt of such incentives contingent on HREDD.
- States should leverage their positions in international development banks to divest from businesses, contracts, concessions, and projects in the Uyghur Region.
- International development finance institutions should lead collaborative efforts to advance human rights-based energy transition by investing in efforts to shift sourcing and processing of transition materials out of the Uyghur Region. Efforts must ensure that lower income countries have equal access to, and benefit from more diverse, stable supply chains, in order to support the urgent need for a global transition to clean energy.
- Banks and Investors should prioritise lending and investment in companies developing clean energy solutions that integrate HREDD practices. Embedding HREDD must be a

key criteria to qualify for inclusion in ESG-linked funds.

- All financial institutions and other investors (e.g. commodities traders) should divest from all companies operating in the Uyghur Region or using state-supplied labourers from the Uyghur Region.