**Working Group on Business and Human Rights**

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1. **Answer:**

In order to advance energy transition laws and policies that are compatible with human rights and ensure responsible business conduct in all aspects of energy transition efforts and programs, there are several steps States can take:

* Increased transparency and accountability: States must ensure that energy transition policies and programs meet high standards of transparency and accountability. This includes ensuring that financial and non-financial reporting relating to energy transition programs and projects is publicly available.
* Implement sanctions and incentives: Countries should implement appropriate sanctions and incentives to ensure that companies and businesses follow responsible energy transition policies and programs. This can include financial incentives for businesses that comply with the standards and sanctions for businesses that do not comply.

1. **Answer:**

Yes, there are several mandatory and voluntary actions taken at the national, regional and international levels to encourage business respect for human rights in the extractive sector, including in the context of energy transition plans, programs and activities. Some examples of these actions include:

* International standards such as the United Nations Principles on Business and Human Rights and the ILO Convention on Labor Rights provide a framework for companies to promote and protect human rights.
* Voluntary initiatives such as the Global Reporting Initiative (GRI) provide guidelines for sustainability reporting for companies, including those in the extractive sector, to ensure that they pay attention to human rights in their business activities.

1. **Answer:**

To assess and ensure that extractive sector operations, including the production and distribution of transitional minerals, do not have a negative impact on human rights, there are several mechanisms or processes that can exist at the country level. Some examples are:

• Inter-ministerial committee: Countries can establish inter-ministerial committees to ensure coordination between various ministries and agencies in managing the extractive sector and protecting human rights. This committee can ensure that human rights perspectives are taken into account in decision making and policies.

• Ex ante human rights risk and impact assessment: States can conduct human rights risk and impact assessments before extractive activities begin. This process can help identify potential negative human rights impacts and develop strategies to prevent or minimize those impacts.

1. **Answer:**

The state can encourage and regulate the communication of energy transition efforts by businesses in the extractive sector, including State-Owned Enterprises (BUMN), in several ways, including:

* Develop clear communication guidelines: Countries can develop clear communication guidelines for businesses in the extractive sector, including state-owned enterprises, on how to communicate their energy transition efforts. These guidelines must clarify what information must be included in communications and how this information must be presented so that it is easily understood and not misleading.
* Ensuring transparency and accountability: The state can ensure transparency and accountability in the communication of energy transition efforts by businesses in the extractive sector, including state-owned enterprises.

1. **Answer:**

However, changes may be made to key provisions and licensing/procurement processes to advance the energy transition in line with the United Nations Principles on Business and Human Rights (UNGPs). Some of the changes that can be made include:

* UNGPs-compliant contracting: Countries can draw up extractive contracts that include companies' obligations to respect human rights and the environment, including in the context of an energy transition.
* Implement sustainable procurement: Countries can implement sustainable procurement to ensure that companies that are awarded concessions or contracts are those that comply with high human rights and environmental standards.
* Strengthen reporting requirements: States can strengthen reporting requirements for companies in the extractive sector to ensure that they report transparently and accurately about their efforts to fulfill their human rights obligations in the context of the energy transition.

1. **Answer:**

Several gaps in the development and implementation of the National Action Plan (RAN), laws, and domestic, regional, or international frameworks on business and human rights, particularly related to the extractive sector, include:

* Lack of coherence and harmonization between domestic, regional and international regulations, which can lead to ambiguity and weakness in the application of human rights in the context of the extractive sector and energy transition.
* Inadequate focus on negative impact mitigation and adaptation to climate change, especially for vulnerable groups and indigenous peoples who are most affected by climate change and the energy transition.

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1. **Answer:**

Energy transition policies, programs, plans and activities in one country can adversely affect human rights outside their territory or jurisdiction in a number of ways, including supply chain issues. Here are some examples of these impacts:

* Renewable energy resources: Use of renewable energy such as lithium batteries, solar panels and wind turbines requires raw materials extracted from other countries. Extraction of these materials can lead to human rights violations, such as exploitation of workers, forced displacement of people, and environmental damage.
* Pollution outsourcing: In an effort to reduce emissions at home, some countries may outsource polluting industrial activities to other countries, especially developing countries with weaker regulations. This can lead to human rights violations and environmental problems in these countries.

1. **Answer:**

The following strategies can help states leverage the energy transition to promote local empowerment, gender equality, environmental protection, climate change mitigation, and the realization of the Sustainable Development Goals (SDGs):

* Local empowerment: Engage local communities and stakeholders in decision-making processes related to energy projects, ensuring their concerns and needs are addressed. Decentralized renewable energy systems can empower communities by providing them greater control over energy production and distribution.
* Gender equality: Prioritize gender equality in energy policies and programs, ensuring equal access to resources, opportunities, and benefits for both men and women. Incorporate gender-responsive approaches into workforce development, capacity building, and financial support to encourage women's participation in the renewable energy sector.

1. **Answer**

Business companies in the extractive sector can play a crucial role in integrating human rights into ongoing energy transition plans and programs to address adverse human rights impacts. Here are some steps that companies in this sector can take:

* Develop and implement human rights policies: Companies should establish clear and comprehensive human rights policies that are aligned with international standards, such as the United Nations Guiding Principles on Business and Human Rights (UNGPs). This includes conducting human rights due diligence, addressing any adverse impacts, and providing access to remedy for affected stakeholders.
* Promote transparency and stakeholder engagement: Companies should be transparent about their operations, disclosing information about their environmental, social, and governance (ESG) performance. They should actively engage with stakeholders, including local communities, employees, governments, and civil society organizations to ensure their concerns are addressed and their rights are respected.

**Corporate responsibility to respect human rights**

1. **Answer:**

Business enterprises in the extractive sector can play several important roles in integrating human rights into ongoing energy transition plans and programs to address adverse human rights impacts. Some key roles include:

* Conduct human rights due diligence: Companies should identify, prevent, mitigate, and account for human rights impacts linked to their operations. This includes assessing potential human rights risks in their supply chains, as well as engaging with stakeholders to better understand and address their concerns.
* Foster innovation: Companies can invest in research and development of new technologies and solutions that minimize adverse human rights impacts and promote sustainable development, such as cleaner extraction processes and renewable energy technologies.

1. **Answer:**

While human rights provisions in existing concessions, contracts, and bilateral investment treaties can help encourage businesses in the extractive sector to respect internationally recognized human rights, their effectiveness can be limited due to various reasons, such as:

Inadequate enforcement: Weak regulatory frameworks, lack of political will, and insufficient resources can hinder the enforcement of human rights provisions. This may result in companies not being held accountable for their human rights violations.

Inconsistency in standards: Provisions in contracts and treaties may not always align with international human rights standards, leading to inconsistencies in the level of protection and expectations for businesses.

1. **Answer:**

Extractive sector investors can play both positive and negative roles in the impacts of energy transition efforts on human rights. Some investors have taken steps to prevent and mitigate negative impacts, while others have inadvertently exacerbated them through inadequate due diligence or a lack of consideration for the potential human rights consequences of their investments.

Positive roles investors have played include: Implementing Environmental, Social, and Governance (ESG) criteria: Investors who adopt ESG criteria in their investment decision-making processes may encourage companies to adopt responsible practices and prioritize human rights considerations.

1. **Answer:**

The informal economy, including artisanal and small-scale mining (ASM), can play a significant role in advancing a just and human rights-based energy transition. Here are some ways in which the informal economy can contribute to this transition:

Livelihood opportunities: ASM can provide livelihood opportunities for millions of people worldwide, including those who might otherwise be unemployed or underemployed. In many countries, the informal mining sector is an important source of income, particularly for rural communities and marginalized groups.

1. **Answer:**

Yes, concessions, contracts, and legislation should require all business enterprises involved in 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. By doing so, these businesses can proactively identify, prevent, and mitigate potential adverse human rights impacts associated with their operations and supply chains.

To ensure meaningful participation of impacted communities, particularly vulnerable and historically excluded groups, during these processes, businesses and policymakers should consider the following steps:

* Culturally appropriate communication: Provide information in accessible formats and languages, taking into account the cultural, linguistic, and educational backgrounds of impacted communities. Ensure that communication is clear, timely, and relevant, to enable informed decision-making and participation.
* Transparency and accountability: Ensure that the findings of the assessments and due diligence processes are publicly disclosed and communicated to stakeholders, including impacted communities. This promotes transparency and allows stakeholders to hold businesses accountable for their human rights performance.

1. **Answer:**

Extractive sector associations, higher education institutions, and other stakeholders can play a crucial role in promoting awareness and encouraging human rights-compatible business practices. Some approaches to address issues like greenwashing and green scamming include:

1. Education and training: Develop and provide educational programs and training materials on responsible business practices, human rights, and environmental sustainability. This includes integrating these topics into curricula at higher education institutions, as well as offering specialized courses, workshops, and seminars for professionals in the extractive sector.
2. Research and innovation: Encourage and support research on best practices, innovative technologies, and sustainable solutions in the extractive sector. Share findings through academic publications, conferences, and other platforms to foster knowledge exchange and collaboration among stakeholders.
3. **Answer:**

To allow individuals or communities affected by extractive activities to seek effective remedy for business-related human rights abuses, several measures and mechanisms should be provided through extractive sector legislation, bilateral investment treaties, concessions, and contracts:

Clear legal frameworks: Establish clear legal frameworks that define the rights and obligations of businesses, governments, and affected communities, and outline the mechanisms for seeking remedy in cases of human rights abuses.

Monitoring and enforcement: Enhance the monitoring and enforcement capacities of relevant government agencies, ensuring that human rights provisions in extractive sector legislation, bilateral investment treaties, concessions, and contracts are effectively implemented and enforced.

1. **Answer:**

While specific 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 may be limited, there are general examples that can provide insights into the effectiveness of various redress mechanisms. It is important to note that the effectiveness of these steps and mechanisms can vary depending on the country, legal system, and specific circumstances of each case.

1. **Answer:**

While specific examples related to energy transition projects might be limited, there are several notable cases submitted to judicial and non-judicial instances regarding business-related human rights abuses in the extractive sector.

These cases highlight the increasing use of both judicial and non-judicial instances to address business-related human rights abuses in the extractive sector. While these examples do not specifically focus on energy transition projects, they provide insights into the challenges and opportunities in seeking accountability and redress for human rights abuses related to extractive activities.

1. **Answer:**

Current dispute resolution provisions and frameworks in the extractive sector have shown some progress in addressing complaints related to human rights abuses linked to extractive activities. However, they often fall short in terms of providing effective and timely remedies, particularly in the context of energy transition projects. Some of the limitations include lack of access to information, lengthy and costly legal proceedings, barriers to extraterritorial jurisdiction, and weak enforcement mechanisms.

To improve the effectiveness of dispute resolution systems in addressing human rights abuses linked to extractive activities and energy transition projects.

**Good practices and other comments**

1. **Answer:**

Several good practices regarding the integration of human rights issues in the extractive sector in the context of the energy transition can be observed across various stakeholders:

Human rights due diligence: Companies like Apple and Volvo have implemented human rights due diligence processes in their cobalt supply chains, which are essential for the production of electric vehicle batteries. These processes aim to identify, prevent, mitigate, and account for potential human rights risks and abuses in their operations.

Multi-stakeholder initiatives: The Extractive Industries Transparency Initiative (EITI) promotes transparency, accountability, and good governance in the extractive sector by requiring companies and governments to disclose information on issues such as licenses, contracts, production volumes, and payments. The EITI encourages dialogue and cooperation among governments, businesses, and civil society organizations to address human rights issues in the extractive sector.

1. **Answer:**

States and businesses should adopt a range of renewable energy policies, practices, and safeguards to ensure that the energy transition does not have adverse effects on human rights. Some of these measures include:

* Human rights due diligence: Businesses should conduct human rights due diligence to identify, prevent, mitigate, and account for potential human rights risks and impacts associated with renewable energy projects. This should include assessing and addressing potential impacts on land rights, labor rights, indigenous peoples' rights, and rights to water, health, and a clean environment.
* Environmental and social impact assessments (ESIAs): States and businesses should require comprehensive ESIAs to be conducted before initiating any renewable energy project. These assessments should consider potential environmental, social, and human rights impacts, as well as measures to mitigate or avoid negative consequences.

1. **Answer:**

To advance a just and human rights-based energy transition in the extractive sector, specific recommendations for different stakeholders include:

Implement and enforce environmental, social, and human rights standards and safeguards in extractive activities, including renewable energy projects.

Foster collaboration and dialogue among different stakeholders, including businesses, civil society, indigenous peoples, and local communities.