**Maat for Peace’ Submission on “Extractive sector, just transition and human rights”**

Maat for Peace, Development and Human Rights presents this report to the Working Group on the issue of human rights and transnational corporations and other business enterprises (“Working Group”), in response to the Working Group's call for information on "Extractive Sector, Just Transition and Human Rights”. This report covers some of the questions published by Working Group on the website; Maat couldn’t answer all questions due to the word limit. In this report, Maat tried to focus on questions illustrating the gaps in legislation and commitments made by countries in the extractive industry, which negatively affect human rights and impede the implementation of the UN Guiding Principles on Business and Human Rights. Maat also focuses on answering questions related to promoting awareness and good practices in the context of the extractive industries.

**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?**

Maat noted a series of legislation that business companies are supposed to adhere to at the national levels in UN Member States that has been issued to promote respect for business-related human rights. However, the response to these regulations has been limited by companies. Among the examples, Maat finds that Canada has an Act for Extractive Sector Transparency[[1]](#footnote-1), and the purpose of the Act is to implement international obligations in Canada in the extractive sector, including combating corruption[[2]](#footnote-2). In a related context, Canada is one of the most countries that owns mining companies in the extractive sectors. Over 1,000 Canadian companies operate in over 100 countries, making up 75% of the world’s mining companies. Additionally, of the mining companies accused of environmental and human rights abuses globally, 34% are Canadian[[3]](#footnote-3). However, reports that these companies have violated the Guiding Principles on Business, Human Rights, and the UN Framework related to the same issue have been documented. For example, deaths associated with Canadian mining companies in Latin America reached 34 deaths and more than 400 others were injured, 363 of which occurred during gatherings opposing the policies of these companies. Here, countries are partners in violating human rights, especially the Guiding Principles, in conjunction with companies. Maat also noted that some government departments with corporate social responsibility in Canada don’t have the authority to conduct investigations, impose penalties on companies, or compensate victims[[4]](#footnote-4).

The metals strategy included various measures to ensure that the demand for metals and mineral products is sustainably provided for the next 25 years. However, various reports have documented the complicity of British companies operating in Eritrea in the human rights abuses of workers in the extractive sectors. Some workers who worked in a gold mine claimed forced labor was imposed on them and their work amounted to modern slavery[[5]](#footnote-5). Mexico's Climate Change Act also imposes specific targets on companies to reduce emissions during energy transformation, but there is little commitment to these targets[[6]](#footnote-6) and corporate social responsibility evasion is prevalent in the cases mentioned.

**What mechanisms or processes should exist at the State level 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?**

Maat has noticed a set of mechanisms, procedures, and interventions whose presence within the member states can reduce the wide impacts of human rights violations in the extractive industries even during the energy transition process. Among them are the follow-up reports issued by some countries on operations in the extractive industries, in addition to the establishment of ministerial committees mandated to transfer the revenues of the extractive industries to development, this contributes to the prosperity of human rights and the achievement of the goals of the 2023 Agenda.

In Nigeria, for example, the Ministerial Committee anti-money Laundering and counter-terrorist Financing issues a risk assessment report in extractive industries, and the report identifies imbalances in this industry and acknowledges that corruption, tax evasion and illegal mining are among the crimes most relevant to this industry[[7]](#footnote-7), which affects human rights However, the recommendations of this report have not been translated into reality to reduce human rights violations in the extractive industries.

In Niger, despite the establishment of a joint ministerial committee in 2021 to discuss and formulate mechanisms for transferring the revenues of extractive industries to local governments, this committee did not perform this task at the time of writing this report[[8]](#footnote-8). World Bank-funded sector-related projects have also faced various risks due to insecurity, as interstate mobility is no longer possible, leading to a slowdown in the implementation of these projects[[9]](#footnote-9).

Ethiopia also enacted a law for mining companies that makes the contributions of these companies to community development mandatory during the exploration and mining period at 2% annually on operating expenses or profit after tax. However, some companies still accept these community development payments voluntarily rather than a fixed rate[[10]](#footnote-10). In a related context, the process of transferring revenues resulting from exploration in the extractive sector in Ethiopia between the federal government and regional governments is still irregular, and in some cases the Ethiopian government has not finally transferred such revenue.

**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?**

First, Maat emphasizes the need for a single concept of the informal economy as definitions vary. But, Maat indicates that the definition of the International Labor Organization in the third paragraph of its decision on decent work and the informal economy of 2002 is the most acceptable. It states that informal economy is “all economic activities carried out by workers and economic units, which are not adequately covered by law or practice”. According to estimates, the informal economy accounts for more than 61% of employment consisting of 2 billion workers, including women. This percentage is higher in Africa, where the informal economy amounts 85% of employment in Africa, more than 68% in Asia and the Pacific, and 68.6% in the Arab region[[11]](#footnote-11). Employment in the informal economy is more prevalent in emerging and developing economies by 67.4% and about 89.8%, respectively, demonstrating that a higher level of development rates result in lower informal employment and thus reduce the status of the informal economy.

Maat has noted that the equitable transition of energy in the informal economy requires the beginning of the development of the skills and social protection coverage of these workers. It is also essential that workforce training is a priority for businesses during the transition to clean energy, especially in developing countries, where 10% of energy employment is low-skilled labor[[12]](#footnote-12). Training, social, and legal protections for these workers will not only mean an acceleration of the energy transition but will further entrench an approach based on human rights and adherence to international standards. Furthermore, when considering the equitable energy transition in the informal economy, it is necessary to respond to the gender perspective and to take into account the needs of women, given their broad representation in the informal economy, particularly in developing countries[[13]](#footnote-13). Therefore, in an energy transition in the informal economy doesn’t take into account women's needs because it will slow down the pace of the human rights-based transition. Also, confronting child laborers in the informal economy is necessary to maintain a fair transition of energy. Among the negative practices that Maat has seen also regarding human rights violations in the extractive industries is the high number of children working in the mica sector in India and it is estimated that about 30,000 children work in the mica for 6 days, for 8 hours per day. Maat believes that the Working Group should give importance to the issue of child labor in the extractive industries[[14]](#footnote-14).

**How could extractive sector associations promote awareness and encourage human rights-compatible business practices**

Extractive sector can promote good practices through research and awareness campaigns by these associations. Maat believes that the reference for these campaigns must adhere to UN Guiding Principles on Business and Human Rights and the UN Protect, Respect, and Remedy Framework; Maat reminds of some initiatives that already campaigning like the Extractive Industries Transparency Initiative[[15]](#footnote-15). The Working Group must disseminate the efforts of this initiative for greater respect for human rights.

Extractive Workforce Disclosure Initiative[[16]](#footnote-16) and the United Students Against Labor Exploitation initiative, founded in 1997 and focuses on mobilizing efforts and gaining support from students in the United States against forced labor and exploitation of workers, is also a good approach that we believe should be mainstreamed by the Working Group. Maat was also briefed on the initiatives of the Working Group on Transforming Extractive Industries for Sustainable Development. Professional associations in the extractive industries can assist in a range of things, for example not limited to, technical assistance and capacity building for government agencies and departments responsible for the mineral production process, environmental protection, and trade[[17]](#footnote-17).

Maat was also well-informed about the experiences of Open Extractive workshops in partnership with the Argentine Press Forum. One of the objectives of the workshop was to raise awareness about the importance of public information of the final beneficiaries, and at the same time, provide resources and materials to increase research, projects, and analysis within the field of extractive industries[[18]](#footnote-18). Maat also found the Responsible Mica Initiative (RMI) an international coalition formed to create a fair, sustainable and responsible mica supply chain in the states of Bihar and Jharkhand in India, which aims to end inhuman working conditions and abolish child labor[[19]](#footnote-19).

Good practices of increasing support from some of the Department of Employment and Training can also be spread in some member states. In 2022, the US Department of Labor's Employment and Training Administration awarded more than $90 million in grants to young people ages 16-24 with education and training to expand the clean energy workforce base. The mission of this support is to give young people who are not currently attending school or in the workforce the required construction skills that focus on green building techniques, including the use of sustainable building materials[[20]](#footnote-20).

**Do existing concessions, contracts, and bilateral investment treaties in the extractive industries help or constrain states to meet their international human rights obligations in the context of the energy transition?**

Through Maat's review of bilateral investment agreements between States and some companies involved in extractive and mining industries, investment treaties often have negative effects on human rights situations in the context of energy transformation. Maat shares the view of the Working Group in an earlier report when it recognized that all investment agreements had an imbalance between investors' rights and obligations. The report called for States to ensure that all investment agreements are human rights compliant.

The risks of investment agreements are evident when disputes arise between companies and States that lead to the settlement of disputes over such extractive projects, affecting the environmental, social, and economic conditions of the host State and eventually hindering such projects and demanding high compensation from companies. Companies often reject certain conditions that they may see restricting their work, such as quality impact assessments that identify potential harms, proposing and evaluating options to avoid or mitigate such damages, or more effective procedures when granting licenses or permits by the law, which makes final agreements neither take into account human rights considerations nor business guidelines. Maat also noted that national laws and regulations define basic conditions for investors to conduct business, but the responsibilities of business enterprises and investors are made as supplements, and human rights due diligence in these agreements is often very limited[[21]](#footnote-21), according to the Organization for Economic Cooperation and Development silence on issues such as change Climate, human rights, indigenous peoples' rights and some other economic and social rights such as the right to health is common in investment treaties[[22]](#footnote-22).

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

Maat has been briefed on a range of good practices in the extractive industries, including but not limited to Canada's Extractive Sector Transparency Act. The purpose of the Act was to implement the State of Canada's international obligations to participate in the fight against corruption through the implementation of measures applicable to the extractive sector, including measures that promote transparency[[23]](#footnote-23). Maat also reviewed the European Commission's guidelines on extractive industries and the decision of the European Parliament taken on November 21, 2021, which asked the European Commission to ensure national resilience and recovery plans in light of the environmental, social and economic challenges; and to invest in training and qualifying workers in light of the just energy transition[[24]](#footnote-24).

**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?**

**Maat believes that achieving Net-Zero by 2050 requires a set of specific standards and procedures, it proposes specific steps to ensure a renewable energy transition that doesn’t entail human rights, among these steps:**

* Adopting human rights-based standards within renewable energy companies while adhering to the guiding principles on business and human rights, especially the UN Protect, Respect, and Remedy Framework, as these companies lack any human rights standards when commencing their energy transition operations. This lack of standards in land acquisition shows nominally land that is owned by indigenous people. This specific point emphasized that the indigenous peoples are the groups most affected by energy transfer projects[[25]](#footnote-25).
* Consulting with indigenous communities and all stakeholders, including civil society organizations and women's organizations, regarding renewable energy projects is indispensable, especially in light of the accelerating pace of targeting environmental rights defenders, including those who oppose renewable energy projects.
* Promoting awareness among companies and investors of the steps they can take to ensure that their investments in renewable energy respect human rights remains a non-negotiable requirement, and the existence of preconditions based on respect for the Guiding Principles on Business and Human Rights, also promoting access to Bilateral investment agreements between countries and companies that respect human rights. The need to expose investors and companies involved in human rights violations in the extractive industries remains a necessary requirement.

**Recommendations:**

* The need of pressing countries to adhere to the UN Guiding Principles on Business and Human Rights in the Extractive Industries.
* The need for adherence to international human rights guidelines and standards to be a precondition for signing bilateral investment treaties between companies or investors and countries
* The need for the Working Group to give importance to promoting good practices in extractive industries during energy transformation
* Mainstreaming gender needs in the transformation of renewable energy in the informal economy
* Increasing pressure on investors to adopt human rights standards in bilateral agreements between them and member states
* Working on an annual list of companies violating human rights in the extractive industries

1. Extractive Sector Transparency Measures Act, <https://laws-lois.justice.gc.ca/eng/acts/e-22.7/page-1.html> [↑](#footnote-ref-1)
2. Ibid [↑](#footnote-ref-2)
3. Human Rights Abuses by Canadian-Owned Mining Operations Abroad, <https://bit.ly/41q6wTy> [↑](#footnote-ref-3)
4. Ibid [↑](#footnote-ref-4)
5. New Report Points To Corporate Complicity in Human Rights Abuses in Eritrea as Canadian Company Goes To Supreme Court Over Allegations of Forced Labour, <https://bit.ly/41soJQb> [↑](#footnote-ref-5)
6. GENERAL LAW ON CLIMATE CHANGE, <https://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/laws/1449.pdf> [↑](#footnote-ref-6)
7. 2022 National AML/CFT/CPF Inherent Risk Assessment, Page 9, <https://bit.ly/3pxVCxT> [↑](#footnote-ref-7)
8. GOVERNANCE OF EXTRACTIVES FOR LOCAL DEVELOPMENT & COVID-19 RESPONSE PROJECT, Page 5, <https://bit.ly/44LuX0F> [↑](#footnote-ref-8)
9. Ibid [↑](#footnote-ref-9)
10. ETHIOPIAN EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EEITI), Page 70, <https://eiti.org/sites/default/files/attachments/2018_eeiti_final_report.pdf> [↑](#footnote-ref-10)
11. Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Para 15, <https://bit.ly/3BhkqfW> [↑](#footnote-ref-11)
12. World Energy Employment, Overview, <https://www.iea.org/reports/world-energy-employment/overview> [↑](#footnote-ref-12)
13. Addressing the gender dimensions of clean energy transitions, <https://www.iea.org/events/addressing-the-gender-dimensions-of-clean-energy-transitions> [↑](#footnote-ref-13)
14. GOVERNANCE OF EXTRACTIVES FOR LOCAL DEVELOPMENT & COVID-19 RESPONSE PROJECT, Page 5, <https://bit.ly/3pxC0tH> [↑](#footnote-ref-14)
15. See , <https://eiti.org/> [↑](#footnote-ref-15)
16. See , <https://shareaction.org/wdi> [↑](#footnote-ref-16)
17. Why is ESG so important to critical mineral supplies, and what can we do about it?, <https://www.iea.org/commentaries/why-is-esg-so-important-to-critical-mineral-supplies-and-what-can-we-do-about-it> [↑](#footnote-ref-17)
18. We participated in a workshop: Beneficiaries of the extractive sector in Argentina, <https://bit.ly/42uxA5s> [↑](#footnote-ref-18)
19. The Responsible Mica Initiative (RMI), <https://responsible-mica-initiative.com/> [↑](#footnote-ref-19)
20. Findings on the worst forms of child labour, page 50, <https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2021/2021_TDA_Big_Book.pdf> [↑](#footnote-ref-20)
21. Business Responsibilities and Investment Treaties, page 13, <https://bit.ly/3nM14wz> [↑](#footnote-ref-21)
22. Ibid, <https://bit.ly/3pCB6Mc> [↑](#footnote-ref-22)
23. Extractive Sector Transparency Measures Act, <https://laws-lois.justice.gc.ca/eng/acts/E-22.7/page-1.html> [↑](#footnote-ref-23)
24. <https://www.europarl.europa.eu/doceo/document/TA-9-2021-0468_EN.html> [↑](#footnote-ref-24)
25. Renewable Energy Poses a Serious Threat to Human Rights — But It Doesn’t Have To, <https://news.climate.columbia.edu/2019/09/05/renewable-energy-human-rights/> [↑](#footnote-ref-25)