

**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?)**

**1. Integration of Human Rights Frameworks:**

States should integrate human rights frameworks, including the United Nations Guiding Principles on Business and Human Rights (UNGPs), into their energy transition laws and policies. This involves recognizing the interdependence of human rights and sustainable development, and explicitly incorporating human rights principles, such as non-discrimination, participation, and access to remedy, into legislative and regulatory frameworks.

**2. Stakeholder Engagement and Participation:**

States should prioritize meaningful and inclusive stakeholder engagement throughout the energy transition process. This includes involving affected communities, Indigenous Peoples, workers, civil society organizations, and other relevant stakeholders in decision-making processes, from the design phase to the implementation and evaluation of energy transition programs. Robust mechanisms for consultation, dialogue, and participation should be established to ensure the voices of marginalized and vulnerable groups are heard and their rights protected.

**3. Human Rights Impact Assessments:**

States should require comprehensive human rights impact assessments (HRIAs) as an integral part of the energy transition planning and approval process. HRIAs should assess the potential human rights impacts of proposed projects, taking into account social, economic, cultural, and environmental factors. These assessments should be conducted by independent experts and consider the cumulative effects of multiple projects, potential risks to human rights, and opportunities for mitigating adverse impacts.

**4. Responsible Financing and Investment:**

States should promote responsible financing and investment practices in the energy transition sector. This includes developing guidelines and criteria for financial institutions and investors to assess the human rights impacts of their investments and to prioritize projects that align with human rights standards. Transparent reporting on the social and environmental impacts of energy transition investments should be mandated to ensure accountability and foster responsible business conduct.

**5. Regulatory Oversight and Compliance:**

States should establish effective regulatory frameworks and mechanisms for monitoring and enforcing compliance with human rights standards in the energy transition sector. This includes adequate resourcing of regulatory bodies, conducting regular audits, and imposing sanctions for non-compliance. Governments should also support capacity-building initiatives to enhance the understanding and implementation of human rights due diligence by businesses operating in the extractive sector.

**6. Access to Remedy:**

States should ensure access to effective remedy for individuals and communities adversely affected by energy transition programs. This may include establishing grievance mechanisms, facilitating access to justice, and promoting alternative dispute resolution mechanisms. States should explore the possibility of expanding dispute resolution provisions in extractive contracts to incorporate human rights considerations and provide affected communities with avenues for

seeking remedies against investors and companies.

#### 7. Knowledge Exchange and Cooperation:

States should foster international cooperation, knowledge exchange, and collaboration among governments, businesses, civil society organizations, and international institutions. This can include sharing best practices, lessons learned, and innovative approaches to integrating human rights into energy transition laws and policies. International organizations, such as the United Nations, can play a crucial role in facilitating such cooperation and providing technical assistance to support states in advancing human rights-compatible energy transition efforts.

### **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?**

#### 1. Local Empowerment:

Energy transition can empower local communities by involving them in decision-making processes, ensuring their participation, and providing economic opportunities. To accomplish this, States can:

- a) Implement inclusive governance mechanisms that facilitate meaningful participation of local communities, indigenous peoples, and other stakeholders in energy planning and decision-making processes.
- b) Promote community ownership models, cooperatives, and decentralized energy systems that enable local communities to actively participate in and benefit from renewable energy projects.
- c) Ensure equitable distribution of benefits from the energy transition, including job creation, access to affordable energy services, and revenue-sharing mechanisms that enhance local development.

#### 2. Gender Equality:

Energy transition provides a platform to address gender inequalities and promote gender equality. States can:

- a) Integrate gender perspectives into energy policies and programs, considering the differentiated impacts of energy transition on women and men.
- b) Create inclusive training and capacity-building programs to enhance women's participation and leadership in the energy sector, including science, technology, engineering, and mathematics (STEM) fields.
- c) Promote access to clean energy technologies and services for women, recognizing the role of energy in enhancing women's empowerment, health, and livelihood opportunities.

#### 3. Protection of the Environment:

Energy transition offers a pathway to mitigate environmental degradation and protect ecosystems. States can:

- a) Establish robust environmental regulations and standards to ensure sustainable practices in the extractive sector and renewable energy deployment.
- b) Encourage the adoption of clean technologies, energy efficiency measures, and renewable energy sources, reducing reliance on fossil fuels.
- c) Strengthen monitoring and enforcement mechanisms to prevent and address environmental risks associated with energy transition projects, considering the potential impacts on

biodiversity, land degradation, and water resources.

#### 4. Mitigation of Climate Change:

Energy transition is a crucial tool in mitigating climate change and achieving global climate targets. States can:

- a) Set ambitious renewable energy and emission reduction targets, supported by clear policy frameworks and incentives for renewable energy deployment.
- b) Establish carbon pricing mechanisms, such as carbon taxes or cap-and-trade systems, to incentivize the transition to low-carbon technologies and encourage investment in renewable energy.
- c) Foster international cooperation and collaboration to facilitate technology transfer, capacity building, and financial support for developing countries in their energy transition efforts.

#### 5. Realizing the Sustainable Development Goals:

Energy transition aligns with the broader agenda of realizing the SDGs. States can:

- a) Integrate energy transition strategies into national development plans, aligning them with the SDGs and considering the interlinkages between energy, poverty eradication, health, education, and other key development areas.
- b) Mobilize financial resources, including domestic and international investments, to support sustainable energy projects and initiatives that address multiple SDGs.
- c) Enhance policy coherence and coordination among different government agencies, sectors, and stakeholders to ensure synergies between energy transition and other development priorities.

**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.**

#### 1. Conduct Human Rights Due Diligence (HRDD):

Business enterprises should conduct comprehensive human rights due diligence to identify, prevent, mitigate, and account for the potential adverse human rights impacts associated with their energy transition plans and programs. This involves assessing risks, consulting with relevant stakeholders, and developing appropriate mitigation measures. For example, when sourcing critical transition minerals, companies should assess and address risks related to child labor, modern slavery, and human rights violations in their supply chains.

#### 2. Engage in Meaningful Stakeholder Consultations:

Business enterprises should engage in inclusive and meaningful consultations with affected communities, indigenous peoples, and other stakeholders throughout the design, implementation, and monitoring of energy transition plans and programs. This ensures that their human rights concerns and perspectives are taken into account. For instance, conducting impact assessments and consulting with indigenous communities can help identify potential adverse impacts on their rights to land, culture, and livelihoods, and enable the development of appropriate safeguards.

#### 3. Foster Partnerships and Collaboration:

Business enterprises should actively collaborate with relevant stakeholders, including governments, civil society organizations, and international institutions, to foster partnerships that promote human rights in the context of energy transition. Collaboration can lead to the

development of shared solutions and best practices. For example, companies can partner with local communities and NGOs to establish sustainable livelihood programs, ensure community participation in decision-making processes, and promote social and economic development.

#### 4. Build Capacity and Awareness:

Business enterprises should invest in building their own capacity and awareness regarding human rights issues in the context of energy transition. This can be achieved through training programs, internal policies, and mechanisms that promote human rights awareness and understanding among company employees and contractors. By enhancing their own understanding, companies can better identify and address human rights risks and integrate human rights considerations into decision-making processes.

#### 5. Establish Grievance Mechanisms and Access to Remedy:

Business enterprises should establish effective grievance mechanisms that provide affected individuals and communities with accessible, transparent, and accountable channels to raise concerns and seek remedies. These mechanisms should be culturally appropriate, gender-responsive, and capable of addressing human rights violations effectively. Furthermore, companies should contribute to climate compensation and reparation funds to support affected communities in recovering from adverse human rights impacts associated with energy transition projects.

### **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. Contribution to a Just Transition:

a) **Livelihoods and Poverty Alleviation:** The informal economy can provide employment and income generation opportunities, especially for marginalized and vulnerable groups. Artisanal and small-scale miners often rely on mining activities for their livelihoods, and a just energy transition should aim to preserve and enhance these livelihoods through inclusive policies and support mechanisms.

b) **Social Inclusion:** The informal economy can empower marginalized groups, including women and Indigenous Peoples, by providing avenues for economic participation and local decision-making. Recognizing and respecting the rights of these groups in energy transition processes is crucial to ensure inclusivity and avoid exacerbating existing inequalities.

#### 2. Promoting Human Rights:

a) **Occupational Health and Safety:** The informal economy in the extractive sector is known for its challenging working conditions and safety risks. A human rights-based energy transition should prioritize improving occupational health and safety standards, ensuring that informal miners have access to protective equipment, training, and healthcare services.

b) **Child Labor and Forced Labor:** The informal economy is susceptible to exploitative labor practices, including child labor and forced labor. Energy transition efforts must address these issues through targeted interventions, such as providing alternative livelihood options, ensuring access to education, and enforcing labor rights protections.

c) **Community Participation and Consent:** The informal economy often operates in close

proximity to local communities. A human rights-based energy transition should prioritize meaningful and inclusive community participation in decision-making processes, ensuring free, prior, and informed consent, and recognizing and respecting the rights of affected communities.

### 3. Environmental Sustainability:

a) **Responsible Mineral Sourcing:** Artisanal and small-scale miners can contribute to responsible mineral sourcing by adopting sustainable practices and adhering to environmental regulations. Support programs should be established to promote responsible mining techniques, land reclamation, and environmental restoration.

b) **Avoiding Environmental Harm:** The informal economy, if left unregulated, can lead to environmental degradation, including deforestation, water pollution, and habitat destruction. A just and human rights-based energy transition should incorporate environmental safeguards, monitoring mechanisms, and capacity-building initiatives to mitigate these negative impacts.

#### Challenges and Considerations:

1. **Formalization and Legal Frameworks:** Integrating the informal economy into a just and human rights-based energy transition requires addressing legal and regulatory gaps, creating supportive policy frameworks, and facilitating the formalization of informal actors. This process should be accompanied by adequate support, capacity-building, and inclusive stakeholder engagement.

2. **Access to Finance and Technology:** Artisanal and small-scale miners often face challenges in accessing finance, modern technology, and market opportunities. Bridging these gaps can enable the transition to more sustainable practices and facilitate the integration of informal actors into formal supply chains.

3. **Informal Economy Dynamics:** The nature of the informal economy, characterized by its decentralized and unregulated nature, poses challenges in implementing human rights standards and ensuring accountability. Balancing the need for regulation with the preservation of informal livelihoods requires nuanced approaches that consider the specific contexts and dynamics of informal mining communities.

4. **Gender Equality:** Gender inequalities are prevalent in the informal economy, with women often facing disproportionate barriers to participation, decision-making, and access to resources. A just and human rights-based energy transition must address gender disparities, promote gender equality, and empower women in the informal extractive sector.

5. **Supply Chain Traceability:** Integrating informal actors into formal supply chains requires effective traceability mechanisms to ensure responsible sourcing and prevent the inclusion of minerals linked to human rights abuses or environmental harm. Collaborative efforts involving governments, businesses, and civil society organizations can facilitate the establishment of transparent and accountable supply chains.

**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?**

## 1. Legislative Measures:

a. **Incorporation of Human Rights Framework:** Extractive sector legislation should explicitly incorporate human rights standards, including those outlined in international human rights instruments, such as the Universal Declaration of Human Rights and relevant conventions. This would provide a legal basis for individuals or communities to seek remedies for human rights abuses.

b. **Mandatory Human Rights Due Diligence (HRDD):** Legislation should require extractive companies to conduct comprehensive HRDD processes to identify and mitigate potential human rights risks and impacts. This would promote responsible business conduct and prevent or address human rights abuses.

c. **Strengthening Environmental and Social Impact Assessments (ESIAs):** Legislation should mandate robust ESIA for extractive projects, ensuring that potential human rights impacts are assessed and addressed. ESIA should involve meaningful participation of affected communities and incorporate their perspectives in decision-making processes.

## 2. Bilateral Investment Treaties (BITs):

a. **Human Rights Safeguards:** BITs should explicitly include human rights provisions that require investor obligations to respect and protect human rights. These provisions should enable affected individuals or communities to seek remedies for human rights abuses caused by investors.

b. **Investor-State Dispute Settlement (ISDS) Reforms:** BITs should be revised to balance investor protection with human rights considerations. ISDS mechanisms should be reformed to ensure they do not undermine states' regulatory power and do not prevent affected individuals or communities from accessing effective remedies.

## 3. Concessions and Contracts:

a. **Human Rights Clauses:** Concessions and contracts between states and extractive companies should include explicit clauses that require compliance with international human rights standards. These clauses should outline the responsibilities of extractive companies to respect human rights and provide remedies for human rights abuses.

b. **Grievance Mechanisms:** Concessions and contracts should establish accessible and effective grievance mechanisms to address human rights abuses. These mechanisms should be transparent, independent, and provide remedies that are commensurate with the harm caused.

c. **Community Engagement:** Concessions and contracts should emphasize the importance of meaningful community engagement throughout the project lifecycle. This should include participatory decision-making processes, provision of accurate information, and mechanisms for communities to voice concerns and seek remedies.

## 4. Remedies Suited for the Extractive Sector:

a. **Access to Judicial Remedies:** Individuals or communities affected by extractive activities should have access to fair and impartial judicial mechanisms. These mechanisms should have the authority to provide remedies, including compensation, restitution, and injunctive relief.

b. **Non-Judicial Mechanisms:** Non-judicial mechanisms, such as national human rights

institutions and ombudspersons, should be strengthened and empowered to handle complaints and provide remedies. These mechanisms should have the necessary expertise, independence, and resources to effectively address extractive sector-related human rights abuses.

c. Effective Consultation and Free, Prior, and Informed Consent (FPIC): Extractive projects should ensure meaningful consultation with affected communities and obtain their FPIC before initiating any activities. FPIC provides a critical safeguard for protecting human rights and ensuring that affected communities have control over decisions impacting their lives and territories.