Right to Development

Key question: When talking about development, the key question is - whose development, at what cost and who decides whether it is the development or not. The answer to the above question can only be obtained via a multidisciplinary review managed by cross functional group consisting of private sector, civil society organizations, investors and customers, multilateral agencies. The below submission tries to address this question, primarily looking at interventions required from private sector players.

Observation:

Since the industrial revolution, the prevalent economic model has relied primarily on fossil fuels and followed a linear business model of resource consumption. The traditional matrices adopted to measure progress have also suffered from being purely financial and quantifying, and monetising only a part of the entire value chain (cost of raw material and finished goods) and missing out on quantifying the impact of resource extraction and associated externalities in terms of environmental and human cost.

I, Climate challenge and intersectionality of human rights

This overreliance on fossil fuels has led to the increase in greenhouse gases by more than 90% since 1970. For the first time the global average temperature may increase by more than 1.5 degree Celsius within the next 3 years and up to 5.0 degrees Celsius by end of the century. This would make large parts of the world uninhabitable, especially, hitting the poor and already vulnerable groups, the hardest. These groups are dependent on natural resources for their livelihood and have limited or no buffer to safeguard from the exposure of the elements. The loss of livelihoods (nature based) and un-inhabitable conditions will result in mass scale migration, increasing the distress of the already vulnerable groups and increase societal friction due aptitude towards migration and pressurising already overstretched urban civic infrastructure.

II, Resource challenge and intersectionality of human rights

Another set of fundamental challenges marring the prevailing business model are the linear flow of materials, leading to depletion of finite resources, impending shortages, conflict with customary/community rights and loss of bio-diversity, at the same time increasing the quantifies of waste getting generated.

In 2022, humanity consumed Earth's annual resource budget in less than 7 months (as per Earth Overshoot Day landing on 28 July 2022). These shortages, in addition to disrupting the global supply chain and business sectors, have a significant potential of triggering dangerous geopolitical and expansionist tendencies among companies and countries, to secure uninterrupted resource supply for industrial applications. A significant fallout of this is that a few large corporations or countries gain prominence over others. Prevalence of corruption, shrinking democratic spaces and in-equitable income distribution/prevalence of poverty make a fertile ground for select companies/countries to have disproportionate influence over countries that are rich in natural resources and control on access of resources.

The access of resources is often in conflict with the customary rights of indigenous and local communities. The extraction and processing activities often irreversibly damage the natural habitat, resulting in loss of biodiversity, natural resources and traditional sources of livelihoods of local population. In addition to the biodiversity and ecological loss, it also triggers migration of people in search of livelihoods.

The loss of bio-diversity due to unscientific extraction and processing procedures, also creates ecological hazard with far reaching effects. The investment required to be done by governments to mitigate these effects is often much more than the earnings from the sale of resources.

III, Working conditions in global supply chains and intersectionality with human rights

Today almost all corporations who are operating global supply chains, have a responsible sourcing program, which focuses on the working conditions of the workers across the value chain. However, despite the work claimed by these organizations (and strong country regulatory framework on labor protection), there are still 700 million people trapped in extreme poverty, more than 50 million people employed in modern slavery like conditions (an increase from 40 million, 2018, despite companies and governments claiming good work to improve conditions), and the recent COVID-19 impacts have shown that prevailing institutionalized safeguards are simply not enough to protect the rights of these workers or something in the existing set of measures is not effective.

General Recommendation:

There is urgent need to move beyond the narrow financial lens, to measure the progress and performance, especially of the companies. It is required to not only to look at the achievement of the business results but also measure/monitor how the business results are achieved and quantify associated costs. Comparing this full end-to-end 'cost-benefit' analysis will reflect the true measure of whether companies are creating more value vs the resources extracted (& its impact), in addition to the invested capital, or less, hence are not really a 'profitable venture' or 'creating value'.

There is need for transparency and accountability within company's own operations and their supply chain. Company's supply chain is responsible for more than 70% of the impact created by companies. Hence, transformative programs aimed at supply chains are extremely critical for the future of the planet and society.

Companies need to revisit their vision to operate (along with end-to-end value chain), to create an inclusive, carbon neutral world that preserves resources and ensures decent lives for their workforce and community.

Typical interventions that need to be initiated by companies should include:
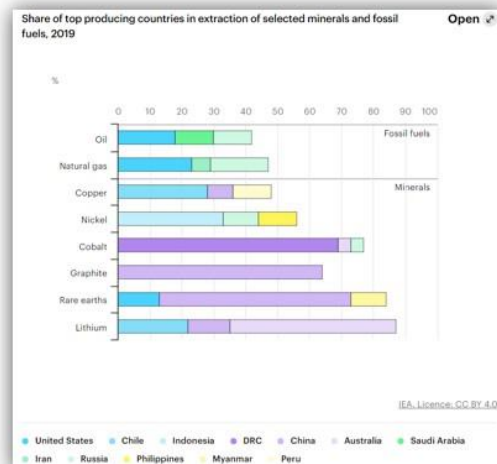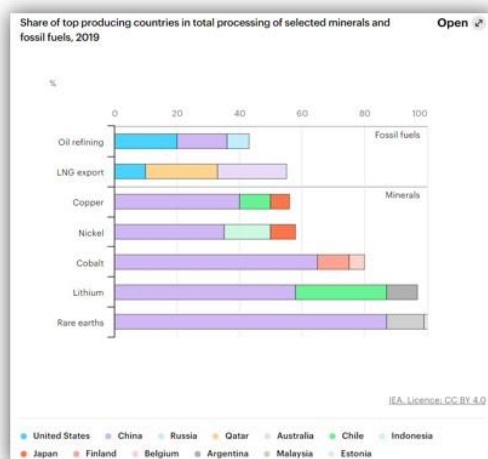
Specific/programmatic interventions:

1- Decarbonization of own operations and its supply chain[1]: Companies need to adopt ambitious targets to reduce the scope 1, 2, 3 green house gas emissions and reduce the dependency on the fossil fuels and switch to non fossil based energy sources. This needs to be done not only for company's own operations but also for the supply chain. Companies need to initiate and onboard supply partners for a phase wise transition to the low carbon operations. This would include full framework of handholding suppliers through decarbonization journey and institutionalising robust governance framework to incentivise selection of carbon efficient supply partners.

2- Circular economy[2]: The circularity needs to be embedded at the design stage of the products and operations. It need to prioritize, reduction of material usage in the design of products and using alternate materials that have lower impact on the planet and society (environmental and social cost). This would also require to revisit the raw material mix and incorporate increased proportion of recycled materials, or those that are manufactured using

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[1] Relates to #I. Climate challenge and intersectionality of human rights
[2] Relates to #2. II, Resource challenge and intersectionality of human rights

low carbon technologies or do not harm the bio-diversity/environment and people during use or post use phase (no toxins etc). This would require significant review of companies product portfolio and functionality of products.

    a. <u>Transition minerals/Just transition</u>: Another significant element is the finite quantity of natural resources. Especially in the light of climate transition, certain minerals are extremely critical for the transition due to overwhelming use in all the existing and potential low carbon technologies. These critical minerals are overwhelmingly found in limited geographies. As per IECD estimates, more than 50% of these are in areas inhabited by indigenous communities and their extraction and processing is controlled by limited list of companies/countries.

        i. List of critical minerals Copper, Lithium, Nickel, Manganese, Cobalt, Graphite, Zinc, Rare Earths, Chromium, Molybdenum, Silicon (and others)- source <u>International Energy Agency (IEA)</u>,

        ii. DR Congo, China, Indonesia, Chile (& others) hold dominant position in the mining and/or processing of the critical raw materials (majority of them- refer graph below)

        iii. Common human rights violation associate with:

            1. Unsafe working condition

            2. Child labour

            3. Modern slavery/Forced labour

            4. Community/Indigenous rights

            5. Excessive force by public/ private security forces

            6. Business conduct in high-risk areas- Corruption

            7. Other Serious Human Rights Abuses

Share of top producing countries in total processing of selected minerals and fossil fuels, 2019. Share of top producing countries in extraction of selected minerals and fossil fuels, 2019. IEA, Licence: CC BY 4.0

Just Transition challenge

Past experience shows that mere availability of guidelines (e.g. OECD or other similar) do not result in its implementation. In addition to public sector and civil society organizations, the private sector, especially at the end user segment, need to be much more involved and demand accountability from their supply chain partners, not just Tier 1 but across the Tier 2, Tier 3, upto the mines (which is where most of the violations may occur; Transition Minerals tracker by Business and Human Rights Resource Center reported more than 500 violations by companies between 2010-2022). This would ensure there is a market demand and pressure on the companies involved in extraction and

processing. The governments also need to be engaged to address the way the companies operate in their geographies[3].

However, there are potential roadblocks:

1. The visibility of the supply chain of critical minerals is not always clear and we cannot identify the processors/refiners, extractors through the bulk of middlemen/agents/brokers who are usually the direct sellers.

    a. In some cases like Rare Earth there is no/extremely limited visibility of Tier 2 suppliers or beyond.

2. The sector suffers from monopolistic/oligopolistic tendencies with few companies/geographies controlling the extraction and processing. This usually results in lack of leverage or any lever to demand respect for human rights.

Potential solutions for Just Transition:

- Short term- Engage major consumer sectors of these minerals (EV, Renewables) to onboard for HRDD of the supply chain- need for a dedicated work stream to engage big players

    o A new sectoral initiative could be answer

- Short term- Engage Govts. to ensure HRDD is included a major clause of any permission granted for the extraction and processing (e.g. Govt. of Indonesia, needs to revisit its permissions for Nickel processing- report link above)

- Long term- Need for fiscal and regulatory support from governments and multilateral agencies (UN) and industry-facing groups (OECD…) to diversify the extraction (let more companies get involved) and processing (in different countries) capabilities.

    o This long term will ensure there is no monopolistic/oligopolistic control over the discussions on the issues of common global interest.

3- Socially responsible supply chain[4]: Companies need to implement a multipronged, risk-based approach to review and scrutinize the upstream supply chain. This should not only aim at de-risking the supply base (through interventions like on site audit of high risk suppliers), but also improve sustainability profile of suppliers by mandating conformance of global guidance like ISO26000 and drives positive social transformation by initiating transformational programs with suppliers. To achieve this, the company goes beyond the normative/prevailing practices that are referenced or rooted in the regulatory compliance, and address aspirational issues, that are not commonly practiced or are marred with prevailing biases stereotypes. This includes issues like:
    a. living wage
    b. responsible recruitment or employer pays principle (ensuring no worker pays money to middle-men for employment, and if paid- it is reimbursed by the employer)
    c. ensuring sub-suppliers tracking and monitoring modern slavery/human trafficking
    d. break stereotypical gender conforming roles of family care and introduce/encourage concept of gender-neutral family responsibility among employees

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[3] https://www.vice.com/en/article/3ad3n8/china-nickel-smelting-factory-indonesia-gunbuster-belt-and-road ; https://www.vice.com/en/article/wxj8wm/uncontacted-tribe-threatened-indonesia

[4] Relate to #III. Working conditions in global supply chains and intersectionality with human rights

  e. promoting inclusive workspace
  f. Prison labour in supply chain
  g. Wage trend (for blue collar) vis-à-vis sales/profit growth of the company
  h. Ensuring migrant workers are trained/aware of employment conditions and remedies in the destination countries before they leave home country etc)
  i. …….

The implementation of theses aspirational issues require huge shift in the prevailing mindset of people, overcoming subconscious and psychological biases, and behavioural change. The companies need to focuses on:

1. Knowledge dissemination/shift from unaware to aware
2. Attitude/Mindset Change (implement enabling thematic programs, e.g. Living Wage)
3. Behaviour change practices (creation of policies)
4. Practice/make it a regular habit (routine implementation)
5. Advocate/supplier becomes change agent (supplier initiates the programs through their own supply chains)

General/governance interventions:

1- To ensure accountability, executive level reviews should be conducted on a monthly, quarterly, and annually basis.
2- Companies need to publish details of actions implemented and results achieved (e.g. Annual Sustainability, Financial Disclosure etc)
3- Investors, Shareholders, CSOs, should be encouraged to review the publications and seek clarifications for accountability.

------------------------- End of Inputs on consultation for Right to Development --------------------------