

JUST TRANSITIONS FOR ALL

Business, Human Rights,
and Climate Action



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About this paper: This is the latest in a series of occasional papers by the Institute for Human Rights and Business (IHRB). Papers in this series provide independent analysis and policy recommendations concerning timely subjects on the business and human rights agenda from the perspective of IHRB staff members and external experts.

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Cover image: 20 year old Meenakshi Dewan tends to maintenance work on the solar street lighting in her solar powered village of Tinginaput, India. Meenakshi is one of 4 women who has been trained in solar powered engineering. Tinginaput is an ordinary village in remote rural India, where there are modern solar panels the size of a couple of A4 books, perched on the tiles of each roof. From these, wires lead into the houses, bringing light and power. Five tall street lamps have their own solar system as well - giving light through the night. The villagers say the best thing of all about the arrival of green power is that they no longer fear attacks from bhalu - bears - from the surrounding hills after dark. *Flickr/DFID*

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Executive Summary

Imagery Spotlight

Show Your Stripes

by Professor Ed Hawkins (University of Reading)

Creator's statement: These 'warming stripe' graphics are visual representations of the change in temperature as measured in each country over the past 100+ years. Each stripe represents the temperature in that country averaged over a year. For virtually every country or region, the stripes turn from mainly blue to mainly red in more recent years, illustrating the rise in average temperatures in that country.

www.showyourstripes.info

Climate Visuals

Creator's statement: Climate change has an image problem. The images that define climate change shape the way it is understood and acted upon. But polar bears, melting ice and arrays of smoke stacks don't convey the urgent human stories at the heart of the issue. Based on international social research, Climate Visuals provides seven principles for a more diverse, relatable and compelling visual language for climate change. This website contains a growing library of photographs to provide inspiration and guidance for campaigners, picture editors and communications practitioners selecting imagery for communicating climate change.

www.climatevisuals.org

Executive Summary

Climate change has profound negative implications for human rights, posing serious threats to the right to life itself, through to adverse impacts on rights to food, health, and housing, among others. These and other impacts will become more severe as average global temperatures increase, particularly for the most vulnerable and for people living in poverty.

Governments have failed to take effective action to curb climate change, but there is growing global awareness of the need for coordinated action at all levels, and involving all actors in society, to turn in a different direction. In turn, a central dimension of the actions that are needed is transition away from the carbon intensive production and consumption that harms communities and ecosystems, and towards the sustainable and green economies of a zero-carbon world.

These transitions need to happen quickly. Staying within 1.5°C average global warming means reducing greenhouse gas emissions 45% below their 2010 levels by 2030, and reaching 'net zero' emissions by 2050.

These transitions also need to be fair, to be "just". That means that transitions need to respect the fundamental rights of all those involved, in particular the most vulnerable.

The physical impacts of climate change have major human rights implications. Human rights due diligence can help to assess the distant impacts of greenhouse gases attributable to business activities. It can also build understanding of the impacts of climate change on all those affected by the necessary transition away from a carbon-based economy, as well as developing greater resilience to the effects of climate change itself.

Actions to tackle climate change can also have significant human rights implications. For example, the businesses that need to make transitions out of greenhouse gas emissions-intensive production, and the workers who could lose their jobs in processes of climate mitigation, are not always those who stand to gain from the considerable business opportunities of green and sustainable 'net zero' economies. Biofuels production, hydropower, and extraction of minerals to fuel the renewable energy boom have all been associated with negative human rights impacts for workers and communities. Adaptation to climate change also has human rights implications, for example, in cases where people are relocated to areas that are less vulnerable to climate impacts. Equally important, large-scale manipulation of the climate through geoengineering can carry drastic human rights risks.

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[Climate] transitions need to happen quickly. The[y]... also need to be fair, to be just. That means that transitions need to respect the fundamental rights of all involved, in particular the most vulnerable.

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Businesses should take active steps to assess and address human rights issues when they plan and implement actions to address climate change. The United Nations Guiding Principles on Business and Human Rights (UNGPs) can support this, and they provide additional force to the case for business-led greenhouse gas emission reductions.

The UNGPs already address the human rights impacts of business responses to climate change as they affirm that businesses “should avoid causing or contributing” to harms through their own activities and “seek to prevent or mitigate” adverse impacts that are “directly linked to their operations, products or services by their business relationships”. The UNGPs also provide a framework for advancing the rights-sensitivity of business approaches to mitigation and adaptation. But they are less readily applied to the human rights impacts of climate change as a physical phenomenon; a conclusion that provides a strong case for strengthening efforts to integrate the management tools of climate change and of human rights respectively.

The concept of “just transition” is an increasingly visible framing for government and business action on climate change. It encompasses both public policies and business action to deal with the impacts of industry transition away from greenhouse gas emissions for jobs and livelihoods (the transition ‘out’) and measures to generate the low or zero greenhouse gas emission jobs and livelihoods of a sustainable society (the transition ‘in’).

Initially championed by trade unions, just transition incorporates strong commitment to social dialogue and to rights in the workplace. In the climate field, just transition can be understood as an expression of concern for climate justice, which addresses the moral and legal implications of vulnerability to climate change. At international level, just transition is referenced within the 2015 Paris Agreement, which is the cornerstone of the international community’s commitment to climate change. And it is also addressed in some detail in Guidelines from the International Labour Organisation which envisage it as a systemic approach to sustainability.

Just transition lends itself to implementation as a site-or-operation-level-, sectoral-, regional-, or economy-wide process. It is a relatively flexible and evolving concept, and has been associated with different formulations and initiatives that vary both in their breadth (particularly the extent to which they extend beyond workplaces to consider the implications of transition for communities and their rights), and depth (the extent to which just transition is framed as entailing transformation of – or merely adjustment to – political and economic systems). At sectoral level, the coal and finance sectors have received particular attention, and most just transition initiatives to date have been implemented in high-income rather than middle- or low-income countries. But change is afoot on both fronts, and just transition is now being applied across an increasingly wide range of sectors and countries.

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Integrated approaches can strengthen human rights protections, climate justice, and sustainable development. And at a time of global pandemic, they can also help to deliver the green and just recovery that is so badly needed.
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Business and human rights good practice can strengthen just transition efforts in at least four ways:

1. Attention to human rights and corresponding state duties and business responsibilities can bolster just transition strategies on matters such as **ensuring access to information and meaningful participation** in decision-making;
2. Business and human rights framing and perspectives can help **bring awareness of a wider range of impacts** into just transition planning and implementation, enhancing its positive outcomes beyond the workplace boundaries of businesses directly involved;
3. **Human rights due diligence offers a practical tool** for addressing the wider implications of just transition processes, for example, on communities, indigenous people and gender perspectives;
4. Integration of existing business and human rights standards can help to **screen business and policy tools that are readily associated with just transition**, but that may themselves have adverse human rights implications for vulnerable people. A human rights perspective that extends understanding of just transition into value chains and business relationships can achieve better human rights and development outcomes.

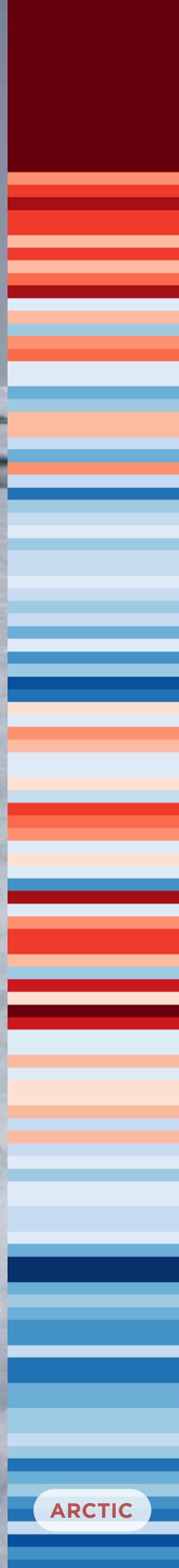
The potential for positive impacts to result from integration of the business and climate change and business and human rights agendas goes beyond transition. Businesses can also contribute to climate adaptation in ways that multiply the positive outcomes of public policy priorities on climate change; they can work with civil society and others to prevent climate responses from triggering roll-back of civil and political rights protections; and they can champion human rights as part of public policy processes associated with just transition.

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Integrated approaches can strengthen human rights protections, climate justice, and sustainable development. And at a time of global pandemic, they can also help to deliver the green and just recovery that is so badly needed.

CHAPTER 1

Introduction



The “Impacts of Climate on Ecosystems and Chemistry of the Arctic Pacific Environment” (ICESCAPE) mission is a NASA shipborne investigation to study how changing conditions in the Arctic affect the ocean’s chemistry and ecosystems.

NASA/Kathryn Hansen

ARCTIC

Introduction

1

Keeping the world to 1.5°C average global warming means reducing greenhouse gas emissions 45% below their 2010 levels by 2030, and reaching 'net zero' emissions by 2050.¹ Net zero means that all remaining greenhouse gas emissions must be offset through means such as reforestation or carbon capture and storage.

Writing in 2020, internationally agreed climate targets must be met despite financial crisis, rising poverty, and the ongoing struggle to contain a global pandemic. Add to this the faltering commitment, across governments and residents of many of the world's largest economies, to the values that provided a foundation after the Second World War for the United Nations and its associated institutions and international agreements, and the scale of the climate challenge is clearly huge. Developments such as the US's withdrawal from the World Health Organisation and the key 2015 Paris Agreement on climate change; the UK's Brexit and the challenge that this poses for the future of the European Union; Poland's planned withdrawal from the Council of Europe's Istanbul Convention on preventing and combatting violence against women and domestic violence; all signal shifts away from political and cultural values associated with strong norms of transnational solidarity and cooperation.

The continued spread of democracy grounded in respect for civil and political rights can no longer be taken for granted. And neither can democracy's ability to deliver a better quality of life for successive generations. At the same time, China's role in international institutions and in transnational cooperation is increasingly influential, but China's political system is not one modelled on democracy or rooted in protection of human rights.

Governments have failed to take effective action to curb climate change. In 2019, the UN Environment Programme (UNEP) recorded a wasted decade that had seen no real change in overall global emissions because the effect of overall climate policies had been too small.² To fill the governance gap within the timescale demanded by the 1.5°C target, business leadership and action on climate change is imperative. Yet despite a flourishing community of practice around the world on responsible business practice, businesses are not bearing the full social and environmental costs of their operations. It is people who are unable to enjoy their human rights to the full; sometimes governments; and more often than not future generations; who too often pay the price of environmental degradation, low wages, exploitative business practices and poor working conditions.

Businesses have multiple roles to play in tackling climate change. In the first place, they must take action to reduce their own greenhouse gas emissions. Just as important, businesses need to

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The paper is not a 'how to' guide for business. Rather, it serves as a primer; offering initial reflections for both the climate change and business and human rights communities of policy and practice.
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1 “Global Warming of 1.5°C”, IPCC (2018), at: <https://www.ipcc.ch/sr15/>

2 “Lessons from a decade of emissions gap assessments”, UNEP (2019), at: <https://www.unenvironment.org/resources/emissions-gap-report-10-year-summary>



Climate change has profound implications for human rights. Failed crops and water scarcity threaten health and life itself. Flooding and fire bring loss of shelter and disease. People who are already among the most vulnerable are particularly hard-hit. And the human rights of future generations are also at stake.



take steps to ensure that their advocacy doesn't hold up progress on climate action, and that the ways in which they engage with others advances the ability of communities and regions to develop resilience in the face of climate change. Against these important steps, it is also important to recognise that businesses also provide goods and services that enable communities, cities, and regions to adapt to the physical impacts of climate change.

As of 22 May 2020, a total of 216 companies had committed to reach net zero by 2050 under the 'Business Ambition for 1.5°C — Our Only Future' campaign of the multi-stakeholder Climate Ambition Alliance within the UN Global Compact.³ A small but growing number of businesses have also linked commitment to 2050 net zero targets⁴ and climate action⁵ to recovery from the COVID-19 pandemic. The total numbers are not insignificant, but they are tiny compared to the scale of the challenge.

There are also signs of hope. The scale and pace of change that have accompanied the COVID-19 pandemic show that rapid and far-reaching change is possible. There are many other spaces where businesses have expressed commitments to tackle climate change. Examples include climate leadership groups under the World Economic Forum's Climate Change Initiative⁶; the We Mean Business Coalition⁷ and its Science-based Targets Initiative⁸; the Corporate Leaders Group Europe⁹; the Institutional Investors Group on Climate Change¹⁰; the Financial Stability Board's Task Force on Climate-Related Financial Disclosures,¹¹ and the UN-convened Net Zero Asset Owner Alliance.¹² To remain within 1.5°C average global warming, however, wider take-up and deeper commitment are needed.

Climate change has profound implications for human rights. Failed crops and water scarcity threaten health and life itself. Flooding and fire bring loss of shelter and disease. People who are already among the most vulnerable are particularly hard-hit. And the human rights of future generations are also at stake, with even greenhouse gases that have already been emitted triggering impacts that will unfold over many decades. Tackling these impacts and creating the impetus to curb emissions challenge businesses, people and policy-makers everywhere to think far beyond the familiar timeframes of quarterly reports, election cycles, or investment and savings decisions.¹³

3 Business Ambition for 1.5 C", UN Global Compact, at: <https://www.unglobalcompact.org/take-action/events/climate-action-summit-2019/business-ambition/business-leaders-taking-action>

4 For example, see We Mean Business Coalition, at: <https://www.wemeanbusinesscoalition.org/blog/net-zero-transition-can-reduce-megatrend-shocks-and-deliver-sustainable-european-jobs/>

5 For example, see Stiftung 2°, at: <https://www.stiftung2grad.de/en/business-statement-climate-stimulus-programme>

6 <https://www.weforum.org/projects/climate-change-solutions>

7 <https://www.wemeanbusinesscoalition.org/>

8 <https://sciencebasedtargets.org/about-the-science-based-targets-initiative/>

9 <https://www.corporateleadersgroup.com/>

10 <https://www.iigcc.org/>

11 <https://www.fsb-tcf.org/about/#>

12 <https://www.unepfi.org/net-zero-alliance/>

13 For financial sector recognition of this, see "Breaking the Tragedy of the Horizon – climate change and financial stability", speech given by Mark Carney at Lloyd's of London (29 September 2015) <https://www.bis.org/review/r151009a.pdf>

Action to tackle climate change now is action that places value on the future enjoyment of human rights. But climate action by governments and businesses can itself undermine, as well as advance, respect for human rights. The concept of “Just Transition” has emerged as an increasingly significant framework that recognises this risk while seeking positive actions that create green and decent jobs and thriving, resilient communities in harmony with sustainable development.

Just transition gained intergovernmental recognition as a framework for climate action in the Paris Agreement. This paper argues that implementation of just transition can be enriched through good practice on business and human rights, but that to realise this potential fully it is important to consider the wider relationship between climate change and human rights. The paper’s focus is on business, but it also addresses the relationships between business and public policy, business and workers, and business and communities.

The paper is not a ‘how to’ guide for business. Rather, it serves as a primer; offering initial reflections for both the climate change and business and human rights communities of policy and practice.

The remainder of the paper has five parts:

Chapter 2 introduces key climate concepts and targets associated with international agreements on climate change.

Chapter 3 highlights human rights implications of the physical impacts of climate change and the potential for some responses to climate change to be linked to adverse human rights impacts.

Chapter 4 reflects on the business and human rights community’s distinctive contribution to climate action.

Chapter 5 introduces just transition as a framework for advancing respect for human rights, setting this in the context of the human rights impacts of climate change and climate action.

Chapter 6 draws overall conclusions.

CHAPTER 2

Climate Change: Key Targets & Concepts

2



Climate Change: Key Targets and Concepts 2

The Paris Agreement and the UN Framework Convention on Climate Change

The foundational document for internationally coordinated action on climate change is the 1992 UN Framework Convention on Climate Change (UNFCCC).¹⁴ A supplementary agreement, the Paris Agreement, which was concluded in December 2015 at the 21st Conference of the Parties to the UNFCCC, now provides the cornerstone of government-led efforts to tackle greenhouse gas emissions.¹⁵ Parties to the Paris Agreement commit to strengthening the global response to the threat of climate change “including by holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels..”

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Four key climate policy concepts provide foundations for action to respond to human-induced climate change: mitigation; adaptation; resilience; and vulnerability.
”

Limiting global warming to 1.5°C rather than 2°C could reduce the number of people exposed to climate-related risks and susceptible to poverty by up to several hundred million by 2050.¹⁶ But the window for effective action is rapidly closing: in 2019, average global temperatures for the year already reflected an increase of some 1.28°C over 1850-1900 baseline averages,¹⁷ and in 2018 the Intergovernmental Panel on Climate Change concluded that global warming is already likely to reach 1.5°C some time between 2030 and 2052.¹⁸

The Paris Agreement provides for parties to make pledges (so-called ‘nationally determined contributions’ or NDCs) to achieve its long-term temperature goal. It also respects the idea that parties have ‘common but differentiated responsibilities’ in light of their different national circumstances. In 2019, UNEP reported that “nations must triple the level of ambition reflected in their current NDCs

14 United Nations Framework Convention on Climate Change, FCCC/INFORMAL/84, Article 2 (1992), at: <http://unfccc.int/resource/docs/convkp/conveng.pdf>

15 Paris Agreement, United Nations (2015), at: https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

16 “Summary for Policymakers” at B.5.1, IPCC (2018), at: https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf

17 See Global Temperature Report for 2019, Berkeley Earth, at: <http://berkeleyearth.org/2019-temperatures/>

18 See Headline Statements, IPCC, at: https://report.ipcc.ch/sr15/pdf/sr15_headline_statements.pdf

to get on track towards limiting warming to below 2°C, while at least a fivefold increase is needed to align global climate action and emissions with limiting warming to 1.5°C by the end of this century.”¹⁹ The challenge that the Paris Agreement targets present for businesses in fossil fuel sectors such as coal and oil and gas is immediate and obvious. It is also life- and business-model-changing for communities and entire industrial systems. Transitions away from production and consumption that emits greenhouse gases and harms ecosystems, and towards the sustainable and green economies of a zero-carbon world, are urgent. Climate science shows that these transitions need to happen quickly. But they also need to be fair. Protection and respect for human rights is an essential underpinning for these fast and fair transitions. And that, in turn, brings the experience and good practice of the business and human rights community to the fore.

Mitigation, Adaptation, Resilience and Vulnerability

Four key climate policy concepts provide foundations for action to respond to human-induced climate change: **mitigation**; **adaptation**; **resilience**; and **vulnerability**.

Mitigation concerns the processes through which people and organisations reduce and ultimately eliminate the greenhouse gas emissions that are the sources of human-induced climate change. Mitigation is reflected in the 2°C and 1.5°C aims of the Paris Agreement. When businesses take action to reduce their greenhouse gas emissions, whether in response to legal requirements, policy incentives, or as a result of their sectoral or individual commitments, they contribute to mitigation of climate change. Countries, in turn, set out their commitments to mitigation in their Nationally Determined Contributions documents under the Paris Agreement, which businesses can look to for inspiration on how best to add value, ‘beyond compliance’, to public policy-led efforts.

For businesses, mitigation requires investment and rapid change, but the overall positive opportunities of transition out of carbon-intensive production and consumption and into the jobs and markets of a sustainable future are very substantial, even before counting the benefits of avoided climate impact. For example, analysis published in 2017 by the Business and Sustainable Development Commission estimated that achieving the Sustainable Development Goals by 2030, in just four economic systems, could generate up to 380 million new jobs, a majority in developing countries, alongside USD12 trillion in market opportunities.²⁰

Adaptation is about processes through which human (and natural) systems adjust to climate change and its effects.²¹ For example, construction of improved coastal defences to respond to anticipated sea level rise or severe storms is a climate change adaptation.

19 “Lessons from a decade of emissions gap assessments”, UNEP (2019), at: <https://www.unenvironment.org/resources/emissions-gap-report-10-year-summary>

20 “Better Business, Better World”, Business and Sustainable Development Commission (Jan 2017), at: <http://report.businesscommission.org/> The four economic systems generating these possibilities are energy, cities, food and agriculture, and health and wellbeing.

21 See “Summary for policymakers. In: Climate Change 2014: Impacts, Adaptation, and Vulnerability” IPCC (2014), at: https://www.ipcc.ch/site/assets/uploads/2018/03/ar5_wgII_spm_en-1.pdf

Since 2001, least developed countries have elaborated on their short-term adaptation needs and priorities in National Adaptation Programmes of Action. In addition, since 2016 the UNFCCC has provided guidance for developing countries, especially least developed countries, to develop and implement National Adaptation Plans to address medium- and long-term adaptation needs.²² These documents can also help to guide businesses on the actions they can take to align with and support adaptation efforts at national level.

Climate change adaptation is place- and context-specific, and the projected impacts of climate change will produce both risks and positive business opportunities from adaptation.²³ On the risk side, supply chains could be disrupted through extreme weather events. Here, adaptation invites businesses to assess and respond to the risks that climate change impacts present for their operations and supply chains. Some businesses might find capital assets locked into locations that are vulnerable to sea level rise or to climate severe change-related weather impacts such as inundation or fires. The insurance industry will face increased claims as well.

Beyond these direct business impacts, adaptation also calls for businesses to consider how they can contribute to the efforts of communities and public actors at different levels to address the physical effects of unmitigated climate change. As with mitigation, there are also positive business opportunities in adaptation, many of which have potential to enhance the fulfilment of impacted peoples' human rights.

In September 2019, the Global Commission on Adaptation reported on opportunities in five key systems, each closely associated with realisation of human rights.²⁴ For example, in food systems opportunities include enhancing the resilience of 500 million small-scale farmers whose livelihoods are most impacted by climate change; aligning finance and other incentives with climate-smart production that combines a focus on efficiency in the use of inputs, such as water and fertilizer, with more focus on long-term sustainability by properly caring for soil and water resources. In the natural environment, action to protect and restore forests and watersheds can bring multiple human rights benefits including better health outcomes. Healthy ecosystems support the resilience of supply chains across cities, water, food, health and infrastructure. Yet the report notes that for a large majority of companies, the potential to use natural systems in adaptation strategies remains a blind spot. In water systems, design, architecture, engineering and construction sectors can help cities and human settlements to become water-smart. In cities and urban areas, private sector actors can help to ensure that data on climate risks is integrated in urban planning and operations and help to build climate-resilient homes and service infrastructure. Finally, in infrastructure, private sector actors can work to help ensure that climate impacts inform investment and design decisions, to deliver more climate-resilient infrastructure.

Resilience is about the ability of natural and social systems to bounce back from disturbance whilst retaining the same basic structures.²⁵ A community where established support networks rapidly adapt to

22 On the background to both NAPAs and NAPA, see "Putting national adaptation planning into practice" BMZ (2013), at: https://www.adaptationcommunity.net/?wpfb_dl=151

23 "Adapting to Climate Change: a Business Approach" Frances G. Sussman and J. Randall Freed, Pew Center on Global Climate Change (Apr 2008) , at: https://www.pewtrusts.org/-/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/global_warming/businessadaptationpdf.pdf

24 "Adapt Now: a Global Call for Leadership on Climate Resilience", Global Center on Adaptation and World Resources Institute (Sep 2019), at: https://cdn.gca.org/assets/2019-09/GlobalCommission_Report_FINAL.pdf

25 See for example p1108 "Climate-Resilient Pathways: Adaptation, Mitigation, and Sustainable Development", IPCC (2014), at: https://www.ipcc.ch/site/assets/uploads/2018/02/WGIIAR5-Chap20_FINAL.pdf

deliver assistance to vulnerable people in times of climate crisis, for example, would be demonstrating resilience. Resilience is often closely associated with adaptation, as in this example, but it is also relevant to mitigation. For example, participation in a community-based solar energy social enterprise could help to secure continued access to energy in times of disruption, whilst simultaneously reducing that community's greenhouse gas emissions.

Vulnerability is a critical determinant of the social, and therefore the human rights, impacts of climate change. Negative impacts from climate change are likely to be felt most acutely by people who are already vulnerable through factors such as geography, poverty, gender, age, minority status, national or social status or disability.²⁶

Respect for human rights can act as a leveller that mitigates vulnerability.²⁷ Attention to human rights is also invaluable for building human resilience and for strengthening adaptive capacity. Business action has significant potential to contribute to addressing the sources of vulnerability to ensure the full and universal enjoyment of human rights. Employment and payment of fair wages; non-discrimination through workplace and supply chain practices; respect for indigenous peoples' rights; provision of social protection benefits; and delivery of essential goods and services to vulnerable communities on fair terms are just a few examples.

There remains unrealised potential across each of these four concepts - mitigation, adaptation, resilience and vulnerability - and their associated areas for understanding and good practice. The business and human rights community has an important dual role to play both in accelerating action to respond to the climate crisis and in providing a guard rail for business action at every level.

26 "Human Rights and Climate Change", UN General Assembly Resolution 29/15, (2015), at: <https://www.uncclearn.org/sites/default/files/inventory/g1516360.pdf>

27 See for example "Human rights are a key tool to protect the vulnerable against climate change" The Elders, (Oct 2018), at: <https://www.theelders.org/news/human-rights-are-key-tool-protect-vulnerable-against-climate-change>

CHAPTER 3

Business & Climate Change: Human Rights Implications



Clara Smith, 96, stands at the window of her home looking out at a neighbouring refinery

Les Stone / Greenpeace

Business & Climate Change: Human Rights Implications

3

The Human Rights Impacts of Unmitigated Climate Change

Documents and statements from a range of UN bodies and agencies, as well as the Paris Agreement itself, provide insights into the links between climate change and human rights.²⁸ 2015 was a milestone year. Both the United Nations Children’s Fund (UNICEF)²⁹ and UNEP published separate reports³⁰ and a little later, the Preamble to the 2015 Paris Agreement agreed at COP21 referred explicitly to human rights, asserting that:

“Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.”³¹

The causal links between individual business activities and their ultimate human rights impacts through climate change are hard to trace, but businesses should nonetheless be aware, at the very least in general terms, of how their greenhouse gas emissions contribute to human rights impacts. In 2016, the UN special rapporteur on human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable development, Professor John Knox, issued a report on climate change and human rights, in which he assessed the relationship between unmitigated climate change and its human rights impacts.³² Later, in 2018, Professor Knox proposed a set of Framework Principles on Human Rights and the Environment which made a direct link between environmental harm and business responsibilities.³³

28 See for example “human rights and climate change” UN Human Rights Council resolution (2011), at: <https://www.ohchr.org/Documents/Issues/ClimateChange/A.HRC.RES.18.22.pdf>

29 “Unless We Act Now: the Impact of Climate Change on Children”, UNICEF, (Nov 2015), at: https://www.unicef.org/media/50391/file/Unless_we_act_now_The_impact_of_climate_change_on_children-ENG.pdf

30 “Climate Change and Human Rights” UNEP (Dec 2015), at: <https://www.unenvironment.org/resources/report/climate-change-and-human-rights>

31 Paris Agreement, at: https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

32 “Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment” A/HRC/31/52 (Feb 2016), at: <https://undocs.org/en/A/HRC/31/52>

33 “Framework Principles on Human Rights and the Environment”, Knox, J, Office of the High Commissioner for Human Rights (2018), Principle 34, at: <https://www.ohchr.org/Documents/Issues/Environment/SREEnvironment/FrameworkPrinciplesUserFriendlyVersion.pdf>

In July 2019, Professor Knox's successor, Professor David Boyd, directly addressed the issue of business responsibilities relating to the links between business and climate change. His report to the UN General Assembly on Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment highlighted five business responsibilities: to reduce greenhouse gas emissions from their own activities and their subsidiaries; to reduce greenhouse gas emissions from their products and services; minimize greenhouse gas emissions from their suppliers; publicly disclose their emissions, climate vulnerability and the risk of stranded assets; and ensure that people affected by business-related human rights violations have access to effective remedies. The report added finally that businesses should support, rather than oppose, public policies intended to effectively address climate change.³⁴ In November 2019, a statement by the High Commissioner for Human Rights to COP25 also addressed issues of remedy, noting that those who suffer human rights harm because of climate change are entitled under human rights law to protection and remedy.³⁵

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The physical impacts of climate change have major human rights implications. But so too can actions to tackle climate change. Good practice on business and human rights suggests that businesses should take active steps to assess and address human rights issues when they plan and implement strategies to address climate change..
”

Box 1 below highlights some of the implications of climate change for enjoyment of rights to water, food, health, housing and self-determination; and rights associated with forced displacement and migration, respectively. The adverse human rights impacts will increase as average global temperatures increase, particularly for the most vulnerable and for people living in poverty.³⁶

Adverse human rights impacts can also flow from climate change-related disruption to business operations. Breakdowns in supply chains caused by climate change will themselves have human rights implications for people whose livelihoods depend on them. If businesses don't plan for resilience, climate change can impact not only on their operations generally, but also on their ability to deliver essential goods and services to people and to communities whose lives depend on them.³⁷ Both human rights considerations and business considerations are a call to action. Human rights due diligence can help at both levels: assessing the distant human rights impacts of greenhouse gases attributable to business activities; and understanding the impacts of climate change on businesses' stakeholders.

34 “Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment” A/74/161 (Jul 2019), paras 71-72, at: <https://undocs.org/en/A/74/161>

35 https://www.ohchr.org/Documents/Issues/ClimateChange/UNFCCCOP25_OpenletterfromHCMemberStates_Nov2019.pdf

36 “Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment”, A/HRC/31/52 (Feb 2016), para. 24, at <https://undocs.org/en/A/HRC/31/52>

37 See “Climate and Human Rights: the Business Case for Action”, Edward Cameron and Peter Nestor, Business for Social Responsibility (2018), at: <https://www.bsr.org/en/our-insights/report-view/climate-human-rights-the-business-case-for-action>

Cyclone Aila hit Bangladesh in 2009, devastating lives of an estimated 200,000 people, many for years after the event. Many didn't have enough food, safe drinking water, or means to make a living. They lacked adequate shelter, and faced a recurring risk of what shelter they had being washed away by monsoon rains. Millions were threatened.

Md. Abdul Quayyum/Oxfam



Box 1

HUMAN RIGHTS IMPACTS OF CLIMATE CHANGE

Right to water

Projections show climate change reducing water resources in most dry subtropical regions during this century. Climate change is projected to reduce raw water quality globally. Limiting global warming to 1.5°C compared to 2°C could, according to the IPCC, reduce the proportion of the global population exposed to a climate change-induced increase in water stress by up to 50% - though with considerable regional variation. In 2010, the World Bank reported that a 2°C increase could mean that 1 to 2 billion more people no longer have enough water to meet their needs.

Right to food

All aspects of food security are potentially affected by climate change, but projected impacts vary across crops and regions. Already in 2010, the World Bank estimated that a 2°C increase in the global average temperature would put between 100 million and 400 million more people at risk of hunger. Compared to the late 20th century, 10% of IPCC projections for the 2030–2049 period show yield gains of more than 10%, but about 10% of projections show yield losses of more than 25%.

Right to health

Any increase in global warming affects human health, primarily with negative consequences. Climate change will increase the risks of undernutrition in poor regions, and in some areas diseases spread by vectors such as mosquitos or ticks are projected to increase due to the extension of infection areas and seasons. Aside from the health effects of extreme weather events such as floods and storms, rising temperatures will also expose large numbers of people to heat stress, hitting the elderly and vulnerable especially hard. The World Health Organization reported in 2014 that under its base socioeconomic scenario, between 2030–2050, some 250,000 additional deaths each year will result from climate change taking account of heat exposure, malaria, diarrhoea and childhood malnutrition.

Rights to adequate housing and self-determination

Mounting scientific evidence points to the real possibility that climate change will cause some small island states to disappear entirely due to rising sea levels and that many low-lying coastal regions will become uninhabitable.

Multiple human rights would be adversely impacted including the rights to housing and self-determination, though the extent of the impacts will depend critically on the level of protection given to coastal areas and their inhabitants through adaptation measures. Inhabitants of inundated small island states could face resettlement or may even become stateless.

Rights associated with forced displacement and migration

Estimates are that anything between fifty and a billion people could be displaced through climate change by the middle of the century. The most commonly agreed figure appears to be that some 200 million are likely to be affected by the middle of the century. Eight out of the world's ten largest cities are located in coastal areas, and the World Economic Forum estimates that some 90% of all coastal areas will be affected by rising sea levels. Forced migration and internal displacement could also be triggered by food and water scarcity, extreme weather events, and climate change-induced disease. Evacuations and internal displacement resulting from extreme weather events are already common. People displaced by climate change may be vulnerable to human rights abuses or suffer loss of rights through relocation to areas where they enjoy fewer legal protections as migrants. However,

people who are unable relocate in the face of increasing climate risk or disruption are also among the most vulnerable to its impacts.

Sources:

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"The causes of the Syrian civil war are multiple and complex, but there is evidence that a powerful climate-linked drought forced people into cities creating the conditions of the initial uprising." This image shows Hungarian police preventing refugees entering the train station before Germany agreed to accept more refugees.

Climate Action with Adverse Human Rights Impacts

The physical impacts of climate change have major human rights implications. But so too can actions to tackle climate change. Good practice on business and human rights suggests that businesses should take active steps to assess and address human rights issues when they plan and implement strategies to address climate change. Separate subsections below highlight human rights issues raised by mitigation, adaptation, and geoengineering, before turning to the risk that some approaches to climate action could have unintended adverse impacts on respect for civil and political rights.

Mitigation

Businesses that need to transition out of greenhouse gas emissions-intensive production, and workers who could lose their jobs in processes of climate mitigation, do not always stand to gain from the considerable business opportunities of green and sustainable 'net zero' economies. Without conscious efforts to plan for the impacts of transition, mitigation strategies could cause hardship for workers and their communities. At worst, top-down site-level and community-level transitions may violate core labour standards including rights of freedom of association and collective bargaining and sidestep participatory engagement with communities that can help them to emerge resilient.

Transitions 'into' new green sectors can also raise human rights concerns. The rapid growth of biofuels investment³⁸ over the past twenty years offers a clear example of the risks. Production of biofuels is attractive if it enhances domestic energy security. But it has also been associated with numerous negative human rights impacts, including through poor labour conditions, water pollution and water insecurity, and land rights abuses.³⁹ Displacement of food crops by biofuel crops can also replace energy insecurity with food insecurity.⁴⁰ And the association of biodiesel production with deforestation in some locations has seen this approach to mitigation undermining the role that forests naturally play as carbon sinks.

There are other areas of concern too. Wind, solar, hydrogen and electricity-system clean energy technologies are more material-intensive than fossil-fuel-based energy supply systems.⁴¹ And the supply chains of many batteries create demand for minerals that are extracted in locations where human rights abuses are widespread. For example, batteries for electric vehicles contain cobalt and lithium; each of which has been linked to human rights abuses ranging from child labour to violations of indigenous peoples' rights.⁴² The Business and Human Rights Resource Centre (BHRCC) Transition

38 See 2019 data published by the World Bioenergy Association in its annual Global Bioenergy Statistics Publication, at: https://worldbioenergy.org/uploads/191129%20WBA%20GBS%202019_HQ.pdf

39 "Fuelling Exclusion? The biofuels boom and poor people's access to land" Lorenzo Cotula, Nat Dyer, Sonja Vermeulen, IIED (2008), at: <https://pubs.iied.org/pdfs/12551IIED.pdf>

40 See for example "How Biofuels Could Starve the Poor", Foreign Affairs (2007), at: <https://www.foreignaffairs.com/articles/2007-05-01/how-biofuels-could-starve-poor>

41 See "Climate-Smart Mining: Minerals for Climate Action" World Bank (2020), at: <https://www.worldbank.org/en/topic/extractiveindustries/brief/climate-smart-mining-minerals-for-climate-action>

42 See "Human rights risks threaten battery supply chains' sustainability - now is the time to act" PV Magazine (2020), at: <https://www.pv-magazine.com/2020/03/18/human-rights-risks-threaten-battery-supply-chains-sustainability-now-is-the-time-to-act/>

Minerals Tracker⁴³ reports on other potential human rights impacts, including the implications of intensification of copper use for wind turbines, and of copper, nickel and zinc in photovoltaic panels for solar energy.⁴⁴ BHRCC's Renewable Energy and Human Rights Benchmark, published in 2020, looks at the human rights policies of sixteen of the largest wind and solar companies, and concludes that most "lack the essential human rights policies to avoid abuse of the communities and workers on which a just transition depends".⁴⁵

In 2017, a World Bank report concluded that in a 2°C global warming scenario, battery technology would by 2050 create a 1000% greater demand for cobalt, iron, lead, lithium, manganese, nickel and aluminium than under a 4°C scenario. Solar photovoltaics would drive an estimated 300% increase in demand for copper, nickel and zinc under a 2°C demand scenario when compared to a 4°C scenario.⁴⁶ This huge projected increase in demand has not been decoupled from its potential negative human rights impacts. Although it is possible that technological innovation could eventually eliminate the demand for the minerals associated with human rights abuses,⁴⁷ for now the challenges represent a significant area for business action.

Large hydropower projects also illustrate the human rights risks of climate mitigation. For example in 2017, a series of large hydroelectric power projects proposed for finance through the UN Green Climate Fund were criticised by numerous non-governmental organisations for their potential impacts on indigenous people and ecosystems.⁴⁸

For businesses committed to implementing their responsibilities relating both to climate change and human rights, these examples of negative impacts of transitions illustrate the importance of planning for fully integrated approaches. The human rights implications of transitions 'into' the businesses and communities of a sustainable future have to be added to action to ensure that transitions 'out' reflect and advance respect for human rights.

Adaptation

Strategies aimed at adapting to climate change can also have significant adverse human rights implications. For example, climate change is projected to generate significant water shortages in populated areas. Some businesses are delivering products and services to address this, like rainwater harvesting products, or desalination infrastructure, but businesses can also exacerbate water stress if they adapt badly. Adaptation actions by business that involve extracting water from deep aquifers or digging deeper wells can adversely impact other users.

43 See Transition Minerals Tracker, BHRCC, at: <https://trackers.business-humanrights.org/transition-minerals/>

44 Ibid.

45 "Renewable Energy and Human Rights Benchmark", BHRCC (2020), at: <https://www.business-humanrights.org/en/from-us/briefings/renewable-energy-human-rights-benchmark/>

46 "The Growing Role of Minerals and Metals for a Low Carbon Future" John Drexhage et al., World Bank Group (Jun 2017), at: <http://documents.worldbank.org/curated/en/207371500386458722/pdf/117581-WP-P159838-PUBLIC-ClimateSmartMiningJuly.pdf>

47 On alternative materials see for example "Beyond lithium: alternative materials for the battery boom" Power Technology (Nov 2019), at: <https://www.power-technology.com/features/lithium-battery-alternatives/>

48 "Green groups condemn UN plan to use \$136m from climate fund for large dams" Guardian (Apr 2017), at: <https://www.theguardian.com/environment/2017/apr/04/green-groups-condemn-un-plan-to-use-136m-from-climate-fund-for-large-dams>.

Relocation of households, enterprises and communities as an adaptation strategy also self-evidently carries significant human rights implications. Climate change-related relocations of urban areas are under way already. Indonesia's planned relocation of its capital city from Jakarta, on the island of Java, to an as-yet unbuilt city in East Kalimantan on the island of Borneo, is in part motivated by Jakarta's vulnerability to sea-level rise, though the move has long been under discussion.⁴⁹ The expectation that a majority of residents will stay only serves to underscore the many risks facing people who live in such locations around the world.

For businesses to meet their human rights responsibilities, their contributions to climate adaptation approaches need both to avoid unintended harms, and actively enhance realisation of human rights for people in both producer and consumer countries and locations.

Geoengineering

The large-scale manipulation of the climate through geoengineering technologies has been presented by its advocates as a complement to adaptation and mitigation measures. They argue that dire potential climate impacts demand that no stone should be left unturned in the effort to forestall them.⁵⁰ But geoengineering is fraught with uncertainty: not only over the viability of the technologies, but also the drastic risks associated with some of them.

As climate impacts intensify, the urgency of climate action could crowd out the severe human rights risks of geoengineering.⁵¹ For example, one technique that is under active investigation is sulphur aerosol injection into the lower stratosphere to cause atmospheric cooling by scattering sunlight back into space. This could delay replenishment of the ozone layer for decades, with adverse impacts on the health of millions of affected people.⁵²

Regulatory decisions on geoengineering will be led by governments, but preparations should be made now to navigate these complex issues through integrated climate and human rights due diligence tools. Geoengineering strategies with significant adverse human rights impacts should not be deployed unless and until those impacts can be effectively mitigated and redressed.⁵³

49 See "Jakarta, the fastest-sinking city in the world" BBC (Aug 2018), at: <https://www.bbc.co.uk/news/world-asia-44636934>, "Why is Indonesia moving its capital city? Everything you need to know" Guardian (Aug 2019), at: <https://www.theguardian.com/world/2019/aug/27/why-is-indonesia-moving-its-capital-city-everything-you-need-to-know>, "Indonesia is spending \$33 billion to move its capital from a sinking city to an island where forests have been burning" Business Insider (Aug 2019), at: <https://www.businessinsider.com/indonesia-capital-move-jakarta-borneo-environmental-concerns-2019-8?r=US&IR=T>

50 See e.g. <https://www.technologyreview.com/2017/04/18/152336/the-growing-case-for-geoengineering/>

51 "The Paris Agreement and Climate Geoengineering Governance: The Need for a Human Rights-Based Component" William C.G. Burns, CIGI Papers No. 111, (Oct 2016), at: <https://www.cigionline.org/sites/default/files/documents/CIGI%20Paper%20no.111%20WEB.pdf>

52 "The Paris Agreement and Climate Geoengineering Governance: The Need for a Human Rights-Based Component" William C.G. Burns, CIGI Papers No. 111, (Oct 2016), at: <https://www.cigionline.org/sites/default/files/documents/CIGI%20Paper%20no.111%20WEB.pdf>

53 See also "Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment" (Jul 2019), A/74/161, at para 83, at: <https://undocs.org/en/A/74/161>

Authoritarian Climate Action

Action to address climate change must be informed by exercise of civil and political rights including the rights to information, public participation in decision-making and access to justice.⁵⁴ Both business action on climate change, and business engagement with public policy on climate change, need to uphold and advance respect for these fundamental rights.

There are twin risks. First, that respect for participation and engagement, or other civil and political rights standards becomes an early casualty of severe climate impacts, or even that it becomes a casualty of recognition of possible future impacts.⁵⁵ Peoples' exercise of these rights will be adversely affected if states respond to the urgency of climate action or to its intense impacts through authoritarian measures.⁵⁶

The second risk is that efforts to address human rights or sustainable development-related concerns could be seen as slowing the pace of the reforms that are needed because of their emphasis on participation and engagement.⁵⁷ Without real commitment to active public participation and ongoing engagement, both public policy and business action on climate change can generate social unrest that further delays progress. The gilets jaunes protests which began in France in 2018 arguably provide one example of this.⁵⁸

Fairness and procedural justice increase public support for climate action,⁵⁹ and higher levels of social trust can also make it easier to steer policy reforms that are motivated by long-term public interest.⁶⁰

Businesses can find it difficult to challenge authoritarian action by governments, particularly if it superficially carries popular support. But no business commitment to respect human rights is credible if it doesn't extend to broad access to information and meaningful and ongoing public participation in decision making. Both businesses' public policy engagement, and respect for procedural rights in the climate action that they take; are important.

54 On this, see also "Taking Action on Human Rights and Climate Change" OHCHR (Sep 2016), at: <https://www.ohchr.org/Documents/Issues/ClimateChange/EM2016/TakingAction.pdf>

55 One expression of this perspective is James Lovelock's. In 2010 he argued that "even the best democracies agree that when a major war approaches, democracy must be put on hold for the time being. I have a feeling that climate change may be an issue as severe as a war. It may be necessary to put democracy on hold for a while." "James Lovelock on the value of sceptics and why Copenhagen was doomed" Guardian (Mar 2020), at: <http://www.guardian.co.uk/environment/blog/2010/mar/29/james-lovelock>

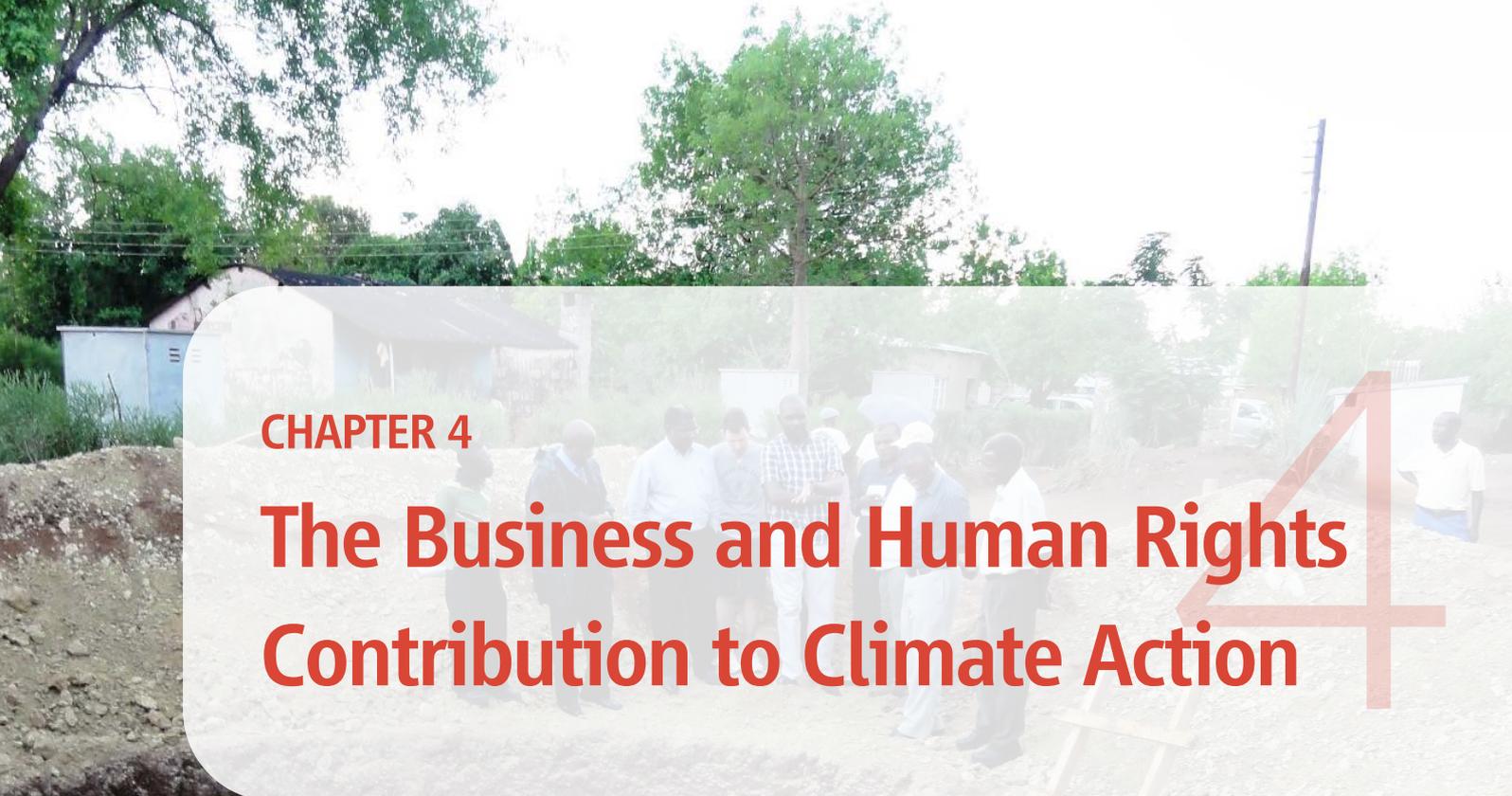
56 See for example "Climate Kings: how a new generation of authoritarian leaders are using climate change to seize power" Samuel Miller McDonald, New Republic (Jul 2018), at: <https://newrepublic.com/article/148861/climate-change-authoritarian-leaders>

57 A point made in "Implementing Just Transition After COP24" Kirsten Jenkins, Climate Strategies (2019), page 8, at: https://climatestrategies.org/wp-content/uploads/2019/01/Implementing-Just-Transition-after-COP24_FINAL.pdf

58 "Climate Politics after the Yellow Vests" Dissent (Spring 2019), at: <https://www.dissentmagazine.org/article/the-yellow-vests-uncertain-future> and "Who are the gilets jaunes and what do they want?" Guardian (Dec 2019), at: <https://www.theguardian.com/world/2018/dec/03/who-are-the-gilets-jaunes-and-what-do-they-want>

59 A point made in Charlie Wilson and Claire Hoolohan, "Can an urgent transition be a just transition?" Tyndall Centre for Climate Change Research, University of East Anglia, undated, 2020, at: <https://tyndall.ac.uk/news/2020s-are-climate-change-decade-can-urgent-transition-be-just-transition>

60 See further "Why a Just Transition is Crucial for Effective Climate Action, Inevitable Policy Response", Nick Robins and James Rydge (Sep 2019), at: <https://www.unpri.org/download?ac=7092>



CHAPTER 4

The Business and Human Rights Contribution to Climate Action



A biogas anaerobic digestion chamber under construction in Zambia.

SuSanA Secretariat (CC BY 2.0)

ZAMBIA

The Business and Human Rights Contribution to Climate Action

4

Action to meet the Paris Agreement goal of 1.5°C average global warming demands rapid transition out of greenhouse gas-emitting production and consumption and into the resilient communities and green and fair economies of a net zero future. The transitions that must happen to get there will test both the structures of many industrial sectors and their capacity to work towards more sustainable approaches.

Human rights approaches to business and climate change can help to accelerate mitigation and adaptation to climate change. And an international standard that already forms an internationally agreed framework for state obligations and corporate responsibilities – the UN Guiding Principles on Business and Human Rights (UNGPs) – can support this.

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Human rights approaches to business and climate change can help to accelerate mitigation and adaptation to climate change... [T]he UN Guiding Principles on Business and Human Rights (UNGPs) can support this.

The UN Guiding Principles on Business and Human Rights

The UNGPs were unanimously endorsed by the UN Human Rights Council in 2011, and provide the most widely recognised framework for clarifying state duties and business responsibilities on issues relating to business respect for human rights.⁶¹

In his July 2019 report, UN Special Rapporteur Professor David Boyd stated that businesses must adopt human rights policies, conduct human rights due diligence, remedy human rights violations for which they are directly responsible, and work to influence other actors to respect human rights where relationships of leverage exist. As a first step, Professor Boyd said that corporations should comply with the UNGPs as they pertain to human rights and climate change.⁶²

61 United Nations Guiding Principles on Business and Human Rights, United Nations (2011), at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

62 See “Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment” A/74/161 (Jul 2019), para 71, at: <https://undocs.org/en/A/74/161>

The UNGPs reaffirm the duty of states to protect people from human rights abuses involving third parties, including businesses; the responsibility of all businesses to respect human rights, which means avoiding infringing on the rights of others and addressing adverse impacts with which businesses are involved; and a shared responsibility for providing adequate remedy - both judicial and non-judicial - for people who have been harmed. Avoidance, prevention and mitigation of adverse human rights impacts are the cornerstone of guidance on business responsibilities to respect human rights; whilst the third pillar of the UNGPs recognizes the need for remediation if human rights violations occur.

The UNGPs adopt a further set of distinctions which set boundaries for business responsibility on human rights. As UNGP 13 states, businesses should avoid causing or contributing to adverse human rights impacts through their own activities, as well as “seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts.” The distinctions enable businesses to set boundaries for their approaches.

When a business causes (or may cause) an adverse human rights impact, it should take steps to cease or prevent the impact. Where a business contributes or may contribute to an adverse human rights impact, it should take steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible.

In circumstances where adverse human rights impacts arise, or may arise, by being ‘directly linked’ to harms through business relationships, the UNGPs place a responsibility on businesses to avoid adverse impacts and to prevent or mitigate them by exercising leverage. The related commentary to the UNGPs notes that if a business lacks leverage in such cases, there may be ways to increase it; for example through collaboration with other actors.

The UNGPs also provide a series of operational principles for businesses. These centre on three tools: statements of policy; human rights due diligence, and (in the case of adverse human rights that businesses have caused or contributed to) remediation. Human rights due diligence as set out in the UNGPs incorporates four elements: assessing actual and potential human rights impacts, integrating and acting upon the findings; tracking responses; and communicating how impacts are addressed.⁶³ This approach is often referred to in shorthand as ‘identification’, ‘prevention’, ‘mitigation’ and ‘accounting’.

The UNGPs have already either directly inspired, or been incorporated in, many other business governance frameworks, including the OECD Guidelines for Multinational Enterprises,⁶⁴ safeguard procedures of the International Finance Corporation,⁶⁵ national action plans on business and human rights,⁶⁶ and an increasing number of national laws.⁶⁷ Their recognition in these and other instruments creates entry points for business action on the human rights implications of climate change that are near-global in their sectoral and geographical reach.

63 UN GP 17; with more detail on each of the elements in UN GP 18, 19, 20 and 21, United Nations Guiding Principles on Business and Human Rights, United Nations (2011), at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

64 OECD Guidelines for Multinational Enterprises, OECD (2011), Part IV: Human Rights, at: <https://mneguidelines.oecd.org/2011HumanRights.pdf>

65 See the Board paper preceding the 2012 update to IFC’s Sustainability Framework for insights into changes made to reflect developments in the business and human rights field, at pages iv and 8, at: https://www.ifc.org/wps/wcm/connect/eea7879d-6833-4fc8-8cfc-57bea2492910/Board-Paper-IFC_SustainabilityFramework-2012.pdf?MOD=AJPERES&CVID=jiVQFY

66 “Guidance on National Action Plans on Business and Human Rights, OHCHR (Nov 2016), at: <https://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>

67 “A European Coalition for Corporate Justice review of human rights due diligence laws as at Sep 2019, at: https://www.business-humanrights.org/sites/default/files/documents/eccj_hrdd_pcl-comparative-table-2019-final.pdf

Linking the UNGPs to Climate Change

Although the UNGPs do not address climate change explicitly, they provide additional force to the case for business-led greenhouse gas emission reductions. Greenhouse gas emissions which businesses contribute to, or to which they are directly linked through their business relationships, clearly have adverse human rights impacts. In 2016, John Knox concluded that the international law duty of international cooperation itself gives rise to an obligation on states to fully implement all of their Paris Agreement commitments and to strengthen these.⁶⁸ His successor David Boyd concluded in 2019 that a failure to fulfil international climate change commitments is a *prima facie* violation of a state's obligations to protect the human rights of its citizens.⁶⁹ The 'respect' pillar of the UNGPs logically points to a corresponding responsibility on the part of businesses.

Advocates for effective climate action can make use of the UNGPs as an additional, and currently under-utilised, argument for action. However, what human rights due diligence means in practice in this context requires further elaboration, since it doesn't yet typically feature as a mainstream tool of the climate agenda.

The UNGPs clearly affirm in UNGP 22 that *"where businesses cause or contribute to adverse human rights impacts, they should provide for or cooperate in their remediation through legitimate processes."* Businesses are often wary of advancing laws and institutions for private sector climate change accountability. But because the business and human rights community brings with it an established discussion on the boundaries of remedy under the UNGPs, it has potential to trigger creative innovation on litigation for climate justice (see also Box 7 in Part 4 below).

Typology of Issues and Relevance of the UNGPs

The table below summarises the implications of the UNGPs at the intersection of business, human rights and climate change, taking account of business-human rights impacts in five areas:

Human rights impacts of climate change:

- 1) the human rights impacts that are distant in time and space from a business's greenhouse gas emissions; and
- 2) the human rights impacts of other actors' greenhouse gas emissions on vulnerable people in a business's value chain.

Human rights impacts of responses to climate change:

- 3) the direct human rights impacts of a business's efforts to reduce its greenhouse gas emissions (for example, when these have implications for workers' rights);

68 "Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment" A/HRC/31/521 (Feb 2016), at: <https://undocs.org/en/A/HRC/31/521>

69 Ibid.

4) the indirect human rights impacts of climate mitigation when a business has operations that are themselves driven by climate policy elsewhere and those operations (such as copper or cobalt mining, or biofuels production) have potentially adverse human rights impacts; and

5) the human rights impacts of business activities that contribute to climate change adaptation by delivering products and services that help communities, cities, regions and countries to adapt to climate change (such as coastal defences or development of drought-resistant seed strains).

The UNGPs can assist in addressing the human rights impacts of responses to climate change through the 'cause, contribute, direct linkage' framework. They also provide a framework for advancing the rights-sensitivity of business approaches to mitigation and adaptation. But they are less readily applied to the human rights impacts of climate change as a physical phenomenon - a conclusion that provides a strong case for additional efforts to integrate the management tools of climate change and human rights respectively.

Example

Relevance of the UNGPs

Other issues/questions

Human rights impacts of the business's current and future greenhouse gas emissions (looking out beyond the business)

- Human rights impacts of greenhouse gas emissions in another continent, 50 or 100 years from now (e.g. crop failure, sea level rise displacing coastal communities)
- Businesses 'contribute to' human rights impacts through their greenhouse gas emissions. They may also be 'directly linked' through their business relationships.
- There is a responsibility on businesses to identify, prevent and mitigate these human rights impacts.
- For human rights impacts of climate change that businesses have 'contributed to', the UNGPs provide for responsibility to provide remedy.
- Scope 1, 2 and 3 reporting under greenhouse gas accounting standards is imperfectly mapped onto the UNGPs, making alignment between the two difficult.

Human rights impacts of greenhouse gas emissions on stakeholders in the business's value chain (looking inwards)

- An importer sources agricultural products from vulnerable farmers whose crops, livelihoods and homes are vulnerable to sea level rise; a company builds a new facility in an area vulnerable to climate change-related flooding, drawing workers from surrounding communities to the area.
- The UNGPs principally address human rights impacts that a business entity has caused or contributed to, or to which it is directly linked; they do not directly address the human rights impacts of others' actions (greenhouse gas emissions) on the business and its stakeholders.
- Cumulative risks and impacts are not differentially treated under the UNGPs. However the example points to the potential to integrate climate risk into human rights impact assessment.

Example

Relevance of the UNGPs

Other issues/questions

Mitigation (looking out beyond the business)

- Human rights impacts on communities far away, e.g. resulting from a wholesale shift out of coal and into renewables, or through policies that promote biofuels, or through the human rights implications of increased demand for minerals associated with conflict or human rights abuses.
- Climate change mitigation can, at systemic level, be associated with human rights impacts well beyond individual businesses that take action to mitigate their emissions.
- These impacts are not addressed by the UNGPs unless they can be linked to the 'cause, contribute, direct linkage' framework.
- The UNGPs can provide focus for reflection on advocacy/ influencing activities that may contribute to mitigation policies that generate adverse human rights impacts elsewhere; but they do not direct businesses to apply a wider systems approach.

Mitigation (looking inwards)

- Impact on workers, surrounding communities, and supply chains, of reduction in use of fossil fuels as production inputs; e.g. in the transition out of coal.
- The 'cause, contribute, direct linkage' framework of the UNGPs is well suited to guiding responses to the human rights impacts of greenhouse gas mitigation efforts upon workers and communities and in supply chains.
- UNGPs provide helpful guidance to prevent and mitigate harm in the 'transition out'. The remedy pillar of the UNGPs can provide additional impetus for business engagement with other actors (including public authorities) on, e.g. transition funds, skills training, etc.
- The 'prevent, mitigate, remedy' framework is readily applied.
- Strong alignment potentially with the just transition concept – particularly 'transition out' (transition away from greenhouse gas emissions).

Adaptation (looking outwards and inwards)

- A business wins a major infrastructure contract to construct new sea defences;
- An agro-technology business develops a new strain of rice offering hope of climate change adaptation for coastal farmers facing increasing salination of fields;
- A community buying scheme enables members to contract a social enterprise to retrofit insulation at reduced cost.
- The UNGPs offer guidance on adverse human rights impacts of adaptation under the 'cause, contribute, direct linkage' framework.
- Climate change considerations bring additional emphasis to the potential for adaptation initiatives to strengthen community resilience – but this is not addressed by the UNGPs.

Beyond Safeguards: Enabling Human Rights in the Context of Climate Change

Too often, businesses that express commitment to respecting human rights have at the same time worked to hold back government action on climate change or associated environmental issues. In his July 2019 report, David Boyd concluded that all States should limit fossil fuel businesses and their industry associations from influencing climate, energy and environmental policies, “in light of... their well-known efforts to subvert and deny scientific evidence of climate change”.⁷⁰ As at 2019, oil and gas companies with the five largest stock market listings were reportedly together spending over USD200 million annually to “control” “delay” or “block” climate policies.⁷¹

The UNGPs do not set out explicitly how business should actively advance and promote realisation of human rights; but they can provide a catalyst for business action. Three examples below illustrate this potential.

Bringing stakeholders into adaptation analysis

In 2008, the Pew Center on Global Climate Change published a report which outlined an approach for businesses to analyse and adapt to the physical risks of climate change, addressing core business operations, the value chain, and the broader supply and demand network.⁷² The report did not, however, address the implications of those impacts for people working for businesses, or who are their stakeholders in other ways. A business and human rights perspective would broaden the analysis and help ensure that climate risk assessments generate insights into these wider relationships.

The difference between considering impacts of climate change on a business, and addressing them in their wider context, is significant. For example, when a large shipping company studies how the ports that it uses can be made more resilient to sea level rise, it is contributing to its own sustainability over time. Such analysis also provides an opportunity for the company to address supply chain resilience in ways that will benefit workers and communities connected to the industry as well. If that shipping company were to go a step further, to consider how other smaller users could be affected, and engage with them in joint assessment of risks, impacts and adaptation options, it could multiply the human rights benefits of its follow-up.

Similarly, a food retailer considering the implications of climate risk for the security of its supply chains should also be taking into account actual or potential impacts on customers’ access to safe and affordable food; access to water, land, shelter and livelihoods; and to its role in ensuring respect for labour rights of farmers and other suppliers in its value chain. Addressing its own resilience to weather or disaster-related shocks can open the possibility of supporting others in its supply chain to adapt to the possible impacts of climate change. For example, a business that relocates business-critical infrastructure from a climate change-vulnerable location to protect against storm surge should

70 “Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment”, A/74/161 (Jul 2019), para 77, at: <https://undocs.org/en/A/74/161>

71 “Oil Firms Spend Millions On Climate Lobbying” Statista (Mar 2019), at: <https://www.statista.com/chart/17467/annual-expenditure-on-climate-lobbying-by-oil-and-gas-companies/> For an example from the environment policy field, see also, e.g. “Trump weakened environmental laws after BP lobbying”, Guardian (Jan 2020), at: <https://www.theguardian.com/business/2020/jan/23/trump-weakened-environmental-laws-after-bp-lobbying>

72 “Adapting to Climate Change: a Business Approach, Pew Center on Global Climate Change” Frances G. Sussman and J. Randall Freed (Apr 2008), at: https://www.pewtrusts.org/-/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/global_warming/businessadaptationpdf.pdf

engage in dialogue with affected workers and other stakeholders. If it also factors the human rights impacts of climate change on vulnerable people into decision-making on relocation, it can support wider regional and national planning for climate adaptation.

Advocating for accountable governance and civil society

As climate impacts intensify, pressures within and across nations to undermine civic engagement and protections could become hallmarks of fundamentally different models of climate action. At one end of a notional axis might be those community and national settings where government responses to climate change are authoritarian in nature, bypassing some or all public participation, and eschewing freedom of expression and accountability, whilst continuing to rely on physical and natural sciences to inform climate policy to varying degrees. At the other end of the axis might be approaches that seek to embody respect for fundamental civil and political rights, even in the face of crisis; and that add insights from social science and legal fields to physical and natural science for sources of expert insight.

Businesses increasingly confront the reality of retaliation or reprisals against human rights defenders in some countries, and must consider how they can best support their critical role in upholding civil liberties and respect for rule of law in the context of climate change as well.⁷³ In December 2018, a cross-sectoral group of businesses signed a statement on civic freedoms, human rights defenders and the rule of law in which they strongly encouraged governments to protect civic freedoms everywhere.⁷⁴ Climate change will increase the need for businesses to cooperate as visible defenders of accountable governance and a strong civil society. A significant strength of the business and human rights agenda is that it has built a community of practice in which businesses are also guardians of continued public participation and engagement. Business actions to address climate change need to include support for communities as they develop their adaptive capacity and resilience. Effective business involvement in supporting community resilience from the bottom up in the face of climate risk can help to create enabling environments for continued respect for civil and political rights, even in crisis, and including contexts where governments may be unable or unwilling to fully implement their duties.

Ensuring just transitions for all

The concept of just transition is closely associated with concern for the impacts of climate transitions on workers and surrounding communities. Bringing business and human rights perspectives more directly to this central concern reinforces the importance of social dialogue, and also the need fully to consider impacts on wider communities.

Businesses 'transitioning out' of carbon-intensive production can act as champions of human rights, but their role is not limited to this. They can also lend their skills, insight and mentoring support to the tasks of planning thriving and resilient futures for communities and regions affected, whilst considering how best to align with wider policy frameworks.

The next section of this paper considers just transition in more detail, offering suggestions on what good practice on business and human rights could bring to ongoing efforts to strengthen implementation.

73 See the materials at <https://www.business-humanrights.org/en/new-body-of-research-clarifies-why-how-businesses-should-support-civic-freedoms-human-rights-defenders>

74 "Supporting Civic Freedoms, Human Rights Defenders And The Rule Of Law", at: https://www.business-humanrights.org/sites/default/files/Statement_Public_v2.pdf

Inspecting the blades of a 3MW Alstom wind turbine.

GPA Photo Archive / Project Drawdown

CHAPTER 5

Just Transition, Business, and Human Rights

5

Just Transition, Business, and Human Rights

5

Roots and International Take-up

Just transition is an increasingly visible framing for government and business action on climate change, from local to national levels. It is applied to guide transitions ‘out of’ greenhouse gas emissions-intensive production, and also processes of transitioning ‘into’ green and fair economies and communities, aligned with the idea of sustainable development.

Just transition has grassroots origins in activist efforts to align trade union and worker struggles with environmental action and concern for environmental justice. As a motive force for climate action, it can be understood as an expression of concern for climate justice (see Box 2).

The term just transition is widely recounted to have originated in the 1970s; the product of the efforts of US trade unionist Tony Mazzocchi to secure the support of environmentalists to help the Oil, Chemical and Atomic Workers’ Union to tackle health and safety issues at Shell refineries.⁷⁵ International union federations began to adopt ‘just transition’ language through a series of resolutions in the late 1990s, and climate change had become a focus by 1997, when the International Confederation of Free Trade Unions (one of the predecessors of the International Trade Union Confederation, ITUC) adopted a declaration that reportedly referred to “‘just transition’ policies that include measures for equitable recovery of the economic and social costs of climate change programmes”.⁷⁶ Take-up of just transition then reached the intergovernmental climate field in 2010, when agreements that emerged from COP16 in Cancún incorporated references to just transition.⁷⁷

Over 2009-2014, just transition was part of a joint UNEP, International Labour Organisation (ILO), ITUC and International Organisation of Employers Green Jobs Initiative, elements of which were later integrated within UNEP’s work on the ‘green economy’ and the ILO’s ‘green jobs’ and ‘decent work’ agendas.⁷⁸ The transition into ‘green and decent jobs’ aligned with sustainable development was then reflected in the ILO’s 2015 Guidelines on Just Transition Towards Environmentally Sustainable Economies and Societies for All (the ‘ILO Guidelines’, see Box 2 below).⁷⁹

“
Just transition has grassroots origins in activist efforts to align trade union and worker struggles with environmental action and concern for environmental justice.
”

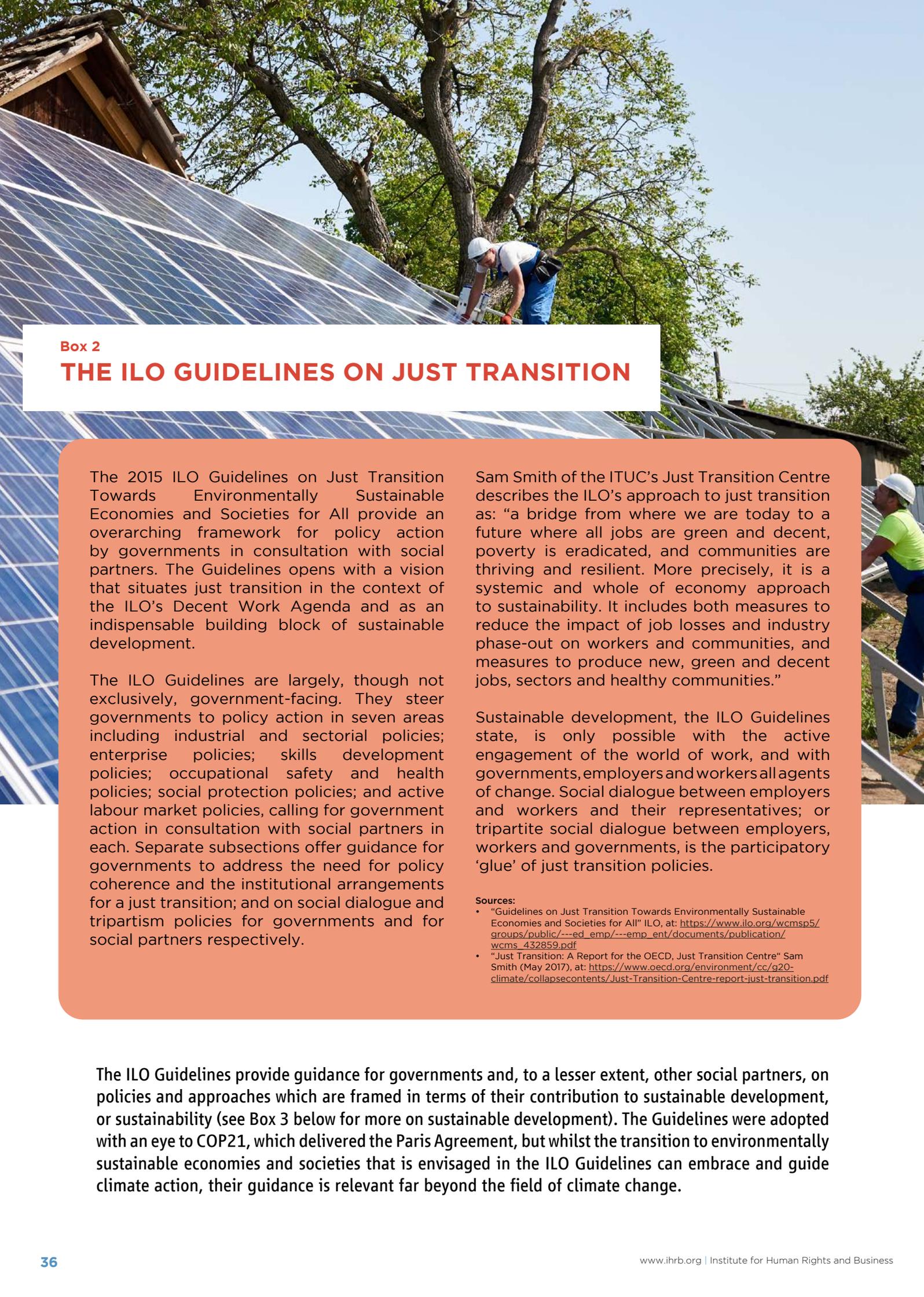
75 “Mapping Just Transition(s) to a Low-Carbon World” Just Transition Research Collaborative”, UNRISD (Dec 2018), at: [http://www.unrisd.org/80256B3C005BCCF9/\(httpPublications\)/9B3F4F10301092C7C12583530035C2A5?OpenDocument](http://www.unrisd.org/80256B3C005BCCF9/(httpPublications)/9B3F4F10301092C7C12583530035C2A5?OpenDocument)

76 Ibid.

77 “Framework Convention on Climate Change” FCCC/CP/2010/7/Add.1, Part I, para. 10, and Part E, fourth recital (Mar 2011), at <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

78 “Green Jobs” ILO (2008), at https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_158727.pdf

79 “Guidelines on Just Transition Towards Environmentally Sustainable Economies and Societies for All”, ILO (2015), at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_432859.pdf



Box 2

THE ILO GUIDELINES ON JUST TRANSITION

The 2015 ILO Guidelines on Just Transition Towards Environmentally Sustainable Economies and Societies for All provide an overarching framework for policy action by governments in consultation with social partners. The Guidelines opens with a vision that situates just transition in the context of the ILO's Decent Work Agenda and as an indispensable building block of sustainable development.

The ILO Guidelines are largely, though not exclusively, government-facing. They steer governments to policy action in seven areas including industrial and sectorial policies; enterprise policies; skills development policies; occupational safety and health policies; social protection policies; and active labour market policies, calling for government action in consultation with social partners in each. Separate subsections offer guidance for governments to address the need for policy coherence and the institutional arrangements for a just transition; and on social dialogue and tripartism policies for governments and for social partners respectively.

Sam Smith of the ITUC's Just Transition Centre describes the ILO's approach to just transition as: "a bridge from where we are today to a future where all jobs are green and decent, poverty is eradicated, and communities are thriving and resilient. More precisely, it is a systemic and whole of economy approach to sustainability. It includes both measures to reduce the impact of job losses and industry phase-out on workers and communities, and measures to produce new, green and decent jobs, sectors and healthy communities."

Sustainable development, the ILO Guidelines state, is only possible with the active engagement of the world of work, and with governments, employers and workers all agents of change. Social dialogue between employers and workers and their representatives; or tripartite social dialogue between employers, workers and governments, is the participatory 'glue' of just transition policies.

Sources:

- "Guidelines on Just Transition Towards Environmentally Sustainable Economies and Societies for All" ILO, at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_432859.pdf
- "Just Transition: A Report for the OECD, Just Transition Centre" Sam Smith (May 2017), at: <https://www.oecd.org/environment/cc/g20-climate/collapsecontents/Just-Transition-Centre-report-just-transition.pdf>

The ILO Guidelines provide guidance for governments and, to a lesser extent, other social partners, on policies and approaches which are framed in terms of their contribution to sustainable development, or sustainability (see Box 3 below for more on sustainable development). The Guidelines were adopted with an eye to COP21, which delivered the Paris Agreement, but whilst the transition to environmentally sustainable economies and societies that is envisaged in the ILO Guidelines can embrace and guide climate action, their guidance is relevant far beyond the field of climate change.



Box 3

SUSTAINABLE DEVELOPMENT

The term sustainable development crystallised with the publication in 1987 of the report of the World Commission on Environment and Development, *Our Common Future*. This contained what remains to this day the most frequently adopted definition; namely that sustainable development is: “development which meets the needs of the present without compromising the ability of future generations to meet their own needs.”

A series of United Nations conferences have helped to advance sustainable development as a global agenda. The UN Framework Convention on Climate Change was itself one of the outputs of the 1992 UN Conference on Environment and Development, dubbed the Rio Earth Summit. Then in 2012, the policy document that was the principal outcome of the UN Conference on Sustainable Development, *The Future We Want*, contained a major emphasis on the need for, and means for implementation of, a ‘green economy’ in the context of sustainable development and poverty eradication. The ‘green economy’ concept is particularly helpful, alongside the ILO Guidelines, in understanding what a transition ‘out of’ greenhouse gas emissions intensive production might transition ‘into’.

In 2015, member states of the United Nations adopted seventeen Sustainable Development

Goals (SDGs), which form part of the UN 2030 Agenda for Sustainable Development. The seventeen goals and their associated 2030 targets offer a plan of action ‘for people, planet and prosperity’ for all countries and all stakeholders, and reaffirm the commitment of UN members to human rights.

Business action has a strong contribution to make to delivering the SDGs; though the SDGs themselves do not directly guide businesses on how to do this. Goal 1 opens with the commitment to “end poverty everywhere.” Goal 8 is to: “[p]romote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.” Other SDGs address climate change (Goal 13), sustainable production and consumption (Goal 12), and inclusive societies, access to justice, and effective, accountable and inclusive institutions (Goal 16). Water, health, energy, housing, education, food, ecosystems, human settlements, infrastructure and industrialisation and gender equality are also each separately addressed.

Sources

- “Our Common Future” World Commission on Environment and Development (Oxford: Oxford University Press, 1987), at page 8.
- “The Future We Want” UNGA A/RES/66/288 United Nations (11 Sep 2012), Annex, at: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/288&Lang=E
- “Transforming our world: the 2030 Agenda for Sustainable Development” UNGA A/RES/70/1, United Nations (Oct 2015), at: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E.

From a climate change perspective, just transition encompasses both public policies and business action to deal with the impacts of industry transition for jobs and livelihoods (the transition 'out') as well as measures to generate the low or zero greenhouse gas emission jobs and livelihoods of a sustainable society (the transition 'in'). In a milestone development, 2015 saw agreement on a work-centred reference to just transition in the Preamble to the Paris Agreement: "Taking into account the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities".⁸⁰

In 2018, at COP24 in Katowice, at the heart of Poland's mining region; a Solidarity and Just Transition Silesia Declaration (Silesia Declaration)⁸¹ was launched at the initiative of the COP24 Presidency, and gained the support of 56 leaders.⁸² The Silesia Declaration refers to the Paris Agreement Preamble, addressing both adaptation and mitigation, and stating that the goal is to ensure "an effective and inclusive transition to low greenhouse gas emission and climate resilient development". However the Silesia Declaration goes beyond the workplace focus of the Paris Agreement reference to just transition to encompass its community dimensions. It refers to social dialogue to promote the wellbeing of "workers and their communities" when "developing nationally determined contributions, long-term low greenhouse gas development strategies and adaptation planning processes".⁸³ The significance of resilience to just transition was then emphasised in follow-up work by the Polish Presidency of COP24, which published a just transition Toolbox in 2019.⁸⁴ The Toolbox encompasses mitigation, adaptation and resilience, reaching well beyond the workplace focus of labour market transition.

Understanding the Breadth, and Depth, of Just Transition

The Paris Agreement and the ILO Guidelines reflect important intergovernmental milestones in just transition. As its origins show, however, just transition is neither exclusively an intergovernmental concept, nor exclusively a climate action concept. It has been defined in a variety of ways.

Thus, for example, Sam Smith of the ITUC's Just Transition Centre, characterising the ILO's approach to just transition, presents it as a systemic approach to sustainability:

*"Just transition is a bridge from where we are today to a future where all jobs are green and decent, poverty is eradicated, and communities are thriving and resilient. More precisely, it is a systemic and whole of economy approach to sustainability. It includes both measures to reduce the impact of job losses and industry phase-out on workers and communities, and measures to produce new, green and decent jobs, sectors and healthy communities."*⁸⁵

80 Paris Agreement, Preamble, at https://unfccc.int/sites/default/files/english_paris_agreement.pdf

81 "Solidarity and Just Transition" Silesia Declaration (2018), at: https://cop24.gov.pl/fileadmin/user_upload/Solidarity_and_Just_Transition_Silesia_Declaration_2_.pdf

82 "Solidarity and Just Transition: Summary Report of the Actions", Ministry of Environment, Poland (2019), at: https://cop24.gov.pl/fileadmin/KONFERENCJA_JT/Just_transition_E-BOOK.pdf

83 Ibid.

84 Ibid.

85 "Just Transition: A Report for the OECD" Sam Smith,, Just Transition Centre (May 2017), at: <https://www.oecd.org/>

The International Institute for Sustainable Development presents it as a flexible concept, whilst emphasising the significance of tripartism between workers, industry and governments, (without reference to communities):

"Just transition is not a fixed set of rules, but a vision and a process based on dialogue and an agenda shared by workers, industry and governments that need to be negotiated and implemented in their geographical, political, cultural and social contexts. It is implemented with a set of guiding principles, such as the International Labour Organization's guidelines for a just transition."⁸⁶

Examples of whole-of-economy characterisations of just transition as a route to sustainability can also be found in South Africa and in the approach taken by groups like the Just Transition Alliance. In both cases, a frame that extends beyond protection of workers is adopted. Thus, a presentation by the South African National Planning Commission characterises just transition as:

"a framework that has been developed by the trade union movement to encompass a range of social interventions needed to secure workers' jobs and livelihoods when economies are shifting to sustainable production, including avoiding climate change, protecting biodiversity, and ending war, among other challenges. It has been broadened beyond a focus on protecting workers only, but also encompasses wider society, especially the most vulnerable, viz poor and working class communities."⁸⁷

The Just Transition Alliance, noting that just transition is at the same time a principle, a process and a practice, emphasises both workers and communities, stating that:

"The principle of just transition is that a healthy economy and a clean environment can and should co-exist. The process for achieving this vision should be a fair one that should not cost workers or community residents their health, environment, jobs, or economic assets. Any losses should be fairly compensated. And the practice of just transition means that the people who are most affected by pollution – the frontline workers and the fenceline communities – should be in the leadership of crafting policy solutions."⁸⁸

It is clear from the Paris Agreement that just transition is a concept that can guide strategies 'out' of high levels of greenhouse gas emissions. Paul Polman, Chair of the International Chamber of Commerce and former CEO of Unilever, offers a straightforward description that extends beyond workers to communities:

[environment/cc/g20-climate/collapsecontents/Just-Transition-Centre-report-just-transition.pdf](https://www.environment.gov.za/sites/default/files/docs/justtransitiontoalowcarbon_telenoadialogue.pdf)

86 <https://www.iisd.org/topic/just-transition>

87 National Planning Commission, presentation to Talanoa Dialogue, South Africa, at: https://www.environment.gov.za/sites/default/files/docs/justtransitiontoalowcarbon_telenoadialogue.pdf

88 "What is Just Transition?" Just Transition Alliance, at <http://jtalliance.org/what-is-just-transition/>

"A just transition is a process that plans emissions reduction efforts to maximise positive impacts and minimise negative impacts on workers and communities."⁸⁹

Both the ITUC's Just Transition Centre⁹⁰ and a joint publication from the Just Transition Centre and The B Team⁹¹ (highlighted in Box 5 below) look beyond the workplace, whilst emphasising the significance of social dialogue and the world of work in the process of transition. And an example of a broad view of the relevance of just transition to climate action can be found in this statement by an official at the European Bank for Reconstruction and Development:

"Just Transition has several angles: from supporting regions and communities which may be left with a high share of stranded assets or labour, such as coal-mining regions, to helping vulnerable communities adapt to climate change, such as farmers in regions affected by increasingly severe droughts. It also examines the social impacts of climate change policies and projects – topics such as fuel poverty linked to the rise of energy costs."⁹²

Not only does this add the issue of adaptation by vulnerable communities to the more established focus on reduction of greenhouse gas emissions – it also brings examination of the social impacts of climate change policies and projects into just transition discourse.

Just as different views on the breadth of just transition exist, so too do views of its depth. A typology that has emerged from a research collaboration coordinated by the UN Research Institute for Social Development (UNRISD)⁹³ contains four types of just transition process. At one end are approaches that are associated with voluntary and market-driven processes of change based on the 'status quo'. The UNRISD typology then highlights approaches that recognise the need for greater equity and justice for workers and communities and place a value on social dialogue, but seek this within the existing economic system ('managerial reform'); approaches that seek both procedural and distributive justice, for example through the adoption of forms of business that are able to distribute governance and wealth more broadly ('structural reform'); and finally 'transformative approaches' that entail thorough overhaul of political and economic systems that are seen as driving environmental and social crisis.

Transformative approaches resonates with civil society organisations who advocate radical transformation of economic and governance architecture and social systems⁹⁴ (see Box 4). Analysis of the role of business within UNRISD's just transitions research expresses fear that corporate capture could dilute its transformative potential, in favour of managerial reform aligned with 'win-win' approaches limited by the market-based business case for action.⁹⁵ The business and human rights community's contribution to just transition will be judged, in part, by whether it is able to contribute to change that is more 'transformative' than 'status quo'.

89 ICC Principles for a Just Transition, at: <https://iccwbo.org/content/uploads/sites/3/2018/11/2018-icc-principles-for-a-just-transition-paper.pdf>

90 <https://www.ituc-csi.org/just-transition-centre>

91 "Just Transition: A Business Guide" B Team, Just Transition Centre (May 2018), at: <http://bteam.niceandserious.com/assets/reports/Just-Transition-A-Business-Guide.pdf>

92 Pierre Heilbronn, quoted in "Development banks focus on incorporating social justice into climate action", Vanora Bennett, EBRD, (Dec 2019), at: <https://www.ebrd.com/news/2019/development-banks-focus-on-incorporating-social-justice-into-climate-action.html>

93 "Mapping Just Transition(s) to a Low-Carbon World" Just Transition Research Collaborative", UNRISD (Dec 2018), at: [http://www.unrisd.org/80256B3C005BCCF9/\(httpPublications\)/9B3F4F10301092C7C12583530035C2A5?OpenDocument](http://www.unrisd.org/80256B3C005BCCF9/(httpPublications)/9B3F4F10301092C7C12583530035C2A5?OpenDocument)

94 See e.g. "Just Transition: How environmental justice organisations and trade unions are coming together for social and environmental transformation", Transnational Institute Workshop report (Feb 2020), at: https://www.tni.org/files/publication-downloads/web_justtransition.pdf

95 See "Business in Just Transition: the never-ending story of corporate sustainability", Nils Moussu, in "Just Transitions: Social Justice in the Shift Towards a Low-Carbon World" Edouard Morena, Duna Krause and Dimitris Stevis (2020), pp 56-75.



Indigenous Women traveled a day and a half by bus to reach the capital of Brazil and march alongside their relatives for a Brazil that recognizes their culture and land.
Natalia Gomes / Cobertura Colaborativa

Box 4
TRANSFORMATIVE GRASS-ROOTS PERSPECTIVES ON JUST TRANSITION

Just Transition is a vision-led, unifying and place-based set of principles, processes and practices that build economic and political power to shift from an extractive economy to a regenerative economy. This means approaching production and consumption cycles holistically and waste free. The transition itself must be just and equitable; redressing past harms and creating new relationships of power for the future through reparations. If the process of transition is not just, the outcome will never be. Just Transition describes both where we are going and how we get there.

- Climate Justice Alliance

[A] just transition... needs to re-envision our economy and our society through a widespread, grassroots-based debate. We suggest that some starting points can be identified in a more equal and ecologically sustainable

economy, based on people's solidarity that serves people's needs, not profit.

- GroundWork, South Africa

The term Just Transition describes an all-in, inclusive, and place-based process to build economic and political power to shift from an extractive economy to a regenerative one. A Just Transition requires solutions that ensure the well-being of workers and communities; address racial, economic and gender injustice; protect our health, environment and climate; and create meaningful, good jobs and a thriving and sustainable economy.

- Kentuckians for the Commonwealth

Sources:

- <https://climatejusticealliance.org/just-transition/>
- "The Destruction of the Highveld: Part 2 Burning Coal" David Hallows and Victor Munnik, (Nov 2017), at: http://groundwork.org.za/reports/gW_Report_2017.pdf
- <http://kftc.org/campaigns/just-transition>

B TEAM/ITUC AND ICC GUIDANCE

Guidance for business

The B Team and the ITUC's Just Transition Centre published a Business Guide to Just Transition in May 2018. The guide provides operational advice for businesses through three stages of action: engage, plan, enact. Rooting just transition in social dialogue makes the approach different in its sequencing to the familiar 'plan, do, check, act' management cycle. The Guide emphasises the importance of human rights related to work, including the rights to decent and favourable pay and conditions; the right to organise and collectively bargain; and the right to social protection. In June 2019, The B Team also launched a Business Pledge for Just Transition and Decent Jobs. Signatories recognise a shared responsibility to deliver a just transition and prosperous, green economy for all, ensuring that new jobs created in low emissions sectors are fair, decent and inclusive, and committing to social dialogue; workers' rights; social protection, and wage guarantees. The pledge includes support to countries to support a just ecological transition by formulating national plans for a just transition and decent jobs.

Principles for government, by business:

The International Chamber of Commerce's December 2018 Principles for a Just Transition bring a business perspective to just transition in climate policy planning at all levels, but don't refer to processes of social dialogue. The ICC's three Principles are:

1. Recognise a just transition of the workforce and the creation of decent quality jobs in the Nationally Determined Contributions (NDCs);
2. Ensure that government policies enable workers and their communities to have the skills capabilities and investments needed to thrive in the face of transformative change;
3. Include business – a key stakeholder and agent for the delivery of a just transition – in climate policy planning at all levels.

Sources:

- "Just Transition Centre and the B Team" Just Transition: A Business Guide (May 2018), at: https://www.ituc-csi.org/IMG/pdf/just_transition_-_a_business_guide.pdf
- "Taking ambition to the next level" The B Team (2019), at: <https://docs.google.com/presentation/d/1gpbrEEAfJlyXdFbEM8ZuJCxdrTkkQEck3VwNMQZxDM/edit#slide=id.p5>
- ICC Principles for a Just Transition, at: <https://iccwbo.org/content/uploads/sites/3/2018/11/2018-icc-principles-for-a-just-transition-paper.pdf>

Implementing Just Transition

The Paris Agreement and the ILO Guidelines provide international anchors for just transition. Resources to provide guidance are also available from many other sources.

The ITUC's Just Transition Centre, established in 2016, provides resources on just transition rooted in social dialogue. The Centre empowers workers and their allies through capacity-building, facilitating peer-to-peer skill and experience sharing, and sharing examples of just transition processes and plans. It also documents best practice in social dialogue processes and initiates and supports social dialogue processes alongside making strategic inputs to national and global policy dialogues and planning. Together with The B Team, the Centre published a Business Guide to Just Transition in May 2018. In December 2018 the International Chamber of Commerce published guidance for government in the form of its Principles for a Just Transition (see Box 5 above).

SECTORAL INITIATIVES: COAL AND FINANCE

Policy guidance for coal transitions

From 2016-2019, the Coal Transitions international research platform brought together partners from fourteen countries to develop trajectories and policy guidance for deep transitions in the coal sector in major coal-using countries. Countries addressed include Poland, Germany, South Africa, China, India and Australia. The platform's most recent report, published in February 2020, reviews literature on just transition for fossil fuel workers, finding a predominant focus on OECD countries and on coal workers.

Lessons from coal mine closure for governments

A November 2018 World Bank Group publication, *Managing Mine Closure: Achieving Just Transition for All* has the objective of sharing lessons from coal mine closure with governments. The report notes that in addition to clean energy policies, other significant drivers of change include mine mechanization and slowing demand resulting from energy efficiency improvements. Nine lessons are presented in three categories: policies and strategy development; people and communities (which focuses on workers and their wider communities) and land and environmental remediation.

Investor implications of Just Transition

Successful processes of just transition will need to mobilise capital to finance the investments needed. Multiple initiatives and analyses address the application of just transition to the finance sector. In 2019 the Business and

Human Rights Resource Centre published *Fast and Fair Renewable Energy Investments: a Practical Guide for Investors*. Researchers with the Inevitable Policy Response partnership suggest that successful country transitions have five key elements: anticipating changes in advance to enable adjustment; empowering those impacted so that human rights are respected; investing in the human and social capital and capabilities needed to underpin transition; focusing on spatial and place-based dimensions; and delivering the capital needed from public and private sectors. Inevitable Policy Response partner the Grantham Research Institute has also been involved in a number of other projects and initiatives designed to address the implications of just transition for investors and to provide guidance for action. They include a guide for investor action prepared together with the Harvard Initiative for Responsible Investment and published by the PRI (the Principles for Responsible Investment); UK-based analysis with the University of Leeds on how investors can integrate social impact and place-based financing into climate strategies; and, in October 2019, publication of an investor roadmap on the just transition in the UK.

Sources:

- See <https://coaltransitions.org/about/>
- "A Systematic Review of the Key Elements of a Just Transition for Fossil Fuel Workers", Sandeep Pai, Smart Prosperity Institute (Apr 2020), at: <https://institute.smartprosperity.ca/sites/default/files/transitionforfossilfuelworkers.pdf>
- "Managing Mine Closure: Achieving Just Transition for All" World Bank Group (Nov 2018), at: <http://documents.worldbank.org/curated/en/484541544643269894/>
- "Fast and Fair Renewable Energy Investments: A Practical Guide for Investors" Business and Human Rights Resource Centre (2019), at: <https://www.business-humanrights.org/en/fast-fair-renewable-energy-a-practical-guide-for-investors>
- "Why a Just Transition is Crucial for Effective Climate Action, Inevitable Policy Response" Nick Robins and James Rydge (Sep 2019), at: <https://www.unpri.org/download?ac=7092>
- "Climate Change and the Just Transition: A Guide for Investor Action" Nick Robins, Vonda Brunsting and David Wood (Dec 2018), at: <https://www.unpri.org/download?ac=9452>
- See generally the material and publications, at: <http://www.lse.ac.uk/GranthamInstitute/investing-in-a-just-transition-uk-project/>



The business and human rights community's contribution to just transition will be judged, in part, by whether it is able to contribute to change that is more 'transformative' than 'status quo.'



Just transition lends itself to implementation as a site-level, sectoral, regional, or economy-wide process. At sectoral level, the coal and finance sectors have received particular attention (see Box 6 above). The outputs of a 2019 multi-stakeholder UN Climate Action Summit included several just transition commitments, which included a commitment from a group of nine multilateral development banks to actions in support of “a just transition that promotes economic diversification and inclusion.”⁹⁶

Businesses in the renewable energy sector have also taken action. In December 2019, the ILO launched a Climate Action for Jobs initiative.⁹⁷ Companies from energy and industrial sectors, including the world's largest renewable energy developers, pledged that new jobs created in low emissions sectors would be fair, decent and inclusive. They also committed to complying with four standards with respect to their own employees and to working only with contractors meeting these standards.⁹⁸

At national level, policy-makers in a number of countries have now begun to drive development of 'whole-of-nation' just transition processes and policies, typically supported through multi-stakeholder commissions or dialogue processes (see Box 7 below). At the 2019 UN Climate Action Summit,⁹⁹ leaders from 47 countries made commitments to support a just ecological transition, including by formulating national plans for just transition and creating decent work and green jobs.¹⁰⁰

National processes of just transition planning, like Scotland's Just Transition Commission or the German Coal Commission, as well as experience with coal transitions in Germany and Canada, among others, show that success depends on coordinated actions in which local and regional government, community members, businesses and workers are all involved in planning and implementation, with each playing a distinct role.

Public sector financial support is often associated with national transitions 'out' of emissions-intensive production, as in the Canadian example in Box 7. In Europe, policy measures include a Just Transition Mechanism which will provide finance targeted to a 'fair and just green transition' as part of a European Green Deal's Investment Plan.¹⁰¹ Released in December 2019, the European Green Deal will guide the EU to net zero greenhouse gas emissions by 2050, with a 50-55% cut in carbon emissions, compared to 1990 levels, by 2030.¹⁰²

96 High Level MDB Statement: for publication at the UNSG Climate Action Summit, (Sep 2019), at <http://www.ebrd.com/joint-mdb-statement-climate-finance>

97 "Report of the Secretary General on the 2019 Climate Action Summit and the Way Forward in 2020" UN (2019), at: <https://www.cas2021.com/documents/reports/2019/12/11/uncas-report-and-call-to-action>

98 "Report of the Secretary General on the 2019 Climate Action Summit and the Way Forward in 2020" UN (2019), at: <https://www.cas2021.com/documents/reports/2019/12/11/uncas-report-and-call-to-action>

99 <https://www.un.org/en/climatechange/un-climate-summit-2019.shtml>

100 "Report of the Secretary General on the 2019 Climate Action Summit and the Way Forward in 2020" UN (2019), at: <https://www.cas2021.com/documents/reports/2019/12/11/uncas-report-and-call-to-action>

101 "The European Green Deal Investment Plan and Just Transition Mechanism Explained" European Commission (Jan 2020), at: https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_24

102 For a summary, see e.g. "The EU releases its Green Deal. Here are the key points", Climate Home News (Dec 2019), at: <https://www.climatechangenews.com/2019/12/12/eu-releases-green-deal-key-points/>

Working on the Pelamis Wave Power machine in Orkney, Scotland.
Steve Morgan / Greenpeace



Box 7
NATIONAL APPROACHES

Canada

A Just Transition Task Force was convened by the federal government in late 2017 to study coal phase-out and recommend federal transition policies. In early 2019, the members of the Task Force reported to government on their work, making ten recommendations on a just transition plan for workers and communities¹ In 2016, the federal government announced a phase-out of coal-fired electricity by 2030. In 2016, the government of Alberta announced that it would make staged transition payments to companies forced to close.² Labour unions worked to conclude a transition settlement which included income support, a relocation allowance, and a pension bridge for older workers.³ In 2017, the government of Alberta introduced a Coal Community Transition Fund to help local governments prepare local economies for the closure of coal mines and power plants,⁴ and a separate Coal Workforce Transition Program to provide financial assistance as coal workers prepare to start new jobs or to retire.⁵ In 2019, researchers at the Parkland Institute published an analysis of Alberta’s coal phase-out and electricity transition process through the lens of just transition.⁶ Among other issues, they highlight the benefits of the transition for air quality, but point out that coal will mostly be replaced by gas, with post-transition electricity production continuing to contribute to climate change.

Scotland

A Just Transition Commission was formed

in 2017 to advise Scottish Ministers on how to apply the ILO Guidelines to Scotland, including implementation of the principle of design and delivery of low carbon investment and infrastructure, making all possible efforts to create decent, fair and high value work, in a way which does not negatively affect the current workforce and overall economy. The Commission is working to prepare a report that will provide practical, realistic, and affordable recommendations for action.⁷

Germany

The transition of Germany’s Ruhr away from coal production and associated industry is often cited as a practical example of the just transition concept in practice. In the 1950s the region’s coal and steel sectors together employed more than a million people, in a population of six million. As the industries declined in the 1960s when prices reduced below the cost of production, the government implemented subsidies. Alongside these subsidies, the government invested in education, and in rehabilitation of former mine sites and plants into leisure facilities. Gradually the region transitioned to a service economy. The process of diversification was supported through industrial and technology policy at federal and regional levels, and worker participation was central in the transition process. In 2018, the German government established a multi-stakeholder German Coal Commission to facilitate coal phaseout and a just transition process. The Commission’s recommendations include phasing out coal by 2038 at the latest.⁸

South Africa

Multiple South African advocacy and research initiatives address the challenges of climate justice, just transition, and just energy transition in South Africa.⁹ One of the most carbon-intensive economies in the world; as at 2015, South Africa relied on coal to generate some 92% of its electricity. The term Just Transition appears in the country's 2015 Intended NDC,¹⁰ but implementation is politically sensitive and whilst there is investment in efficiency improvements, coal generating capacity is set to increase.¹¹ However, there are policy spaces that provide opportunities to advance implementation of just transition, notwithstanding its significant political ramifications. Among them are the National Planning Commission's Stakeholder Dialogue on Pathways for a Just Transition,¹² the National Employment Vulnerability Assessment, and Sector Job Resilience Plans.¹³ In November 2019, researchers at the University of Witwatersrand produced an accessible booklet on Climate Change and the Just Transition from Coal,¹⁴ with the support of Friedrich Ebert Stiftung. Environmental justice group Groundwork has also directly addressed just transition in the coal sector and argues that the Environment Right in the South African constitution provides justification for a redefinition of the central organising principle of economy to be sustainability founded on economic, social and environmental justice, as the basis for a just transition.¹⁵

Philippines

A two-year pilot application of the ILO Guidelines between 2016-2018 aimed to support the 2015 Philippine Green Jobs Act, which is expected *"to enable the Government, together with the employers and workers' organizations and other stakeholders, to*

*leverage the process of structural change towards a sustainable, low carbon, climate-resilient economy to create decent jobs on a significant scale."*¹⁶ The Green Jobs Act makes decent work and human capital development central to pursuit of a climate-resilient and environmentally sustainable pathway. The Act requires the Department of Labor and Employment (DOLE) to formulate a National Green Jobs Human Resource Development Plan with the primary objective of "enabling and sustaining the transition into a green economy and the generation of green jobs towards more employment and equal opportunities and the promotion of social justice and workers' welfare."¹⁷

Sources

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2. "Alberta to pay three power companies \$1.36 billion to shut their coal-fired plants early" Financial Post (Nov 2016), at: <https://business.financialpost.com/commodities/energy/alberta-strikes-1-36-billion-deal-with-coal-companies-as-part-of-plan-to-shut-down-plants-early>
3. "Getting it Right - 12 Lessons from Alberta fight for a Just Transition" ITUC (Nov 2018), at: <https://www.ituc-csi.org/Just-Transition-12-lessons-from-Alberta>
4. <https://www.alberta.ca/coal-community-transition-fund.aspx>
5. <https://www.alberta.ca/support-for-coal-workers.aspx>
6. "Alberta's Coal Phaseout: A Just Transition?" Ian Hussey and Emma Jackson (Nov 2019), at: https://www.parklandinstitute.ca/albertas_coal_phaseout
7. <https://www.gov.scot/groups/just-transition-commission/>
8. Summary based on "Why a Just Transition is Crucial for Effective Climate Action, Inevitable Policy Response" Nick Robins and James Rydge (Sep 2019), at: <https://www.unpri.org/download?ac=7092>. See also "Mapping Just Transition(s) to a Low-Carbon World" Just Transition Research Collaborative", UNRISD (Dec 2018).
9. See the resources at <https://lifeaftercoal.org.za/about/just-transition>
10. "South Africa's Intended Nationally Determined Contribution" (Aug 2015), at: https://www.environment.gov.za/sites/default/files/docs/sanational_determinedcontribution.pdf
11. "Mapping Just Transition(s) to a Low-Carbon World" Just Transition Research Collaborative", UNRISD (Dec 2018).
12. "National Development Plan - 2030" https://www.environment.gov.za/sites/default/files/docs/justtransitiontoalowcarbon_telenoadialogue.pdf
13. "The End of Coal? Planning a "just transition" in South Africa" Stockholm Environment Institute (Feb 2019), at: <https://www.sei.org/publications/the-end-of-coal-planning-a-just-transition-in-south-africa/>
14. See "Society, Work and Politics Institute, Climate Change and the Just Transition from Coal", University of Witwatersrand (Nov 2019), at: https://2b912727-9f2a-44dd-9a10-190714b850bf.filesusr.com/ugd/de7bea_6e103ad4803540d4a0309550249edd4c.pdf
15. "Coal Kills: Research and Dialogue for a Just Transition" (Sep 2018), at https://lifeaftercoal.org.za/wp-content/uploads/2018/10/Coal_Kills.pdf
16. Project Fact Sheet (Feb 2019), at: https://www.ilo.org/manila/publications/WCMS_501118/lang-en/index.htm
17. "An Act Promoting the Creation of Green Jobs, Granting Incentives and Appropriating Funds Therefor", Republic Act 10771, 2015, Section 6, at: https://www.senate.gov.ph/republic_acts/ra%2010771.pdf



Working on the Zeya hydroelectric station in Russia.



Box 8

CLIMATE ACTION AND THE CIRCULAR ECONOMY

The circular economy approach offers a response to climate change and to unsustainable use of natural resources through the materials and greenhouse gas emissions-intensity of economic systems. Rather than relying on increased energy efficiency and a shift to renewables to power the shift to net zero emissions, the circular economy concept proposes re-engineering of whole production and consumption systems in ways that reduce their greenhouse gas emissions. In 2015, Accenture valued the economic opportunity of the circular economy at USD4.5 trillion to 2030.

A circular economy is one in which products, services and entire economic systems eliminate waste, maximising post-consumer reuse and recycling within the boundaries of the economic system. Instead of disposing of used products and materials, in the circular economy they are collected, reused and remade in a closed loop that maximises the life and value of the raw materials used along the value chain. A 2019 paper from the Ellen MacArthur Foundation shows how applying circular economy strategies in five key areas (cement, aluminium, steel, plastics, and food) can eliminate nearly half of the remaining carbon emissions from the production of goods. The paper also argues that circular economy approaches can build resilience to climate change by decoupling economic activity from the consumption of raw materials that are vulnerable to climate risks, and through increased resilience of natural systems from transformation of agricultural practice.

The Circularity Gap Reporting Initiative reports annually on how much of global economic activity falls within the circular economy concept. In 2019 it reported that just 9% of materials are reused globally, though emissions are closely linked to resource use. The report proposes five circular economy concepts to mitigate climate change: extending product lifetime and improving use-intensity; enhancing recycling to use waste as a resource; and reducing material use and prioritising low-carbon materials through circular design.

The idea of the circular economy is flourishing in policy and in practice. A Platform for Accelerating the Circular Economy initiated by the World Economic Forum and now hosted by the World Resources Institute convenes a group of leaders committed to advancing the 'circular economy transition'. In 2017, the British Standards Institute launched a circular economy standard, BS 8001: 2017, on implementing the principles of the circular economy in organizations. The EU launched its Circular Economy Action Plan in March 2020.

Sources:

- "Completing the Picture: How the Circular Economy Tackles Climate Change", Ellen MacArthur Foundation (2019), at: www.ellenmacarthurfoundation.org/publications
- The Circularity Gap Report (2019), at: <https://circularity-gap.world/about>
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- "Waste to Wealth: Creating Advantage in A Circular Economy" Accenture Strategy (2015), at: https://www.accenture.com/t00010101T000000Z_w/ao-pt/acnmedia/PDF-19/Accenture-Waste-Wealth-Transcript.pdf
- "Circular Economy Action Plan: for a cleaner and more competitive Europe" European Commission (2020), at: via https://ec.europa.eu/environment/circular-economy/pdf/new_circular_economy_action_plan.pdf

The ILO Guidelines clearly position just transition in the context of sustainable development. However, their limited direct guidance for businesses provides considerable room to supplement just transition approaches with good practice from the business and human rights field, and also with the business tools of the sustainability field.

Alongside environment laws, economic instruments such as environmental taxes, and legal recognition for environmental rights,¹⁰³ sustainable development has inspired a wide range of business tools. These include management system innovation and standards¹⁰⁴, reporting¹⁰⁵, labelling and accounting standards¹⁰⁶ as well as development of good practice in business approaches to community consultation and community development, consistent with commitment to respect for human rights.¹⁰⁷ A variety of supporting policy concepts such as life cycle assessment¹⁰⁸, the 'green economy'¹⁰⁹ and the 'circular economy'¹¹⁰ aim to decouple production from over-consumption of finite natural resources. Box 8 above highlights the particular significance of the circular economy concept to reduction of greenhouse gas emissions.

Five principles of sustainable development from the 1992 Rio Declaration¹¹¹ are particularly relevant to human rights-informed business action on climate change, and complementary to just transition:

- The principle of **intragenerational equity** (i.e. fairness or justice between people alive now) can be understood as a complement to the need for action to address the rights and needs of those currently most vulnerable to climate change.
- The principle of **intergenerational equity** (i.e. fairness between people alive today and those who will be born in the future) speaks to the implications of climate change for future generations. It can also help to drive advances in human rights law, which currently recognises rights of future generations only to a limited extent,¹¹² and therefore offers little in the way of concrete direction for business on this fundamental challenge.
- The **polluter pays principle**¹¹³ (i.e. that polluters should bear the costs of pollution – both in terms of prevention and remedial action) addresses action to mitigate the human rights impacts

103 "Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters" UNECE (1998), at: https://treaties.un.org/doc/Treaties/1998/06/19980625%2008-35%20AM/Ch_XXVII_13p.pdf and the 2018 Regional Agreement on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters in Latin America and the Caribbean, the Escazú Agreement, at: https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf. See also <https://www.cepal.org/en/escazuagreement>. The agreement will enter into force after it has been ratified by eleven signatories. There are currently eight ratifications.

104 See e.g. the ISO 14000 family of environmental management standards: <https://www.iso.org/iso-14001-environmental-management.html>

105 See e.g. the work of the Global Reporting Initiative: <https://www.globalreporting.org/Pages/default.aspx>

106 See e.g. the work of the Sustainability Accounting Standards Board: <https://www.sasb.org/>

107 See e.g. the various guidance materials developed by the International Council on Mining & Metals, at: <https://www.icmm.com/en-gb/society-and-the-economy/mining-and-communities/community-relations-and-development>

108 See e.g. "ISO 1440 standard: Environmental management – Life cycle assessment – Principles and framework 2006", at: <https://www.iso.org/standard/37456.html>

109 For business-facing guidance, see e.g. "Green Economy Roadmap: a guide for business, policy-makers and society" ICC (2012), at: https://iccwbo.org/content/uploads/sites/3/2012/08/Green-Economy-Roadmap-a-guide-for-business_policy-makers-and-society.pdf

110 See e.g. "CEO Guide to the Circular Economy" World Business Council for Sustainable Development, 2017, at: https://docs.wbcsd.org/2017/06/CEO_Guide_to_CE.pdf

111 See e.g. the Rio Declaration on Environment and Development A/CONF.151/26, (12 Aug 1992), at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

112 "Beyond the short term: Legal and institutional space for future generations in global governance" Halina Ward pp3-36, (2012)

113 Rio Declaration, Principle 16, A/CONF.151/26, (Aug 1992), at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

of climate change and the need to provide remedy to people adversely affected by climate change, including actions involving businesses.

- The **precautionary principle**, sometimes referred to, with less force, as an ‘approach’¹¹⁴ (i.e. lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent irreversible environmental degradation) indicates that actions should be taken to prevent and mitigate emissions even when science is not fully certain.
- Principles of **access to information, public participation, and access to justice** are based on the insights that sustainable development is best pursued with the involvement of all concerned citizens, including their access to environmental information held by public authorities, opportunities to participate in decision-making processes, and effective access to judicial and administrative proceedings.¹¹⁵ These principles reinforce business respect for civil and political rights and the business contribution to climate action.

Despite agreement on principles however, even some basic definitional issues associated with sustainable development remain contested. In particular, advocates of ‘strong’ sustainability argue that trade-offs between social, natural and financial capital can only be acceptable if the total stock of natural capital remains intact. On the other hand, a more dominant ‘weak’ approach emphasises integration of environmental, social and economic considerations, implying that trade-offs may be acceptable.¹¹⁶ Where ‘integration’ has human rights implications, the weak approach can be at odds with good practice under the UNGPs, which view all human rights as equal and indivisible. A negative impact on one group’s human rights, or on one human right, cannot under the UNGPs be traded for a human rights benefit elsewhere. Respect for the UNGPs lends itself, in this sense, to stronger approaches to sustainable development, and therefore potentially to more transformational approaches to just transition.

Evolving Directions

This brief review of approaches to the breadth and depth of just transition points to two fault lines for differences in approach that are particularly relevant to the added value of the business and human rights agenda: 1) the extent to which the concept of just transition extends beyond the workplace to consideration of rights in the community; and 2) the extent to which just transition addresses the full range of responses to climate change, including adaptation as well as mitigation.

As efforts to implement just transition commitments continue to evolve, new emphases and approaches are opening out and advancing the practical relevance of the concept. Most just transition initiatives to date have been implemented in high-income rather than middle- or low-income countries. But this

114 Rio Declaration, Principle 15, A/CONF.151/26, (Aug 1992), at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

115 Rio Declaration, Principle 10, A/CONF.151/26, (Aug 1992), at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

116 “ISO 26000 and global governance for sustainable development” Halina Ward, International Institute for Environment and Development (2012), pp 39-40, at: <https://pubs.iied.org/pdfs/16507IIED.pdf>

too is changing. Work has begun to bring just transition into a new generation of NDCs,¹¹⁷ and just transition initiatives can already be found in a number of middle-income countries. (See Box 7 above for examples from South Africa's coal sector, and efforts to stimulate green jobs in the Philippines). The UN Research Institute for Social Development's Just Transition Research Collaborative¹¹⁸ focuses on the implications of just transition for developing countries, and in 2018 the International Institute for Sustainable Development published analysis to support efforts by governments of both developed and developing countries to "make energy transitions just", building on research and case studies in countries including Egypt, Indonesia, and India.¹¹⁹

As experience with just transition in middle and low-income countries grows, human rights issues connected to vulnerability and community resilience beyond the workplace may gain increasing prominence. Land rights, rights dimensions of climate adaptation and community development, and the potential for business action to support public sector capacity-building on climate change, are among the issues that may come to the fore.

In sectoral and locally- or regionally- based just transition initiatives, the sectors that have so far received the greatest attention are finance, coal, and other energy-intensive industries. However, a 2017 briefing from the ITUC's Just Transition Centre also highlights the implications of just transition for construction, building and facilities design, agriculture, the renewable energy sector, the transition to low-carbon transport, and processes of transformation towards circular economies.¹²⁰

A small number of initiatives has also analysed processes of urban and food systems transitions against a variety of visions of 'just transition'. For example, an opinion piece for the World Economic Forum points to both sustainable intensification and agroecological farming from a just transition perspective,¹²¹ and in 2019, ActionAid published Principles for a Just Transition in Agriculture, grounded in a move away from intensive industrialised approaches "towards food systems based on agroecology and less and better meat".¹²²

Why Good Practice on Business and Human Rights Could Strengthen Just Transition

From a climate change perspective, the outcomes of just transition strategies need to be judged not only in terms of their contribution to delivering green and decent jobs, but also to low carbon or ultimately net zero greenhouse gas emissions at the relevant level (be it site, city, sector, region, or

117 "Incorporating just transition strategies in developing country Nationally Determined Contributions, Reflection Paper, Climate Strategies" Peter Glynn, Andrzej Błachowicz, Mark Nicholls (Mar 2020), at: https://climatestrategies.org/wp-content/uploads/2020/03/CS_Just-Transition-NDCs-report_web.pdf

118 [https://www.unrisd.org/unrisd/website/projects.nsf/\(httpProjects\)/5A869CB10DDFOAEDC125824F0057605B?OpenDocument](https://www.unrisd.org/unrisd/website/projects.nsf/(httpProjects)/5A869CB10DDFOAEDC125824F0057605B?OpenDocument)

119 "Real People Real Change: Strategies for just energy transitions" Philip Gass et al, IISD (Dec 2018), at: <https://www.iisd.org/publications/real-people-real-change-strategies-just-energy-transitions>

120 "Just Transition – Where are we now and what's next? A guide to national policies and international climate governance" ITUC Climate Justice Frontline Briefing 2017, at: https://www.ituc-csi.org/IMG/pdf/ituc_climate_justice_frontline_briefing_2017.pdf.

121 "How to fight climate change in agriculture while protecting jobs" Laxmi Pant, WEF (Feb 2019), at: <https://www.weforum.org/agenda/2019/02/how-to-fight-climate-change-in-agriculture-while-protecting-jobs>

122 "Principles for a Just Transition in Agriculture" ActionAid (Dec 2019), at: https://actionaid.org/sites/default/files/publications/Principles%20for%20a%20just%20transition%20in%20agriculture_0.pdf

country). Bringing a human rights lens to bear on understanding just transition as a guide to climate action quite naturally integrates respect for workers' rights and resilient, thriving communities into these outcomes. And both business and human rights good practice, and just transition commitments, provide frameworks that recognise the rights of people who are most vulnerable to the adverse impacts of climate action.

Good business and human rights good practice can strengthen implementation of just transition in at least four respects:

- First, by highlighting the importance of **procedural rights** such as rights of access to information and of participation in just transition, not only as aspects of fundamental labour rights that can be adversely impacted by climate action, but also as civil and political rights applying to all people.
- Second, by bringing a **wider range of human rights perspectives** into planning and implementation of just transition strategies. This can enhance just transition's ability to serve climate justice objectives (see Box 9) and its positive outcomes beyond the workplace boundaries of businesses directly involved.
- Third, **human rights due diligence offers a practical tool** for addressing the implications of just transition processes not only for workers' rights and procedural rights at community level, but also for land rights, rights of indigenous people, and economic and social rights to decent work, access to education, health, water, and housing. When just transition initiatives are a response to climate change, these human rights can also be implicated, as discussed in Part 2. Similarly, business action informed by full recognition of wider human rights responsibilities can bring to life gender responsiveness and respect for indigenous rights that accompany the general reference to human rights in the preamble of the Paris Agreement.
- Fourth, human rights due diligence processes can help to **screen business and policy tools** that are readily associated with just transition, but that may themselves lead to adverse human rights impacts for vulnerable people. For example, approaches to transitioning 'out' of emissions-intensive production that are based on the circular economy concept (highlighted above in Box 8) could, if business action is not properly informed by human rights due diligence, adversely impact on the rights and livelihoods of workers in the informal recycling sectors of middle and low-income countries.¹²³ A human rights perspective that extends understanding of just transition's implications into value chains and business relationships can achieve better human rights and development outcomes.

A human rights perspective on climate action lends itself to approaches that bring both adaptation to climate change and mitigation through reduction of greenhouse gas into the purview of just transition. This is consistent with some existing framings of just transition. However, even broader approaches to just transition do not fully address the many ways in which business actions on climate change intersect with efforts to respect human rights.

123 See further "Informal approaches towards a circular economy", WBCSD (2016), at: http://docs.wbcsd.org/2016/11/wbcsd_informalapproaches.pdf



Box 9
CLIMATE JUSTICE

Advocates of climate justice directly address the moral and legal dimensions of vulnerability to climate change, encompassing both the impacts of human-induced greenhouse gas emissions, and the impacts of actions to tackle climate change. Just transition can itself be understood as part of a wider climate justice agenda. As with just transition however, there is no universally agreed definition of climate justice. Answers to key questions – such as ‘justice for whom?’ or “*justice delivered by whom, through what actions?*” – need to be answered in the different contexts in which they arise.

In June 2019 Pope Francis warned that failure to take urgent action on climate change would be “*a brutal act of injustice toward the poor and future generations*”. When people who bear the risk and the adverse impacts of climate change are not those who are responsible for creating the risk; and when those who are responsible are not accountable for the impacts; the result is climate injustice.

Climate justice is closely associated with grassroots movements, and businesses are frequently strongly implicated in its critiques. The climate justice movement has also often been closely associated with legal action to seek redress for ‘climate injustice’ and to force the pace of climate mitigation measures. For example, in a series of US lawsuits cities and states have brought public nuisance actions against oil and gas companies, seeking to cover the costs of adaptation to protect against the impacts of climate change.

In a separate example that drew directly on human rights standards, in December 2015 a group of community organisations and disaster survivors together with Greenpeace Philippines filed a petition with the Commission on Human Rights of the Philippines seeking an investigation into 47 large fossil fuel and cement companies over their role in climate change that, they argued, “interferes with the enjoyment of Filipinos’ fundamental rights.” The petition also sought to promote the

responsibility of businesses to respect human rights, as set out in the UNGPs. In December 2019, the Commission concluded that legal responsibility for climate damage is not covered by current international human rights law, but fossil fuel companies have a clear moral responsibility, and the onus falls on individual countries to pass strong legislation and establish legal liability in their courts. The Commission also found that existing civil law in the Philippines provided grounds for action, and that it may also be possible to hold companies criminally accountable.

In a different approach, in Germany a Peruvian farmer is proceeding with a legal action initiated in 2017 against utility company RWE and seeking reimbursement of 0.47% of the total cost that he and his local authority had incurred to establish flood protection to protect against impacts from melting glaciers surrounding the claimant’s town. 0.47% corresponds with the claimant’s estimate of RWE’s annual contribution to global greenhouse gas emissions.

Sources:

- <https://www.theguardian.com/environment/2019/jun/14/pope-francis-declares-climate-emergency-and-urges-action>
- “Why a Just Transition is Crucial for Effective Climate Action, Inevitable Policy Response” Nick Robins and James Rydge Sep 2019), at: <https://www.unpri.org/download?ac=7092>
- “Local level climate justice? Adaptation finance and vulnerability reduction” Sam Barrett, Global Environmental Change, Volume 23, issue 6, (Dec 2013)
- The Bali Principles of Climate Justice (2002) at: <https://web.archive.org/web/20160401235049/http://www.einet.org/ej/bali.pdf>
- The People’s Demands for Climate Justice (2018), at: <https://web.archive.org/web/20181208070241/https://www.peoplesdemands.org/>
- Declaration of the Peoples’ Summit on Climate, Rights and Human Survival, 2019, at: <https://www.business-humanrights.org/en/summary-on-climate-rights-and-human-survival-unites-civil-society-leaders-to-scale-up-climate-justice-action#c195324>
- “Global trends in climate change litigation: 2019 snapshot” Joana Setzer and Rebecca Byrnes (July 2019), at: http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/2019/07/GRI_Global-trends-in-climate-change-litigation-2019-snapshot-2.pdf, and “Fossil Fuels on Trial: Where the Major Climate Change Lawsuits Stand Today” Inside Climate News (Jan 2020), at: <https://insideclimatenews.org/news/04042018/climate-change-fossil-fuel-company-lawsuits-timeline-exxon-children-california-cities-attorney-general>
- Philippines Commission on Human Rights, at: <https://chr.gov.ph/nicc-2/>, “Carbon Majors Can Be Held Liable for Human Rights Violations, Philippines Commission Rules” The Climate Docket (Dec 2019), at: <https://www.climate-liabilitynews.org/2019/12/09/philippines-human-rights-climate-change-2/> and https://climate-laws.org/cclow/geographies/philippines/litigation_cases/in-re-greenpeace-south-east-asia-et-al-2015--commission-on-human-rights-of-the-philippines-2015
- Luciano Lliuya v. RWE AG (2015), at <http://climatecasechart.com/non-us-case/liuya-v-rwe-ag/?cn-reloaded=1>

From a human rights perspective, one gap is that just transition doesn't speak directly to business approaches or public policies that relocate negative human rights impacts of climate change, for example by shifting fossil fuel-based production inputs to more distant locations; or that address one set of climate impacts in ways that replace them with another (as with the examples of biofuels or battery production considered above). Such approaches are antithetical to climate justice. The UNGPs can help by providing guidance for business on addressing their responsibilities for climate-human rights linkages that are 'spillover effects' of just transition.

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As efforts to implement just transition commitments continue to evolve, new emphases and approaches are opening out and advancing the practical relevance of the concept.
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A second gap is that just transition doesn't speak to the distant human rights impacts of greenhouse gas emissions. Its strength, rather, is its ability to address the impacts of action to mitigate climate change, particularly for workers and, in many formulations, communities. Just transition focuses more on locally, regionally or nationally rooted implications and impacts of climate action and how to ensure that these are just, rather than on the human rights impacts of inaction on greenhouse gas emissions.

Recognition that the UNGPs themselves reflect a responsibility to act to address these wider human rights implications, as discussed in Part 3, is a necessary but not sufficient precondition for the action that is needed to fully integrate the business tools of human rights due diligence and climate risk assessment.

A distinct driver of business action on climate change, advocacy and litigation on climate justice (see Box 9 above), is also shaping understanding of the boundaries of business responsibility. However, to date such efforts have gained limited visibility within the evolving business and human rights agenda, despite the UNGPs' focus on issues relating to effective remedy for human rights abuses.

The strength of the climate justice movement's focus on vulnerability to climate change, and on issues of remedy are clearly important contributions to broader debates on strengthening corporate accountability for involvement in human rights harms. Civil society groups around the world have made links between climate justice, just transition, human rights, and business activities. In 2019, in the Declaration of the Peoples' Summit on Climate, Rights and Human Survival¹²⁴, signatories commit to increase their efforts to place human rights at the core of climate activism. Civil society activism informs both the regulatory and the market-based business case for action to address the human rights implications of climate change. And businesses committed to human rights can usefully learn from the insights of the climate justice movement as they engage with just transition.

124 "Summit on Climate, Rights and Human Survival unites civil society leaders to scale up climate justice action", BHRRC (Sep 2019), at: <https://www.business-humanrights.org/en/summit-on-climate-rights-and-human-survival-unites-civil-society-leaders-to-scale-up-climate-justice-action#c195324>



CHAPTER 6

Conclusions

Women travelled from across Africa to India to take part in training to become solar engineers. Each was selected or nominated by her local community and supported by local and international organisations, and in some cases, their governments. Their trainers, who mostly speak Hindi, must cut across linguistic and cultural barriers using gestures and signs.

UN Women/Gaganjit Singh

Conclusions

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The window for action to ensure that average global warming is limited to 1.5°C is open, but it is closing rapidly. Adaptation to climate change also becomes more difficult the higher temperatures rise. Climate action needs to be fast. Attention to human rights can help guarantee that efforts to address climate change are also participatory and just.

Climate change poses profound threats to human rights. It is increasingly clear that responses to climate change - by governments, businesses and other societal actors - have equally significant implications for ongoing efforts to protect human rights. Both demand strengthened state actions and increased business focus on the steps needed to ensure respect for human rights. This will mean integrating climate change measures into human rights due diligence processes, and human rights into climate risk assessments.

Climate action has immediate touch points with the business and human rights agenda. This is most evident in the context of risks to workers and communities resulting from government policies and steps taken by businesses to mitigate their greenhouse gas emissions or to deliver goods or services that help adaptation to climate change.

Although the UN Guiding Principles on Business and Human Rights alone cannot deliver the necessary reforms, businesses nevertheless need to view their responsibilities under the UNGPs as directly relevant to their action on climate change. The UNGPs lend additional weight to efforts to ensure that the processes of 'just transition' that are demanded by climate change strengthen communities, enable resilience, and reduce vulnerability in ways that enhance respect for human rights. At the same time, it is clear that the UNGPs and related standards are less readily applied as a practical guide to action on the human rights impacts of climate change.

Moving forward, governments must fully accept and act on their international human rights obligations as they relate to climate change. Equally important however, businesses must also embrace the links between climate change and their human rights responsibilities and take proactive steps to prevent and mitigate harms.



Ongoing discussions on how to 'build back better' from the COVID-19 pandemic, and the mounting case for a 'green and just recovery', present twin opportunities to advance implementation of just transitions for all. Business and human rights good practice and know-how have major roles to play in ensuring that these opportunities deliver the positive outcomes that 2020 vision has come to demand.



The relationship between the climate change and human rights agendas points to significant potential for integration of ongoing efforts in these areas to increase positive impacts. This includes contributing to adaptation in ways that multiply the positive outcomes of public policy priorities on climate change; working with civil society and others to prevent climate responses from triggering roll-back of civil and political rights protections; and championing human rights as part of public policy processes associated with just transition.

Leadership from across government, business, trade unions and civil society on rights-centred approaches to climate action could make a significant contribution to securing processes of transition that benefit all people. The transitions that are needed mean rapidly scaling up the green and decent jobs of a sustainable and net zero future, and they span both strategies rapidly to wind down production and consumption linked to greenhouse gas emissions and those associated with climate adaptation and resilience to climate disruptions at every level.

Approaches to climate action that integrate concern for human rights can usefully draw not only on existing experience of just transition strategies, but also on a key strength of climate justice advocacy, namely its focus on the rights of vulnerable people; and on management tools associated with sustainable development.

Ongoing discussions on how to ‘build back better’ from the COVID-19 pandemic,¹²⁵ and the mounting case for a ‘green and just recovery’, present twin opportunities to advance implementation of just transitions for all. Business and human rights good practice and know-how have major roles to play in ensuring that these opportunities deliver the positive outcomes that 2020 vision has come to demand.

125 “For a business statement on the links, see e.g. “COVID-19 Policy Response” We Mean Business Coalition, at: <https://www.wemeanbusinesscoalition.org/build-back-better/>



Climate change has profound implications for human rights. People who are already among the most vulnerable are particularly hard-hit, and the rights of future generations are already at stake. Climate action needs to happen fast. But it also needs to be participatory and fair. This is where the growing agenda around a 'just' transition to a zero-carbon future comes in.

This report looks at the business and human rights community's distinctive contribution to effective climate action. It argues that there are at least four ways that business and human rights good practice can strengthen implementation of a just transition. Drawing on insights from climate justice, sustainable development, the UN Guiding Principles on Business and Human Rights, and the rapidly evolving body of experience with just transition itself, the paper is a primer for anyone involved in the climate change and business and human rights communities of policy and practice.