

# Connecting the Just Transitions and Business & Human Rights Agendas

IHRB Briefing

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The 2015 Paris Agreement includes a commitment by parties to “[t]ak[e] 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.”<sup>1</sup>

## Context

Urgent actions are needed to address the climate crisis – the world must decarbonise and must do so quickly. The increasingly dire warnings call for change at an unprecedented speed and scale. But just as transitions to a net zero economy will result in “stranded assets”, they can also cause “stranded workers” and “stranded communities” who risk being left behind unless they become an explicit and integral part of socially inclusive decarbonisation processes. Climate change is both amplifying existing social inequalities and creating new schisms. Climate action requires both ambitious economic transformation and social justice so that the costs and benefits of change are shared in a fair and equitable manner.<sup>2</sup>

“Just transitions” is an increasingly visible framing for government, business and worker action on climate

change that puts the concerns and rights of workers and communities front and centre in climate transition planning and actions. It is an evolving concept that encompasses both public policies and business action to address impacts on workers and communities of moves away from greenhouse gas emission (GHG) intensive production (the transition “out”) and measures to generate the low or zero GHG products, services and livelihoods of a sustainable society (the transition “in”). Although originally focused almost exclusively on workers, the concept has grown to encompass wider considerations, including households and communities, particularly those already living in poverty, and those vulnerable to climate threats such as sea-level rise, extreme weather, and biodiversity loss. Just transitions approaches are underpinned by international human rights standards.

**About this Briefing Series:** This Briefing builds on an IHRB [report](#)<sup>3</sup> and [briefing](#)<sup>4</sup> on the connections between the climate change and business and human rights agendas. It provides an overview and introduction to a forthcoming series of Briefings from IHRB and partners on various topics relating to climate change, just transitions, and business and human rights. On just transitions, the series will bring the human rights perspective to relevant topics including stakeholder engagement and social dialogue, green and decent job creation, re-skilling and re-deploying workers and supporting communities, and advocacy for just transitions policies.<sup>5</sup>

## Defining the “Just” in Just Transitions

The “just” in just transitions has strong roots and resonance with a human rights-based approach that speaks to its origins in the trade union movement. Trade unions drew early attention to the economic and social costs of climate change transitions on workers and their rights. The term has since been included in the Paris Agreement, and further developed by the ILO, the UN Climate Action for Jobs Initiative, and many others. The climate justice movement has expanded upon and enriched the concept, as have the growing range of organisations and initiatives that understand the power and necessity of combining climate action and social justice.

The “justness” of global transitions to a net zero world can and should be viewed through numerous lenses and multiple levels.

**At the global level**, the IPCC Special Report on Global Warming of 1.5°C draws attention to four distinct equity asymmetries in the current system that must be addressed to make the transition to a 1.5°C world more just.

**At the national level**, the ILO and partners in the UN Climate Action for Jobs Initiative have identified policy frameworks and tools for governments to address transitions. Positive messages of green and decent job opportunities have been central, as have social justice considerations, including who is benefitting from transitions and who is not, with strong emphasis on strengthening social safety nets for workers and communities at risk of being left behind. An inclusive approach that insists on dialogue - social dialogue among social partners and broader stakeholder dialogue - and participation in shaping outcomes are additional core dimensions of just transitions.

**At the business level**, attention to “stranded assets” has focused on the fossil fuels sector, which has in turn highlighted “stranded workers” and “stranded communities” to ensure they are a central part of business considerations. The **UN Human Rights Office** has reminded all businesses that they “*must be accountable for their climate impacts and participate responsibly in climate change mitigation and adaptation efforts with full respect for human rights, including providing remedies as appropriate.*”

## IPCC Special Report on Global Warming of 1.5°C (2018)

*“Four key framing asymmetries associated with the conditions of a 1.5°C warmer world have been noted:*

- *The first concerns **differential contributions to the problem**: the observation that the benefits from industrialization have been unevenly distributed and those who benefited most historically also have contributed most to the current climate problem and so bear greater responsibility ...*
- *The second asymmetry concerns **differential impact**: the worst impacts tend to fall on those least responsible for the problem, within states, between states, and between generations.*
- *The third is the asymmetry in **capacity to shape solutions and response strategies**, such that the worst-affected states, groups, and individuals are not always well represented.*
- *Fourth, there is an asymmetry in **future response capacity**: some states, groups, and places are at risk of being left behind as the world progresses to a low-carbon economy.”<sup>6</sup>*

**Germany** established a **Commission on Growth**, Structural Change and Employment to develop a broad social consensus around structural changes to energy and climate policy in Germany.

**Scotland** established a **Just Transition Commission** in 2017 to advise Scottish Ministers on applying the 2015 ILO Guidelines on Just Transition to Scotland, on the delivery of low carbon investment and infrastructure while making all possible efforts to create decent, fair, and high value work.

The **European Union** established a 150 billion **Just Transition Mechanism** to address the social and economic effects of the transition, focusing on the EU regions, industries and workers who will face the greatest challenges.

The **World Bank** Group publication “**Managing Mine Closure: Achieving Just Transition for All**” (2018) shares lessons learned from coal mine closure with governments.

## Transitions Go Both Ways

Coal mine closures in a number of countries around the world provide an early test case for just transitions in practice. Memories remain of how coal fields were closed in the 1980s and 1990s in some countries without adequate attention to the livelihoods of workers and their families. Policy-makers today are very aware that lack of attention to the perspectives and involvement of workers and communities contributes to the rise in populism and nationalist politics which in turn have tended to underplay or entirely dismiss the need to deal with climate change and industry transitions.

Instead, just transitions programmes grounded in social dialogue and wider stakeholder dialogues that bring affected stakeholders together and agree paths forward set important precedents on inclusive processes of participation that is core to a human rights approach. As one of the goals of promoting just transitions is to secure broad-based buy-in for climate action, managing multiple stakeholder expectations will be critical.<sup>7</sup> Workforces and local communities should be front and centre as a core part of orderly transition planning, rather than an afterthought. Collaboration can and should take place at the international, national, regional, local, and individual business levels.

### Transitions Out

Calls for transitions out of coal, other types of energy use and emissions-intensive sectors are intensifying, but the paths often remain unclear – raising the potential for disorderly transitions. The spectre of disorderly transitions is also coming into focus in the form of compensation claims by some businesses from governments under investment protection treaties for assets affected by climate change phase outs. These claims may undermine climate efforts and overwhelm constrained budgets just when these resources are needed for dramatic decarbonisation.<sup>8</sup> A litigation-strewn path challenging or undermining needed regulatory reform is not in anyone's favour, nor does it fit with a responsibility-driven approach to climate change that calls on businesses to play their part. The dissonance between business commitments to addressing climate change and contradictory lobbying positions have already been challenged.<sup>9</sup> Litigating these compensation claims in response to regulatory actions to prompt decarbonisation are becoming problematic as well.<sup>10</sup> There are difficult choices to be made about who benefits and who pays for transitions. Creative and collective efforts are needed that do not leave taxpayers footing the bill, while also considering and responding to existing legal frameworks that push in the opposite direction.

At the **national level**,<sup>11</sup> governments are increasingly incorporating just transitions dimensions into the next round of their **Nationally Determined Contributions** required under the Paris Agreement, due in 2020.

At the **regional level**,<sup>12</sup> there are examples of state and municipal authorities collaborating with local communities and businesses to address post-mining land uses and managing cumulative impacts of decades of coal mining.

At the **local level**,<sup>13</sup> local communities and local governments are taking proactive roles in reshaping climate change transitions into opportunities.

At the **business level**,<sup>14</sup> business initiatives and industry associations are beginning to make commitments to just transitions.

## Transitions In

The final report of the Global Commission on the Economy and the Climate, "**Unlocking the Inclusive Growth Story of the 21st Century**" highlights the opportunities of cleaner, climate-smart growth, noting that "*bold climate action could deliver at least US\$26 trillion in economic benefits through to 2030, compared with business-as-usual.*" The Commission's bold vision draws together examples from a range of sectors. But care is needed so that new green paths do not create unexpected and unacceptable impacts on society and human rights. "Green" no longer automatically equates with "sustainable."

There is emerging evidence that sectors critical to a net zero world can have significant negative environmental and social impacts that must be taken into account. For example, "transition minerals" needed for clean energy technologies are extracted in locations where serious human rights abuses such as forced or child labour are widespread. Renewable energy companies and projects are **increasingly under the spotlight** as well for adverse impacts of land acquisitions and on indigenous peoples.

The response should not be to stop all such projects (though such actions may be justified in particular cases), but instead to ensure that emerging projects take an integrated approach to addressing their negative and positive impacts – considering their human rights, climate and environmental impacts, as well as, importantly,

how these impacts interact. That integrated approach is now about to become a requirement for certain EU financial actors and large companies under the EU's Taxonomy Regulation.<sup>15</sup> The Taxonomy is a classification tool to help investors, companies, issuers and project promoters navigate the transition to a low-carbon, resilient and resource-efficient economy.<sup>16</sup> It sets performance thresholds for economic activities across a wide range of industries that must be met to be considered "sustainable." Importantly, any economic activity seeking a sustainability classification must also show that it meets the "minimum safeguards" defined in the Regulation,<sup>17</sup> demonstrating alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. The Taxonomy Regulation should give a welcome, significant boost to the concept and practice of just transitions.

While discussions on just transitions to date have tended to focus most clearly, and not surprisingly, on the ends of the spectrum – the sectors most clearly transitioning out and transitioning in - the vast majority of sectors and businesses likely lie in between where the pressure to take action to address climate change, including the related impacts on workers and communities, is highly variable. That emphasises the imperative of consistently highlighting the "just" dimensions of climate change at every occasion for the vast majority of companies that fall in the in-between category to ensure the message is not lost.

### The Centre for Social Responsibility in Mining (CSRMin) Initiative on Transition Minerals

Transitions to cleaner forms of energy will require vast amounts of metals, including iron, copper, aluminum, nickel, lithium, cobalt, platinum, silver and rare earth metals among others. Managing the downside risks of extracting these metals is a key component of just transitions. Recent research by CSRMin has assessed the global-level environmental, social and governance (ESG) complexities associated with the extraction of key minerals and metals needed for the production of low-carbon energy-systems.<sup>18</sup>



### Just Transitions for All: Business, Human Rights, and Climate Action

IHRB's report "[Just Transitions for All: Business, Human Rights, and Climate Action](#)" (2020) 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 just transitions.

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 report is a primer of policy and practice for anyone involved in the climate change and business and human rights communities.

## A Business & Human Rights and Just Transitions Framework

There is no one-size fits all approach to just transitions, not least because the concept continues to evolve as it is applied by a multiplicity of actors to cover a multiplicity of dimensions.<sup>19</sup> Nor can any single actor deliver just transitions alone: governments at all levels must play a leading role but businesses must step up as well. Selected businesses and business associations have begun to make **pledges** to address the just transitions dimensions of climate responses, but there is still a long way to go in building useful guidance, tools and practice that is context- and sector-specific, practical and accessible to businesses, workers and local communities.

What might a more integrated approach look like, building on human rights standards? The **UN Guiding Principles on Business and Human Rights** (UNGPs) set out the key steps businesses are expected to take to implement the corporate responsibility to respect human rights. The **OECD Guidelines for Multinational Enterprises** (the OECD Guidelines) are aligned with the UNGPs and nest the corporate responsibility to respect human rights in a broader framework of responsible business conduct (RBC)).

These frameworks can be adapted in ways that include transition related issues, recognising that there are synergies, but also limitations, in doing so. (See IHRB **Briefing on Climate Change**). It is also possible to start with environmental frameworks and build human rights into those. Businesses will no doubt find many different ways to integrate consideration of climate change and human rights into their systems and will likely need new ways of thinking, accompanied by new tools to do so effectively. The points below offer initial thoughts from this perspective to contribute to further discussion and testing over time.

### 1. Develop relevant policy commitments and embed them throughout the business

In addition to growing calls to commit to alignment with the Paris Agreement, businesses are also expected by the UNGPs and OECD Guidelines to adopt policy commitments to respect human rights. Adopting a commitment to just transitions as part of these policy commitments (or knitting them together into a specific just transitions policy) would send a clear signal that a business recognises and intends to address interlinked climate and human rights impacts in an integrated fashion. Commitments to Paris-aligned, science-based targets<sup>20</sup> and strategies should be accompanied by parallel targets and strategies to address the associated human rights impacts on workers and affected communities. These need to be embedded in corporate governance structures so that board-level supervision drives an integrationist approach. Equally important, they should be incorporated into relevant management systems, processes, and procedures driving daily operations. Many businesses currently have separate management systems and teams addressing climate change and human rights. This can result in environment teams focusing on addressing technical fixes, and human rights teams incorrectly assuming they need not worry about the implication of climate change for people – for their workers, affected communities, and customers. Clear messages from the top need to stress the importance of building bridges internally and externally.

### 2. Adopt an integrated climate change and human rights due diligence process

**Identify and assess actual and potential impacts:** Naming climate change as a source of potential adverse human rights impacts that should be examined through the company's due diligence processes is a critical first step. Integrating climate change considerations into human rights due diligence processes and human rights concerns into climate impact assessments is also needed. Severe human rights impacts should be prioritised for action. The UNGPs define "severe" by any one of three factors: scale, scope and irremediability. Each of these factors makes clear that climate change and related human rights impacts should be high on the prioritisation list. If companies are not looking at integrating the two dimensions, they may not be assessing severity properly and consequently may not be applying sufficient or even any resources in addressing to the impact of climate change on workers, communities and customers.

**Address impacts through prevention and mitigation:** The message from the Paris Agreement and the IPCC is clear: governments and the private sector must prevent GHG emissions as a first priority and if not, then reduce GHG emissions as a mitigation step. In some cases, this means dramatic changes to a company's business model or even closure – which in turn can have adverse impacts on workers that should be addressed and planned for as

part of an integrated strategy for responding to climate change. Engaging in collaboration and collective action with workers and communities as well as local, regional and national governments and other businesses is a critical part of any response to complex issues such as preparing for extreme weather and sea level rise, developing water sharing schemes in water constrained areas, reforesting mangroves, and developing job training and reskilling programmes for the net zero economy, among others.

**Track progress:** The UNGPs, OECD Guidelines and climate change initiatives call on businesses to set clear, measurable objectives and targets and track progress.<sup>21</sup> Businesses have increasingly sophisticated tools for measuring and tracking direct and indirect emissions as well as progress on transition pathways, vulnerabilities to climate change, etc. Tools for measuring and tracking human rights impacts are maturing. Adapting these approaches will be necessary to be able to measure human rights impacts associated with emissions prevention and mitigation and climate adaptation steps so that they can also be tracked, measured and improved upon over time in a coherent fashion.

**Communicate performance:** Governments, investors, and the wider public increasingly expect specific and detailed corporate reporting on what businesses are doing to address climate change.<sup>22</sup> That means communicating publicly about targets set, steps taken, and the effectiveness – or not – of those measures. Adding the just transitions angle brings in what has often been missing to date from climate change reporting: communicating with and about impacts on workers, on local communities, and how these considerations are taken into account in company strategy setting, modelling and actions.

### 3. Provide for or cooperate in remediation

Companies and stakeholders are increasingly aware of potential climate change liability, including but by no means exclusively through climate related litigation.<sup>23</sup> Remedies for human rights abuses involving business include a far wider range of options than judicial remedy. What this means in the context of climate change is a subject deserving far wider discussion. The UNGPs approach of “contribute to impact, contribute to remedy” provides a powerful argument for finding new approaches, other methodologies from the wider human rights field, such as restorative justice and transitional justice, can provide interesting models that could be adapted to address wide-scale climate change harms, while wide-scale retrenchment practices may contribute useful lessons learned for other circumstances.

## Prevention and Mitigation Examples

- Shape transitions within the workplace through support for re-skilling or redeployment of workers from GHG-intensive tasks to green and decent jobs and contributing to social protection systems.
- Support transitions in the wider community through involvement in forward planning and economic diversification in areas of operations.
- Influence the transition trajectory of relevant sectors by sharing lessons learned about meeting a sector-specific 1.5°C pathway.
- Reinforce rather than undermine the need for urgent regulatory reforms to address climate change and necessary transitions.

## Potential models for remedying wide-scale harms

**Transitional justice** refers to mechanisms and approaches using judicial and non-judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses in the transition from conflict to a more stable future. “Borrowing and adapting approaches and ideas from transitional justice and applying them in the context of climate change offers a new **framework** in which to examine challenging questions at the centre of the international climate negotiations and explore new ways forward” to address both human rights and wide-scale harms.<sup>24</sup>

**Restorative justice** is a process whereby all the parties with a stake in a particular offense come together on a voluntary basis to collectively resolve how to deal with the aftermath of the offense and its implications for the future. Applying the concepts of restorative justice, originally developed in the criminal law area, to addressing environmental harms,<sup>25</sup> is a newly emerging approach to providing accountability and remedy that focuses on both the past and the future.

These topics will be explored in forthcoming Briefings.

## 4. Cross-cutting steps for business

**Engaging on transitions:** Engagement and dialogue – through social dialogue in the workforce, through broader stakeholder engagement in communities and through engagement with government - must be at the core of just transitions approaches. It is about recognising that workers and communities should be co-developers and co-implementors of any plans to respond to climate change that may impact them. Business can also play an important role in building awareness and capacity of these stakeholders.

**Advocating for transitions:** Businesses should join with communities, civil society organisations and others in advocacy efforts calling for just transitions. Speaking up with other stakeholders is necessary to prompt governments to take more concerted and coherent action at the local, national and international levels and to putting just transitions on broader business agendas. Becoming a voice for social justice is perhaps an unfamiliar but increasingly expected role.

### Endnotes

- 1 Paris Agreement (2015) Preamble, 12 Dec. 2015, in force 4 Nov. 2016 (Paris Agreement)
- 2 COP26 Universities Network Briefing, “Just Transition: Pathways to Socially Inclusive Decarbonisation” (October 2020).
- 3 IHRB, “Just Transitions for All: Business, Human Rights, and Climate Action” (November 2020)
- 4 IHRB Briefing, “Connecting the Climate Change and Business & Human Rights Agendas” (December 2020).
- 5 This includes upcoming briefings with the World Benchmarking Alliance on a series of just transitions topics.
- 6 IPCC, 2018: “Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty”, V. Masson-Delmotte, P. Zhai, H. O. Pörtner, D. Roberts, J. Skea, P.R.Shukla,A. Pirani, W. Moufou- ma-Okia, C.Péan, R. Pidcock, S. Connors, J. B. R. Matthews, Y. Chen, X. Zhou, M. I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, T. Waterfield (eds.).
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- 8 Tienhaara, K. and Cotula, L “Raising the cost of climate action? Investor-state dispute settlement and compensation for stranded fossil fuel assets” IIED, (2020).
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- 10 Similar to the point of coherence on lobbying positions, this is about coherence between a company’s legal strategy and its professed approach to its social responsibility. See for example, Ruggie, J., “Issues Brief, Kiobel And Corporate Social Responsibility” (Sept 4, 2012).
- 11 Glynn, P.J.; Błachowicz, A.; Nicholls, M.: “Incorporating just transition strategies in developing country Nationally Determined Contributions” Climate Strategies (2020).
- 12 See, CSR, “Social Aspects of Mine Closure Research Consortium”.
- 13 See for example, UNRISD, “Just Transition Research Collaborative (Phase III): Working Towards Transformative Change and Climate Justice for All discussions on Community-based action for Just Transitions” and the Just Transition Fund.
- 14 The B Team launched a Business Pledge for Just Transition and Decent Jobs in 2019 and 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 do not refer to processes of social dialogue.
- 15 Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.
- 16 EU Technical Expert Group, “Taxonomy: Final report of the Technical Expert Group on Sustainable Finance” (March 2020).
- 17 Regulation (EU) 2020/852 (above).
- 18 Lèbre, É., Stringer, M., Svobodova, K., Owen, J. R., Kemp, D., Côte, C., . . . Valenta, R. K. (2020). “The social and environmental complexities of extracting energy transition metals” Nature Communications, 11(1), 4823.
- 19 Center for Strategic and International Studies (CSIS) and Climate Investment Funds (CIF) Just Transition Initiative, “Just Transition Concepts and Relevance for Climate Action: A Preliminary Framework” (June 2020). And see Stevis, D., Felli, R., “Planetary just transition? How inclusive and how just?”, Earth System Governance.
- 20 Client Earth, “Principles for Paris Alignment” (Oct 2020).
- 21 See for example the alliances and initiatives on the private sector within the Race to Zero Campaign that brings together a wide range of actors committed to achieving net zero carbon emissions by 2050 at the latest.
- 22 Such as the Transition Pathway Initiative and Climate Action 100+.
- 23 Shaikh M. Eskander & Sam Fankhauser & Joana Setzer, 2020. “Global Lessons from Climate Change Legislation and Litigation,” NBER Working Papers 27365, National Bureau of Economic Research, Inc.
- 24 J. Hyvarinen, “Respect and protect human rights: lessons from transitional justice” Mary Robinson Foundation Climate Justice (2015).
- 25 F. Wijdekop, “Restorative Justice Responses to Environmental Harm” IUCN (2019).

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### About IHRB

Founded in 2009, IHRB is the leading international think tank on business and human rights. IHRB’s mission is to shape policy, advance practice, and strengthen accountability in order to make respect for human rights part of everyday business.

### Contact

info@ihrb.org  
www.ihrb.org

### Attribution

This IHRB Briefing was written by Margaret Wachenfeld, Senior Research Fellow.