Institute for Human Rights and Business

SHAPING A "JUST" BUSINESS ROLE IN SOUTH AFRICA'S ENERGY TRANSITION

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This report, developed by the Institute for Human Rights and Business (IHRB), makes the case for a more concerted and holistic focus on the role of businesses in advancing the justice dimensions in South Africa's ongoing efforts to realise a just energy transition (JET).

This report was drafted by Haley St. Dennis and Judy Hofmeyr, with significant input from Tokelo Shai, Salil Tripathi, John Morrison, Julia Batho, and Scott Jerbi of IHRB. Supporting background research was also contributed by Michelle Joubert, Rashmi Mistry, and Neoka Naidoo of Better by CoDesign in South Africa.

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- A private dialogue during New York Climate Week 2023 with roughly 60 experts representing the South African, Indonesian, and Senegalese Just Energy Transition Partnership (JETP) secretariats, representatives from the United States, United Kingdom, and French Governments (International Partner Group (IPG) members), a range of representatives from the financial community (international finance institutions, banks, and investors), civil society organisations across labour, indigenous groups, a range of United Nations bodies, and businesses representing different parts of the green energy value chain.
- A COP28 dialogue at the South Africa Pavilion, with speakers including: Alan Wallis, Senior Advisor, African Climate Foundation (moderator); Haley St. Dennis, Head of Just Transitions Programme, IHRB; Sue Lund Head, Just Energy Transition Investment Plan Projects Management Unit (JETIP PMU); Shameela Soobramoney, CEO, National Business Initiative (NBI); Claude Kabemba, Executive Director, Southern Africa Resource Watch; Vuyiswa Sidzumo, Director, Southern Africa, Ford Foundation. Recording available at: https://www.ihrb.org/resources/private-sector-standards-and-south-africas-just-energy-transition-partnership-jetp
- A COP28 official side event that brought South African and Indonesian JET practitioners together to share learnings, with speakers including: Rachmat Kaimuddin, Deputy Coordinating Minister of Maritime Affairs and Investments in Infrastructure and Transportation, Government of Indonesia; Saliem Fakir, Executive Director, African Climate Foundation; Joanne Yawitch, Head of JETP Secretariat, South Africa; Edo Mahendra, Head of JETP Secretariat, Indonesia; Dr Crispian Olver, Executive Director, Presidential Climate Commission (PCC) of South Africa; Tiza Mafira, Director, Climate Policy Initiative (CPI); Haley St. Dennis, Head of Just Transitions Programme, Institute for Human Rights and Business (moderator). Recording available at: https://www.ihrb.org/resources/safeguarding-the-just-in-just-energy-transition-partnerships-jetp-unpacking-progress-from-south-africa-and-indonesia
- Additional research interviews with: Dipak Patel, Head, Climate Finance and Innovation, PCC; Yuri Ramkissoon, Climate and Research Analyst, PCC; Alia Kajee, Global Campaign Project Manager, 350.org and PCC Commissioner; Makoma Lekalakala, Director, Earthlife Africa and PCC Commissioner.

Contributors and their organisations do not necessarily endorse all findings or recommendations in this report. Errors, omissions, and oversights are entirely the responsibility of IHRB.

IHRB is committed to engagement with all stakeholders on these critical issues in South Africa and in other countries around the world, and welcomes comments and feedback on this report.

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ACRONYMS

AMC	Acid mine drainage
ANC	African National Congress
B-BBEE	Broad-Based Black Economic Empowerment Act 53 of 2003
CEF	Community Engagement Forum
CDP	Carbon Disclosure Project
CRISA	Code for Responsible Investing in South Africa
CSR	Corporate Social Responsibility
EEA	Employment Equity Act 55 of 1998
ESG	Environmental, Social, Governance
FPIC	Free, Prior and Informed Consent
FTSE	Financial Times Stock Exchange
GNU	Government of National Unity
HRC	Human Rights Council
IFC	International Finance Corporation
IPG	International Partners Group (the Governments providing loans and other capital to JETP countries)
IPILRA	Interim Protection of Informal Land Rights Act 31 of 1996
IPP	Independent power producer
ISO	International Organization for Standardization
JET	Just Energy Transition
JET IP	JET Investment Plan of South Africa (2023-2027)
JET IPIP	JET IP Implementation Plan of South Africa (2023-2027)
JSE	Johannesburg Stock Exchange

JT	Just transitions
JTF	Just Transition Framework of South Africa
LRA	Labour Relations Act 66 of 1995
MEL	Monitoring, evaluation and learning
MPRDA	Mineral and Petroleum Resources Development Act 28 of 2002
NDC	Nationally Determined Contributions
NEMA	National Environmental Management Act 107 of 1998
NEV	New energy vehicles
OECD	Organisation for Economic Co-operation and Development
PAIA	Promotion of Access to Information Act 2 of 2000
PCC	Presidential Climate Commission
PMU	Project Management Unit
PPP	Public-Private Partnership
RBC	Responsible Business Conduct
REIPPPP	Renewable Energy Independent Power Producer Procurement Programme
SBTi	Science Based Targets initiative
SDGs	Sustainable Development Goals
SLP	Social and Labour Plans
SMMEs	Small, Medium and Micro Enterprises
TCFD	Task Force on Climate-Related Financial Disclosures
UDHR	Universal Declaration of Human Rights
UNGP	UN Guiding Principles on Business and Human Rights

TABLES AND FIGURES

EXECUTIVE SUMMARY

South Africa exemplifies the dual development challenge facing so many nations around the world: how to transition away from coal to a clean, reliable, and affordable energy system that can meet the growing energy demand of current and future generations. Transitioning away from coal is a complex, multi-decade process that requires the mobilisation of vast financial resources. At the same time, decision-makers are grappling with how to ensure that this energy transition is "just" – one that ensures "no one is left behind" while also addressing longstanding inequalities within societies.

South Africa exemplifies the just transition imperative. It is one of the world's largest coal producers, and grapples with a triple crisis of high unemployment, inequality, and poverty. It is also a global climate leader, seeking to catalyse a transition to a modern, resilient energy system that also addresses its systemic socioeconomic barriers. South Africa has developed ambitious, detailed, consultative policies and plans for a "just energy transition" (JET) that offer significant lessons to the rest of the world.

However, one segment of the ecosystem bears greater scrutiny: business. While South African policymakers have developed detailed frameworks and plans to transform its energy system, more can be done to apply an equally systematic approach to shaping how business participates in constructively advancing, and not undermining, justice-related processes and outcomes.

This report aims to delineate how business in South Africa can effectively advance the justice dimensions of the energy transition, in particular by robustly implementing their responsibility to respect human rights via established international standards, as well as what is needed beyond this to achieve the full suite of justice outcomes outlined in JET policies. While the report provides principled guidance on the roles and responsibilities of business, it does not suggest a prescriptive blueprint. It acknowledges that different companies and sectors pose different risks and opportunities for people, and will need to apply approaches appropriate to these contexts. Accordingly, the report's analysis and guidance are meant to serve as a resource for policymakers and practitioners in South Africa to navigate these contexts with purpose, and also for practitioners in other parts of the world to benefit from the significant learning-by-doing South Africa is contributing to the global just transitions agenda.

Arnot Power Station, Middelburg, South Africa.

Gerhard Roux / Wikimedia

RESPONSIBLE BUSINESS IN SOUTH AFRICA

South Africa's private sector occupies a complex position in the country's history and imagination. During the apartheid era, companies were known to thrive under the state's racially discriminatory policies; at times playing an active role in reinforcing the status quo. Today – in the post-apartheid context of a state grappling with limited capacity to facilitate growth and address inequality – private sector activities have transformed significantly: bridging government service gaps, building local capacity, and contributing governance improvements. However, reliance on the private sector is complicated by several factors: apartheid's legacy remains visible, with business ownership and senior management still predominantly white; lack of regulatory enforcement is common and often leads to a lack of adherence by companies; service gap reliance on the private sector has endowed it significant bargaining power, often leading to a maintenance of existing power structures and imbalances. This has resulted in a pervasive sense of scepticism, and even distrust, of the private sector among many South Africans.

While still facing significant challenges and inconsistencies, responsible business in South Africa is also emerging as a crucial practice. Articulations of responsible business are anchored in the country's Constitution and Bill of Rights and heavily supplemented by a complex mix of regulatory measures.

Investor expectations are growing: according to the Financial Times Stock Exchange (FTSE) Index, South Africa's level of environmental, social, and governance (ESG) disclosure is rated one of the highest among emerging and developing markets. Crucially however, while companies in South Africa have increasingly sophisticated ESG policies and processes to address risk, the approach is largely still oriented around assessments of risks to the business, rather than to people.

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LIMITATIONS AND GAPS IN GUIDING BUSINESS ACTIONS IN THE JET

There is significant opportunity for South Africa's Just Transition Framework (JTF), JET Investment Plan, and JET Implementation Plan to be supplemented to provide business greater clarity on how to advance the objectives of *procedural*, *distributive*, and *restorative* justice at the centre of the JET. In particular:

- **Procedural Justice:** South Africa's Just Transition Framework emphasises the importance of participatory decision-making structures, including the design and implementation of transition actions "as proposed by" individuals and communities in affected areas. This type of engagement with affected stakeholders is essential to ensure businesses can prevent and mitigate risks to people effectively, as well as deliver the social, environmental, and economic benefits of specific energy transition actions. But there is little explicit guidance or expectation setting in JET Policies to date for business to advance this principle. Instead, the emphasis is largely limited to a few references to existing ESG approaches and encouraging the assessment of climate risks (i.e. risks to the business), rather than ensuring the prevention and remediation of adverse impacts to people posed by the company's operations, products, and services.

  There are welcome signals to the forthcoming development of standards on project feasibility, due diligence, and reporting that offer significant opportunity to now shape a smart mix of incentives and disincentives for business activities aligned to procedural justice moving forward – both for the transition-out of coal in the Mpumalanga region as well as the transition-in to new priority sectors including renewables, new energy vehicles, and green hydrogen.

- **Distributive Justice:** South Africa's Just Transition Framework, JET Investment Plan, and JET Implementation Plan all emphasise the importance of delivering "just outcomes" and "co-benefits" that advance local enterprises, skills, B-BBEE, and women's empowerment. However, there is little connection between these aims and the fundamental imperative to prevent and remediate harm, risking a perverse dynamic of transition "offsetting" whereby the emphasis on jobs and economic opportunity created is seen to outweigh adverse impacts elsewhere. A more holistic vision of distributive justice that explicitly connects benefit maximisation to risk prevention strategies – guided by corporate impact, not influence – would help advance the "J" in JET moving forward.

- **Restorative Justice:** For many South Africans, the energy transition was initiated within a landscape of historic injustices, the effects of which persist today. Remedying harms to individuals and communities is therefore seen by many in South Africa as a matter of national purpose and identity, and will be a central determining factor in whether the transition will be experienced as "just". South Africa's commitment to restorative justice is strong on paper. It will also be the hardest pillar to operationalise in practice. One of the most effective methods for advancing this pillar will be through clear guidance to business on the importance of operational-level grievance mechanisms, both for addressing historic impacts as well as future harms that will inevitably result as the transition unfolds, including as a central feature of responsible exit and closure plans. However, there is little guidance with the JET policy architecture to date that business can turn to to understand how to operationalise this critical justice pillar.

FOUR ESSENTIAL ELEMENTS FOR THE "J" IN JET

As South Africa increasingly moves from seeking to attract investment to actually deploying new operations, products, and services on the ground, four elements are essential to shaping business actions aligned with the "justice" dimensions of the energy transition. When taken together, these four elements can drive a holistic and systematic approach to risk prevention, opportunity maximisation, and, ultimately, transformation, provided each is driven by the agency of and accountability to those most affected by the transition.

Element 1: Risks and Impacts

The Need: The energy transition will bring about profound changes to the business landscape (public and private, including financial institutions). It will result in business closures, job losses, the abandonment of business activities or assets, as well as increased land and resource use requirements to support the rapid rollout of renewables projects. All of these steps will pose risks to people, including workers, communities, indigenous peoples, and consumers. These risks need to be actively prevented and mitigated through ongoing human rights due diligence, and the impacts that do occur must be effectively remedied.

Existing Capabilities: South Africa's JTF recognises the importance of "corporate responsibility", and the Investment and Implementation Plans refer to "safeguard risks and measures" and "due diligence", but there is a need for greater guidance and clarity on how to bring this to life in the context of complex transitions. This offers a significant opportunity at this early stage of the energy transition to ensure best practice corporate risk management systems sit at the centre of the JET moving forward.

Element 2: Opportunities and Benefits

The Need: The human rights framework can be a key tool for designing truly "just" transitions, helping policymakers navigate the risks, opportunities, and trade-offs in a principled, pragmatic, and accountable way. However, too often human rights – the core baseline conditions for dignified life – are positioned as "benefits" and "opportunities" in the transition context. When understood as the core conditions required for people to be able to exercise their agency in order to *negotiate* opportunities and *access* benefits, the human rights framework can help unlock the potential for truly transformational planning at all levels of the transition.

Existing Capabilities: The aspiration of the JET Investment Plan is not just redistribution of existing resources, but to increase the total resources available for development, with corporate social investments, enterprise development, and skills development explicitly highlighted. However, clearer guidance is needed as to how companies should responsibly contribute to these aims. Specifically, how companies should be connecting their positive impacts to their prevention of harm.

Just as companies are expected to map their adverse risks and impacts to people holistically, so should they be expected to holistically map and align the potential benefits and opportunities of the unfolding energy transition. Built on a robust foundation of human rights due diligence, companies can fully consider the nature of their business, skill sets, and market position, and how each may enable them to innovate additional positive contributions to the energy transition's development imperatives and the Sustainable Development Goals (SDGs) more broadly.

Element 3: Agency and Accountability

The Need: Deliberate inclusivity and meaningful engagement with affected stakeholders will be essential to the success of all transition plans, processes, and outcomes in order to achieve bottom-up support for the necessary disruptions to come. Both risk prevention and opportunity maximisation are dependent on building accountability mechanisms for, and respecting the agency of, potentially affected stakeholders in transition planning and decision-making.

Existing Capabilities: The South African JTF, JET Investment Plan, and JET Implementation Plan all prioritise procedural justice as the cornerstone to achieving distributive and restorative justice. This policy architecture specifically directs the prioritisation of action to be guided by the vulnerability of stakeholders potentially affected, in direct alignment with international standards on responsible business. In South Africa, and many other transition contexts, this requires starting with a foundational element of information sharing and awareness raising, as many affected stakeholders may need support in understanding JET fundamentals and project specifics in order to be able to exercise their own agency.

Element 4: Transformational systems change

The Need: Ultimately, the global just transition is about deep and fundamental restructuring of the systems that have created the dual inequality and climate crises: production, consumption, and growth patterns that transgress planetary boundaries; fossil fuel-based energy systems; unfair international trade relationships; a lack of decent jobs; overproduction within monopolistic food systems driving hunger and famine; and the inability to create shared prosperity systems. Whether a truly "just" transition can happen is entirely dependent on how these wider socio-economic dynamics are addressed.

Existing Capabilities: Here, South Africa offers significant lessons to the rest of the world. South Africa's JET policy architecture is demonstrably reflective of this transformation imperative, grappling directly with how the energy transition can contribute to reshaping the very nature of value, risk, and relationships across energy, land, urban, industry, transport, agriculture, and other economic systems. As it moves into implementation, the energy transition must continue to be engineered by, and for the benefit of, workers, communities, indigenous peoples, and consumers. It must continue to serve as the basis of democratic planning, policymaking, and resource allocation, as well as agenda-setting and narratives that redefine growth and challenge business-as-usual. This can be deepened by driving business to accurately price-in their social and human rights impacts – both the value of investing in people-centred approaches, and the costs of externalising social and environmental impacts to the detriment of local communities, ecosystems, and the wider energy transition.

KEY QUESTIONS FOR JET PRACTITIONERS: GOVERNMENT, BUSINESS, AND FINANCE

To support the implementation of business practices aligned with South Africa's JET, this report concludes with a series of key questions for practitioners from government, business, and financial sectors responsible for driving specific JET activities. These questions seek to get to the heart of *quality* business approaches to advancing, and not undermining, all three forms of justice set out in South Africa's JET. These questions are also intended as a tool for trade union and civil society actors in South Africa to engage with and hold these actors accountable to their commitments and obligations.

The Lethaba Power Station outside Sasolburg in the Free State.

John Hogg / World Bank / Flickr

1. INTRODUCTION

The term "just transition" reflects what many see as a once-in-a-generation opportunity to transform economies and industries in a way that simultaneously averts climate change and addresses longstanding inequalities within societies. It places particular emphasis on managing the effects of the disruptive change for workers and vulnerable communities that stand to be affected by the transition *out* of carbon-intensive industries as well as the transition *into* green industries and technologies (within and well beyond the energy sector).[1] These effects entail labour market changes, fluctuating energy costs, diversion of investment, and possible displacements for land-intensive renewable energy projects; and includes addressing the wide range of long-standing social outcomes that have historically suffered under carbon-intensive industries, such as health impacts, worker safety, and environmental degradation.[2]

Although "justice" has been clearly defined in international law and associated human rights instruments, country-specific JET commitments vary in their interpretations. Its use and intended meaning will vary greatly depending on who the term is used by and the historical, environmental, and resource issues at play. Therefore, "justice" must be understood as part of a specific context, but also in light of international standards.[3]

South Africa is Africa's largest economy,[4] but it grapples with the highest income inequality in the world, exacerbated by high levels of unemployment and poverty.[5] Its energy system and economy remain dependent on fossil fuels: it is the 14th largest emitter of CO_2 worldwide and one of the world's largest coal producers, which is largely used for domestic electricity supply.[6] With ageing and inadequate energy infrastructure, the country has, until very recently, faced prolonged and regular power outages, known as "load shedding", which has created significant economic and social barriers to development.[7] Climate shocks and impacts such as extreme weather events[8] are further disrupting South Africa's traditional energy infrastructure. Like many developing economies, South Africa bears less historic responsibility for the climate crisis than wealthier, economically advanced nations,[9] yet is more vulnerable to its effects,[10] warming at twice the global rate and with fewer resources to adapt.[11]

Box 1: What is a JETP?

Just Energy Transition Partnerships (JETPs) are a promising political and financial innovation designed to accelerate energy transitions in emerging and developing economies. They combine leader-level political support with the provision of concessional capital, targeting near-term investments, with a headline commitment to "justice".

Since 2021, four countries have signed JETP "deals" with "International Partner Groups" (IPG) of donor governments: South Africa ($12.5billion), Indonesia ($20billion), Vietnam ($15.5billion), and Senegal ($2.7billion). The first three "deals" focus on supporting a just transition from coal to clean power, while the most recent deal in Senegal focuses on accelerating clean energy access through the deployment of renewables.

The JETP model not only holds great promise in these four countries, but also in a potential second wave of more than a dozen countries seeking at-scale support and partnership.

South Africa's "triple crisis" of increasingly severe climate impacts, economic inequality, and energy insecurity has, in turn, fostered a unique set of capacities within the country. Ongoing energy insecurity has engendered remarkable levels of adoption and innovation – in energy saving technologies,[12] renewable infrastructure (especially at a household level, although primarily only in middle- and upper-income levels), and new collaborative energy governance arrangements. In parallel, continuous concern with racial inequality left by the legacy of apartheid has resulted in a legislative framework that assigns a distinct role to the private sector as a vehicle for economic transformation.

Where public sector capacity is weak, it is common for private actors to augment capacity through strategic partnerships, infrastructure investments, or even through the delivery of essential services and innovations. Furthermore, the country's apartheid history, negotiated settlement,[13] and its pioneering and progressive Constitution, continues to embed a commitment to procedural justice and human rights into its policy architecture, laying a strong base for a fair and equitable energy transition.

Commitment to South Africa's energy transformation is driven at the very top of the Government, in the South African Presidency, when President Cyril Ramaphosa was elected in 2018 on an anti-graft, pro-constitution platform and a commitment to "build a capable state" to tackle South Africa's triple crisis.[14] This has led to a series of energy system reforms with measures to promote policy coherence among multiple ministries with related mandates as well as wider collaboration with the private sector, civil society organisations and labour. In pursuit of this ambition, the Government rebooted the public auctions for independent producers of renewable energy (REIPPPP)[15] in 2018 and supported the state-owned electricity supplier, Eskom, in its formulation of a more detailed energy transition plan. Following a pivotal 2018 Jobs Summit, in 2019 the Presidential Climate Commission (PCC) was established with an explicit mandate for designing and overseeing the country's energy transition.[16] Two years later, the South Africa Government negotiated the first-ever Just Energy Transition Partnership (JETP) deal, securing $8.5 billion in primarily loans and some grants from an "International Partners Group" (IPG) of five donor governments (the EU, France, Germany, the UK, and USA) to attract the much larger sums of private capital needed to implementation its net-zero ambitions.

In 2024, the African National Congress (ANC) lost its decisive majority for the first time since the fall of apartheid, which resulted in the formation of a coalition Government of National Unity (GNU). However, the commitment to address climate change has not wavered, with the new Minister of Forestry, Fisheries and the Environment quickly affirming his commitment to the just transition,[17] and a far-reaching Climate Change Act signed into law shortly after the elections.[18] The GNU is now responsible for harmonising positions on climate action, including the completion of an Integrated Resource Plan to define South Africa's energy mix for the coming decades.

Additionally, it must establish new institutional frameworks for energy generation, transmission, and distribution, and set the country's emissions targets for the next five years, including updating its Nationally Determined Contribution (NDC) in 2025.[19]

South Africa's energy transition ambitions are anchored in the country's Just Transition Framework (JTF), adopted unanimously by the PCC in 2022 following months of research and intense consultations with various social partners and communities across the country, and subsequently "accepted" by President Cyril Ramaphosa on behalf of Government.[20] The JTF is positioned as a planning tool for achieving a just transition in South Africa, setting out the actions that the Government and its social partners will take to achieve a just transition, and the outcomes to be realised in the short, medium, and long term. Several policy instruments were released subsequently to operationalise the JTF (see Box 2).

Given the structural and economic dimensions of the energy transition, the private sector's involvement is crucial not only for driving technological and financial innovation but also for the fate of the energy transition's justice goals. This however is an area that still requires further elaboration to ensure the specific responsibilities and contributions of businesses remain adequately defined (not only in South Africa, but in most national transition plans around the world).

The role of business is acknowledged across a number of South Africa's core JET policy instruments, including the JTF, which incorporates corporate responsibility in its distributive justice track. It has also been acknowledged at the highest levels of the JETP, including in the "political declaration" agreed between President Ramaphosa and the IPG of donor governments, which states that the JETP will be used to "define" the role of the private sector, "enable" local value chains, and support private

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investment to "drive" the creation of green and quality jobs.[21] A detailed JET Investment Plan gives effect to the JETP by outlining the priorities essential for catalysing a sustained just energy transition within the first five years of the partnership. It states that the transition is an "invitation"[22] for the private sector to partner with South Africa on its decarbonisation journey.

However, where guidance on the justice dimensions of the transition has been provided to the private sector, it has so far been largely nonspecific, normative, or limited in its scope to effectively drive coherent implementation and tangible change (see further section 4).

Box 2: Map of Frequently Used Just Transition Concepts

Global Transition to Net Zero

Worldwide efforts to reduce greenhouse gas emissions to net zero by a specific date. It serves as the overarching goal for all other initiatives and policies.

Just Transition

A principle under the global transitions to net zero focusing on ensuring that the move to a low-carbon economy os fair, inclusive, and benefits all, especially workers and communities most affected by the transition.

Just Energy Transition (JET)

A subset of the just transition which specifically refers to the transition within the energy sector. It emphasises fair practices, equity, and inclusion in shifting from fossil fuels tp renewable energy sources.

Specific Initiatives

Just Energy Transition Partnership (JETP)

An international collaboration and financial agreement designed to support specific countries in implementing their just energy transition strategies. The partnership focuses on mobilising financial resources, technical assistance, and policy support.

South Africa was the first participating country in a JETP, receiving political and financial support to implement its Just Energy Transition policies.

South Africa's Just Energy Transition Policies

Just Transition Framework (JTF)

(June 2022): Sets out a shared vision for the just transition, outlines principles to guide the transition, and describes policies and governance arrangements to give effect to the transition.

Just Energy Transition Investment Plan (JET IP)

(November 2022): Clarifies the priority investment requirements for the next five years (2023-2027) in the electricity, new electric vehicles (NEV), and green hydrogen (GH2) sectors.

Just Energy Transition Implementation Plan (JET IPIP)

(November 2023): Provides a roadmap for the next five years (2023-2027) for each of the six priority portfolios under the JET Investment Plan, outlining the governance and institutional arrangements for multistakeholder co-creation of solutions, as well as outcome and impact indicators for monitoring implementation.

This is due, in part, to the Government and PCC's intense focus on constructing business-friendly Investment and Implementation Plans for its decarbonisation pathways and the facilitation of new sectoral growth, with a primary focus on the technical dimensions of transition. It is also due to the Government's prioritisation of high-level guiding policies, first, before delving into sector-specific guidance. The JTF acknowledges this when stating that social partners will need to "design their own policies and programmes in line with their specific conditions, responsibilities, and realms of influence, based on the vision, principles, and interventions articulated in this framework".[23]

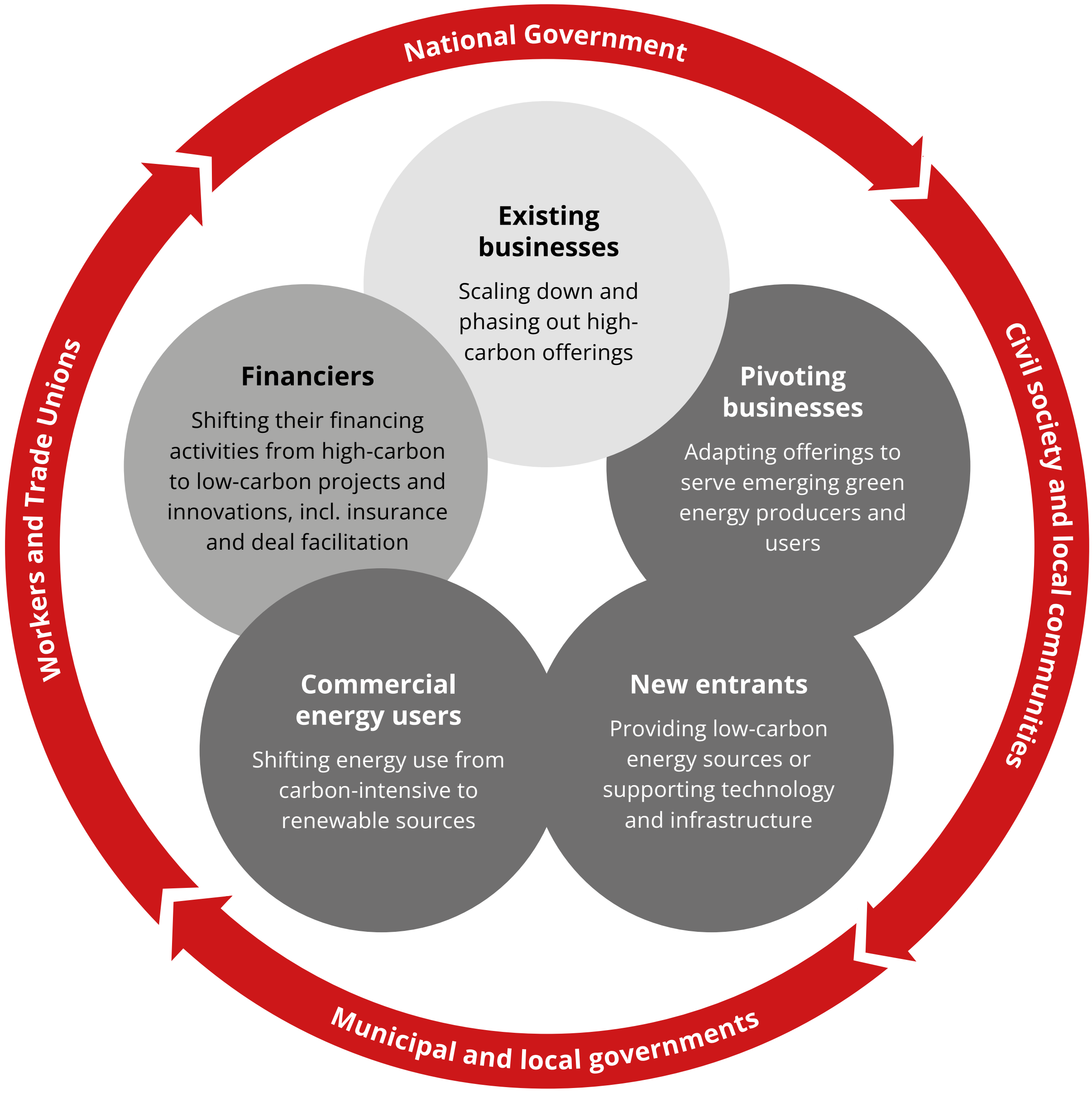
This report aims to delineate how businesses in South Africa can effectively advance the "justice" dimensions of the energy transition by robustly implementing their responsibility to respect human rights via established international standards, in particular the UN Guiding Principles on Business and Human Rights (UNGPs), and what is needed beyond this to achieve the full suite of justice outcomes defined in the JTF. While the report provides principled guidance on the roles and responsibilities of business, it does not intend to offer a prescriptive blueprint. It acknowledges that different sectors pose different risks and opportunities and will need to apply approaches appropriate to these contexts. Some enterprises will be involved in social risks or opportunities in particular ways, and therefore have varying roles to play. Accordingly, the report's guidance and recommendations are meant to serve as a resource for policymakers and practitioners in South Africa as well as other parts of the world, including other JETP countries.

Solar panels on the roof of the Council for Scientific and Industrial Research (CSIR) campus in Pretoria, South Africa.

Climate Visuals/Gulshan Khan

Box 3: Actors Driving Decisions in the Energy Transition

This infographic conveys the continuum of transition activity by various business enterprises, the inter-relatedness of actors, and points of leverage between them. The distribution of power between these actors largely determines the nature of the energy transition – and whether it responds only to narrow financial interests or also the needs of affected stakeholders, particularly the most vulnerable.

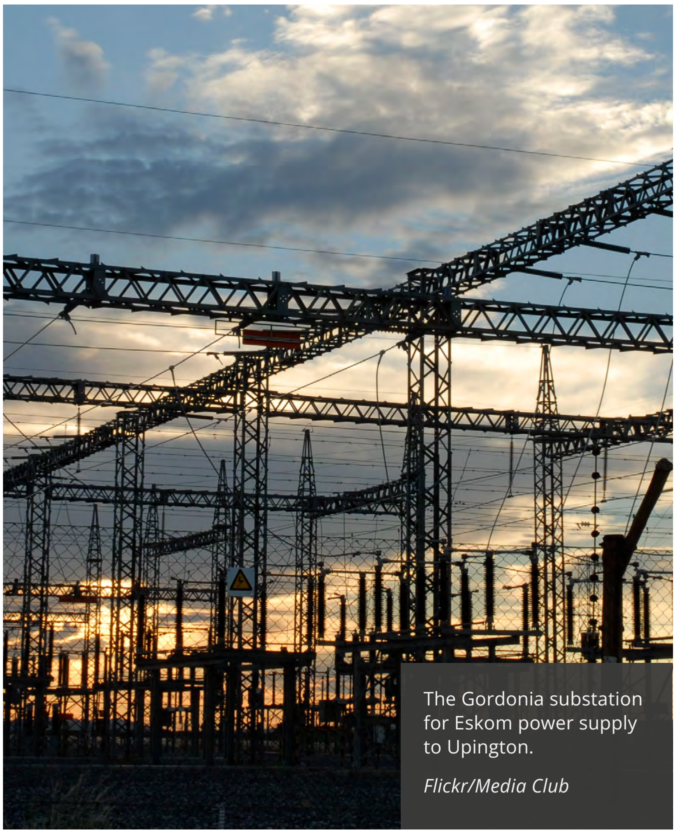


2. OVERVIEW OF SOUTH AFRICA'S JUST ENERGY TRANSITION (JET) POLICY ARCHITECTURE

2.1 SOUTH AFRICA'S JUST TRANSITION FRAMEWORK (JTF)

South Africa's Just Transition Framework (JTF) has explicitly aligned its own definition of a "just transition" with the principles enshrined in the country's Constitution and Bill of Rights. In mirroring the Constitution's commitment to social justice, the JTF seeks to utilise decarbonisation as an opportunity to address long-standing environmental impacts, socio-economic inequalities, and historic injustices. Box 4 provides the definition of a just transition to a low-carbon, climate-resilient economy as defined in South Africa's JTF.[24]

The JTF states it drew on "just transition literature", "consultations facilitated by the PCC" and "international best practice guidelines" to conceptualise three interconnected "forms" of justice. For each form of justice, a definition is offered, as well as processes and outcomes that will serve to "embody" it (see Box 5).



The Gordonia substation for Eskom power supply to Upington.

Flickr/Media Club

Box 4: Definition of "Just Transition" in South Africa's JTF

"A just transition aims to achieve a quality life for all South Africans, in the context of increasing the ability to adapt to the adverse impacts of climate, fostering climate resilience, and reaching net-zero greenhouse gas emissions by 2050, in line with best available science.

A just transition contributes to the goals of decent work for all, social inclusion, and the eradication of poverty.

A just transition puts people at the centre of decision making, especially those most impacted, the poor, women, people with disabilities, and the youth—empowering and equipping them for new opportunities of the future.

A just transition builds the resilience of the economy and people through affordable, decentralised, diversely owned renewable energy systems; conservation of natural resources; equitable access of water resources; an environment that is not harmful to one's health and well-being; and sustainable, equitable, inclusive land use for all, especially for the most vulnerable."

Box 5: South Africa's Three Prioritised Forms of Justice, as defined in the JTF

Procedural Justice	Distributive Justice	Restorative Justice
"Workers, communities, and small businesses must be empowered and supported in the transition, with them defining their own development and livelihoods. It is about embracing the sentiment, 'nothing about us without us!' (P.9)	"The risks and opportunities resulting from the transition must be distributed fairly, cognisant of gender, race, and class inequalities. It is essential that impacted workers and communities do not carry the overall burden of the transition, and the costs of adjustment are borne by those historically responsible for the problem." (P.8)	"Historical damages against individuals, communities, and the environment must be addressed, with a particular focus on rectifying or ameliorating the situations of harmed or disenfranchised communities. It is about redress: healing people and the land, which was an immediate need echoed by all communities that the PCC has consulted with" (P.9)
Priority processes and outcomes:		
• "Assisting communities to understand what the just transition entails, specifically, and discuss points of agreement and disagreement openly and transparently. • Supporting worker and community organisations (unions, civics, advocacy groups, etc.) to participate actively in just transition policy-making processes ensuring decisions are made in their best interests and allow them to take advantage of opportunities. • Collaborating actively with a range of stakeholders, through inclusive and participatory decision-making structures, allowing each to play to their respective strengths, fostering a more dynamic, competitive, diversified, and equitable economy. • Supporting the design and implementation of just transition projects, as proposed by individuals and communities in affected areas." (P.9)	• "Equipping South Africans with skills, assets, and opportunities to participate in industries of the future, with particular attention on impacted groups, the poor, women, people with disabilities, and the youth. • Implementing transformative national economic and social policies that clearly consider how benefits and burdens will be distributed (this includes clear indication of where jobs are gained, where jobs are lost, and the quality and longevity of future employment). • Increasing provincial and local capacity (both resources and skills) to promote local economic development. • Ensuring corporate responsibility to support a green and inclusive economy." (P.8)	• "Acknowledging the health and environmental impacts to communities in coal and other fossil fuel impacted areas, and supporting all South Africans' constitutional rights to a healthy environment. • Shifting away from resource intensive sectors and fossil fuels to (1) improve ecosystems with community ownership and stewardship, (2) improve energy security and eliminate energy poverty, and (3) create opportunities for rehabilitation of degraded land, air sheds, and water systems, the improvement of biodiversity, as well as related employment opportunities. • Creating a more decentralised, net-zero-emissions economy, which allows for greater economic inclusion, ownership, and participation, especially for women and the youth. • Remedying past harms by building on, and enhancing, existing mechanisms such as equitable access to environmental resources, land redistribution and Broad-based Black Economic Empowerment." (P.9)

The JET Investment Plan, a related policy document released at the end of 2023, elaborates on the JTF's definition in order to operationalise it within the Government's planning for the next five years (2023-2027) (see Box 6).[26]

Crucially, the JET Investment Plan clearly states that action will be prioritised according to the vulnerability of and impacts to those most likely to be affected.[27] This is a welcome sentiment that strongly aligns with international standards on business and human rights, focused on taking appropriate action according to involvement in and the severity of impact.[28] As indicated in Box 7, the Plan distinguishes between groups at risk, and groups that may benefit from the transition.

The South African JTF provides several explicit signals to business enterprises and financial institutions regarding their responsibilities to advance justice-related dimensions of the transition. As outlined in Box 8, it calls for companies to embed "Environmental, Social and Governance (ESG) principles across all operations"[29]

> **"** Crucially, the JET Investment Plan clearly states that action will be prioritised according to the vulnerability of and impacts to those most likely to be affected.

Box 6: "Operational" Definition of Just Transition in South Africa's JET Investment Plan:

"A just energy transition in South Africa builds resilient economies and people to meet the NDC targets. It does so by:

i. accelerating affordable, decentralised, diversely owned renewable energy systems;

ii. restoring previous and future ecosystems and natural resources impacted by coal mining and energy production;

iii. reskilling present workforces and educating future ones in green and other new and viable development pathways;

iv. building new productive models for comprehensive economic transitions;

v. supporting various impacted constituencies to play an active role in decisions and implementation of energy transition programs (be it government or non-government actors)."

Box 7: Potentially Affected Stakeholders Identified in South Africa's JET Investment Plan

Stand to be affected	• "Direct workers at risk from energy transition changes; • Indirect workers in associated value chains, as well as induced jobs and economic activity in affected regions; • Local communities who may bear the brunt of environmental and social externalities, induced by the coal phasedown or the shift away from other fossil fuels; • Small Medium and Micro Enterprises (SMMEs) and the self-employed who are part of both formal and informal value chains; and • Those currently excluded from the existing structure of the economy (due to education, gender, race, or disability)." (P.26-27)
Stand to benefit	• "Youth and future generations, particularly through new employment in green and emerging clean technology areas; and • Existing underserved communities who may have human and natural capital in which to locate decarbonising and innovative new industries." (P.27)

Box 8: The JTF's Expectations of Business

The JTF states that "business should pursue long-term value creation by considering the needs of all their stakeholders, and society at large, in line with the principles of stakeholder capitalism. Further roles are specified as:

- Using **corporate social investment** to stimulate local enterprises and support skills development, pursuing the principles of Broad-Based Black Economic Empowerment including women's empowerment
- Incorporating climate **risks and opportunities into business strategies and decisions**
- Employing recommendations from the Task Force on Climate-Related Financial Disclosures (TCFD), especially in relation to disclosing climate change impacts in financial statements and using scenarios to understand future impacts.
- **Embedding environment, social, and governance (ESG) principles across all operations;** ensuring a **board member** has overall responsibility for ESG and climate change (and that the board receives regular ESG and climate change training and at induction); appointing **non-executive directors** with strong ESG/sustainability/climate change experience and qualifications; implementing **executive-level incentives** for ESG and climate performance).
- Setting Science Based Emissions Reduction Targets, where possible and considering equity and fair share approaches.
- **Tracking environmental, social, governance and climate impacts, and disclosing these impacts through best-practice reporting,** including through the Carbon Disclosure Project (CDP) and Johannesburg Stock Exchange (JSE).
- Establishing **just transition offices** in large corporations, when applicable to business operations.
- For mining companies in particular, implement **social and labour plans** in line with Regulation 46 of the Mineral And Petroleum Resources Development Act (28 of 2002), and make **adequate financial provision for end-of-life mine rehabilitation** in line with National Environmental Management Act (107 of 1998) regulations (DFFE 2021)." (P.22-23)

***emphasis added**

2.2 FINANCING THE "J": THE JET INVESTMENT PLAN (2023-2027)

The initial financial pledge in 2021 by the International Partners Group (IPG) of western governments of $8.5 billion USD (and since grown to nearly $12 billion USD) is primarily intended to catalyse the much larger-scale private investment, infrastructure, and services required for South Africa's energy transition over the next three decades.

In order to begin operationalising the JETP, in 2023 the PCC released the JET Investment Plan for the period 2023-2027. This Investment Plan is intended to serve as an "invitation" for financial interventions and investments for the first five years of South Africa's JET, to catalyse investments in the longer-term. It lays out a vision and investment strategy for how the country will seek to balance energy security, economic growth, and decarbonisation while staying true to the three forms of justice in its JTF. It prioritises 6 initial "portfolios" for this, both sectoral and cross-cutting (see Box 9).

The JET Investment Plan estimates the cost of South Africa's energy transition at about ZAR 1.48 trillion (roughly $98.7 billion USD) from 2023 to 2027 (see Box 10).[31] Of that, an estimated ZAR 500 billion (roughly $30 billion USD) is required from private sector sources.[32]

Within the investment breakdowns is an explicit estimation of the "just" components of South Africa's energy transition, allocating ZAR 60.4 billion (roughly $4.0 billion USD) to the coal-dependent province of Mpumalanga.[33]

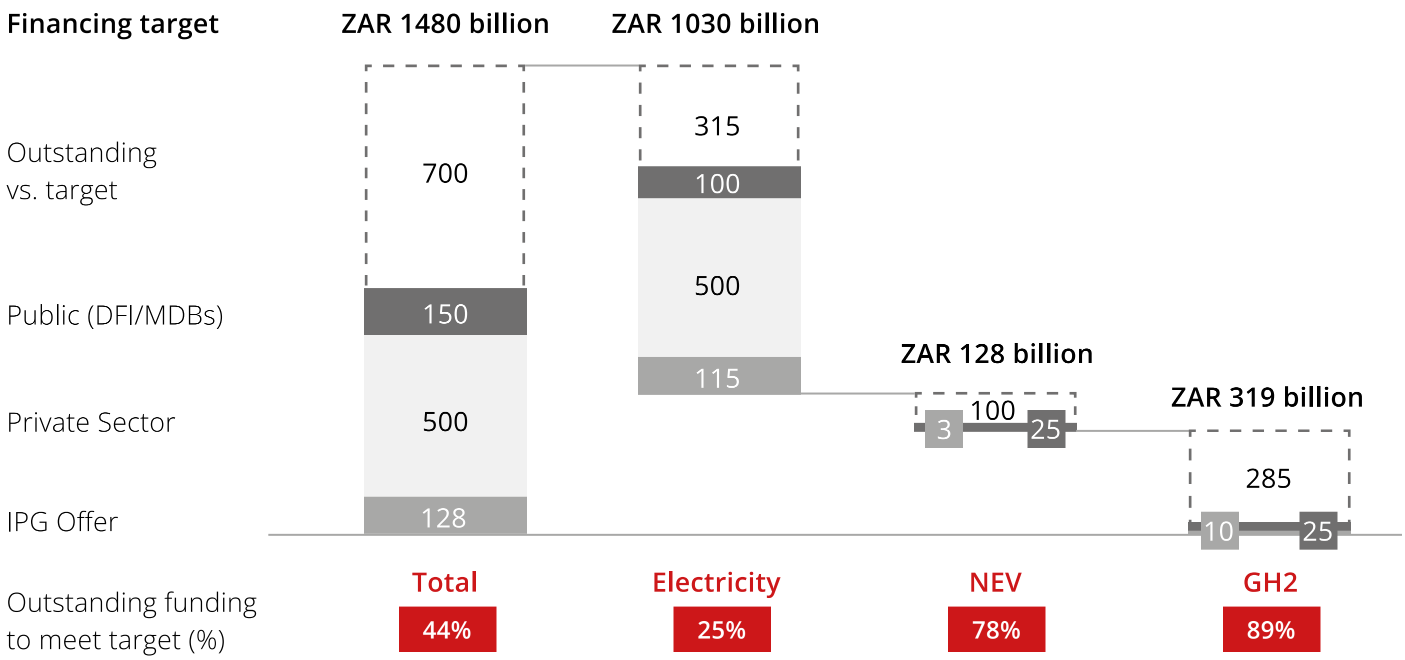
Box 9: Portfolios prioritised in the JET Investment Plan (2023-27)

- Electricity
- New Energy Vehicles
- Green Hydrogen
- Mpumalanga's just transition
- Skills
- Municipalities

Additional portfolios indicated as forthcoming in 2024

- Renewable Energy Masterplan
- Energy Efficiency
- Road-to-Rail

Box 10: South Africa's Projected JET Funding Needs and Estimated Availability by Source[34]



2.3 GETTING STARTED: THE JET IMPLEMENTATION PLAN (2023-27)

The Government intended to speedily translate the JET Investment Plan into an actionable implementation plan, establishing a Project Management Unit (PMU) to facilitate this process and engage with the IPG donors via multiple working groups. President Ramaphosa tasked the PCC to hold in-depth public consultations on the JET Investment Plan in early 2023 as inputs for the design of an implementation plan.

Despite criticism by unions and civil society groups of the Investment Plan inadequately demonstrating procedural justice in practice, most stakeholders still support the fundamentals of the JET.[35] The PCC published its own critique of the Investment Plan, affirming stakeholders' "legitimate concerns" while also calling for realism on issues such as strengthening state capacities for cooperation with the private sector as well as market-making, growing renewable industries and jobs, and calling for pragmatism in working with the global and domestic funding environment while staying nimble to future changes. Throughout the process, the PCC helped legitimise the Investment Plan as a home-grown country platform open for social participation.

Released in November 2023, the JET Implementation Plan for South Africa lays out the operational priorities for directing the early flows of capital laid out in the JET Investment Plan.

In summary, the JET Implementation Plan:

- Defines short- and medium-term outcomes in 6 initial portfolios: Electricity; Mpumalanga province; New Energy Vehicles; Green Hydrogen; Skills; Municipalities (see next section for further details);
- Signals three additional portfolios as forthcoming: South Africa Renewable Energy Masterplan; Energy Efficiency; Road-to-Rail;
- Seeks to place co-creation by stakeholders at the centre of JET Portfolio-specific planning for programmes and projects;
- Seeks to maximise decarbonisation and just transition investments by the private sector arising from electricity sector policy and regulatory reforms;
- Seeks to promote economic diversification, transformation, and industrialisation in the renewable energy sector that empowers workers, marginalised communities, and black owned businesses;
- Calls for the development of appropriate standards on feasibility, due diligence, and reporting that must be applied to projects before they are included on the JET projects' pipeline and creating a repository of these reports.

South Africa's coal hub, Mpumalanga province, requires an estimated ZAR60.4 billion (roughly $4 billion) in investments to achieve a just transition to net-zero.

Flickr / westewoud

Box 11: JET Coherence and Accountability Mechanisms So Far

JET Projects Register	JET Funding Platform	JET Monitoring, Evaluation and Learning (MEL) System
Launched in 2024 and intended to promote transparency and visibility into the projects funded under the JET Investment Plan, the public JET Projects Register details key project information including: the grant purpose, type of activity, project details, beneficiaries, financial details, and implementing institutions. Currently only covering IPG partner allocations since the start of the JETP in 2021, there are plans to expand the scope to include concessional and commercial financing from international partners, philanthropies and the South African private sector.	Launching in late 2024, the JET Funding Platform is intended to:[36] • "Be a matchmaker between suppliers of grant funding (IPG governments, direct foreign investors, multilateral development banks, philanthropies, corporates) and potential JET beneficiaries (SMMEs, community-based organisations, non-governmental organisations, trade unions, and government institutions). • Provide project preparation support services to JET project originators to help them prepare plans and apply for grants. • Provide the public with transparent data and analysis on the deployment of grant funds to JET projects."	The JET Implementation Plan outlines a MEL system, which seeks to:[37] • Be developed collaboratively with key stakeholders. • Create a shared framework across state entities. • Build on existing government tracking efforts and decentralises monitoring responsibilities to the relevant lead institutions. • Emphasise maximising impact and continuous improvement, while also ensuring public accessibility and transparency. • Integrate participatory monitoring, evaluation, and learning due to the importance of procedural justice to South Africa's energy transition. Each portfolio within the JET Implementation Plan will also have its own MEL process.

Darling National Demonstration Wind Farm in Cape Town, South Africa.

Flickr / warrenski

3. THE ROLE OF BUSINESS IN A JET

The extent to which businesses navigate the expectations and complexities at hand in a JET will be further shaped by their involvement in the energy supply chain and the energy transition itself. For instance, renewable energy producers focused on scaling up clean technologies will have a different role to play than fossil fuel companies preparing for decommissioning. Accordingly, transition risks and opportunities – for vulnerable groups like workers, diverse local communities, and indigenous groups – will differ, not least because some will be spatially concentrated (as in the case of a mine closing in a peripheral area). Basic awareness raising of these risks and opportunities is an essential starting point in considering how to shape business actions that advance, and do not undermine, the justice dimensions of the transition (see Box 12).

Box 12: Different Enterprises Face Different Transitions

<table>
<tr><th></th><th>Exiting businesses</th><th>Pivoting businesses</th><th>New entrants</th><th>Commercial energy users</th><th>Financiers</th></tr>
<tr><td rowspan="2">Role in the energy value chain</td><td>Scale down and phase out high-carbon offerings</td><td>Adapt offerings to serve emerging green energy producers and users</td><td>Provide low-carbon energy sources or supporting technology and infrastructure</td><td>Shift energy source from carbon-intensive to renewable sources</td><td>Finance renewable energy projects and innovations, provide insurance and deal facilitation</td></tr>
<tr><td>e.g. coal extractors, refineries, coal processing plants, ancillary services</td><td>e.g. automotive manufactures, ancillary services, mining companies</td><td>e.g. new NEV manufactures, renewable energy producers, energy storage producers</td><td>e.g. aviation, trucking, commercial agriculture, heavy industry</td><td>e.g. banks, investment firms, insurers</td></tr>
<tr><td>Anticipated actions</td><td>Scale down production; close or sell assets; transition workforce</td><td>Reskill workforces, invest in new offerings and equipment, transition operations</td><td>Scale up production, increase workforces, invest in new infrastructure, equipment and technologies</td><td>Invest in new equipment and technologies, transition operations, reskill employees</td><td>Allocate capital, structure deals, enforce just transition compliance</td></tr>
<tr><td rowspan="3">Transition risks to vulnerable groups</td><td colspan="2">Job losses; local divestment; stranded assets and improper end-of-life protocols leading to environmental impacts; lack of redress for historical harms</td><td></td><td></td><td></td></tr>
<tr><td></td><td colspan="3">Increased land requirements leading to displacement and environmental impacts; increased mechanisation and reduced labour demand; increased dependence on IP from the Global North; increased energy costs; improper human rights due diligence; lack of effective remedy mechanisms</td><td></td></tr>
<tr><td></td><td colspan="4">Lack of justice and human rights considerations in ESG standards; investment in projects with negative local and environmental impacts; absent and improper human rights due diligence</td></tr>
<tr><td rowspan="2">Potential benefits</td><td colspan="2">Remedies for historical impacts; reskilling opportunities</td><td></td><td></td><td></td></tr>
<tr><td></td><td colspan="3">Economic participation in transition opportunities; job creation; consultation over project design and impacts; share in project benefits; local investment and capacitation; new markets; technology adoption; increased energy security</td><td></td></tr>
</table>

3.1 SOUTH AFRICA'S PRIVATE SECTOR CONTEXT

South Africa's private sector occupies a complex position in the country's history and imagination. During the apartheid era, companies were known to thrive under the state's racially discriminatory policies; at times playing an active role in reinforcing the status quo.[38] However, the social compact that underscored South Africa's peaceful transition to democratic rule included expectations of, and a policy architecture that relies on, businesses to play an active role in the economic transformation and growth of the country.

Today – in the post-apartheid context of a state grappling with limited capacity to facilitate growth and address inequality – private sector activities have transformed significantly. Private actors play a pivotal role in bridging service provision gaps left by the state's constraints. Public-private partnerships (PPP) are essential for delivering services like water, electricity, and healthcare in underprivileged regions.[39] Additionally, private enterprises are frequently involved in capacity-building and governance improvement initiatives, often supporting or even augmenting state functions. Some companies have come to assume state-like functions[40] by providing essential services and infrastructure, such as housing, healthcare, and education, in areas where state provision is insufficient or absent. This is particularly common in the mining industry, where companies' social responsibilities are outlined in the Mineral and Petroleum Resources Development Act (MPRDA).[41] The landscape is further shaped by union demands and expectations from nearby communities as well as by the growing global emphasis on responsible business practice.[42]

However, reliance on the private sector is complicated by several factors. Firstly, despite transformation legislation, business remains a visible reminder of apartheid's legacies, with white South Africans still holding a significant share of business ownership and representing over 60% of senior management.[43] A lack of enforcement of legislation and regulations often leads to a lack of adherence by companies, leading to human rights violations – particularly by mining companies.[44] Furthermore, the importance of the private sector to the country's overall development has endowed it with substantial bargaining power, often leading to pro-business policies that maintain existing power structures and imbalances. The high costs associated with private services such as healthcare, private security, and education further exacerbate inequalities, resulting in a widening gap between rich and poor and reinforcing historic distributional injustices.[45] This historical context has resulted in a pervasive sense of scepticism, or even distrust, among many South Africans.

3.2 RESPONSIBLE BUSINESS IN SOUTH AFRICA

Responsible business in South Africa, while still facing significant challenges and inconsistencies, is emerging as a crucial practice.[46] Several overlapping laws, policies, and norms shape private sector actions today with respect to issues such as protection of workers and constructive engagement with affected stakeholders (See Box 14).[47]

Articulations of responsible business are anchored in the country's Constitution and Bill of Rights. Hailed as one of the most comprehensive in the world, this framework encompasses a wide range of civil, political, economic, social, and cultural rights (see Box 13).[48] This includes not only traditional rights such as freedom of speech and the right to a fair trial but also socio-economic rights like access to housing, healthcare, education, and environment; reflecting an enduring commitment to ensuring a minimum standard of living and addressing historical inequalities. Moreover, the Constitution's focus on transformational change and recognition of past injustices underscores a commitment to restorative justice. It also recognises "third generation"[49] collective development rights (e.g. sustainable development, rights to collective organisation and economic activities, rights of cultural and linguistic communities). These rights are given further expression in Chapter 1 of the National Environment Management Act (NEMA),[50] which contains a justiciable set of principles including putting human development concerns at the centre of decision making, producer and polluter responsibility, equitable access to environmental resources, and equipping people to participate in decision making.

> **Responsible business in South Africa, while still facing significant challenges and inconsistencies, is emerging as a crucial practice.**

Powerfully, South Africa's Bill of Rights is designed to be horizontally enforceable – it can be applied to private relationships and non-state bodies, including businesses.[51] It compels private actors to respect and uphold these rights, with the exact nature of such obligations being continuously negotiated.[52]

Responsible business in South Africa is also heavily influenced by regulatory measures. Most notably, South Africa's Broad-Based Black Economic Empowerment (B-BBEE)[53] legislation aims to increase the participation of black individuals in the economy by requiring – in certain instances – black ownership and management control of companies, as well as practices such as preferential procurement and skills development. This focus on redressing apartheid-era inequalities through corporate responsibility sets the South African private sector apart. However, the actual implementation of these standards varies widely among individual firms.

Other influential regulations include the Labour Relations Act[54] (LRA), which guides relationships with employees, and the Employment Equity Act[55] (EEA), which promotes fairness and equity in the workplace. For companies with land-intensive activities, responsible conduct is guided, amongst other instruments, by the NEMA, which provides a framework for environmental protection, and the MRPDA, under which prospecting and extraction licences are issued; and the Interim Protection of Informal Land Rights Act[56] (IPILRA), aimed at protecting the land rights of individuals and communities who occupy land informally, ensuring they are not deprived of their land without proper consent and compensation.

Moreover, as elsewhere in the world, many investors and stock market regulators now expect South African companies to report on how they are integrating environmental, social, and governance (ESG) standards into their operations and actions. According to the Financial Times Stock Exchange (FTSE) Index, South Africa's level of ESG disclosure is rated among the highest of emerging and developing markets,[57] yet consistent application and enforcement of ESG standards is still lagging.[58] Crucially, while companies have more sophisticated policies and processes to address risk, the approach is largely still oriented around assessments of risks *to the business*, rather than *to people*.

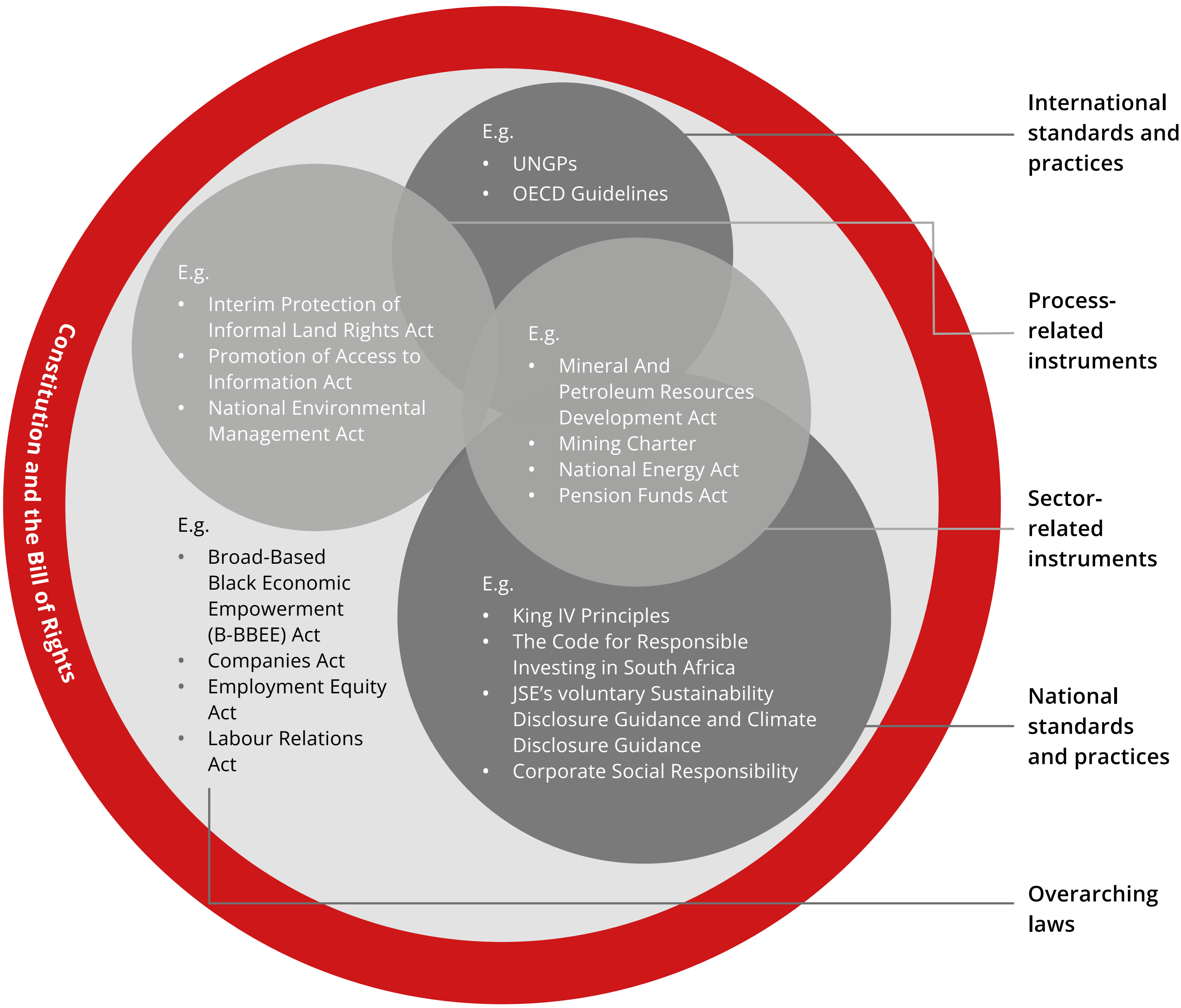
"Powerfully, South Africa's Bill of Rights is designed to be horizontally enforceable – it can be applied to private relationships and non-state bodies, including businesses.

Box 13: Origin of South Africa's Bill of Rights

In 1948, the year the National Party came to power and implemented its apartheid policies in South Africa, the UN adopted the Universal Declaration of Human Rights (UDHR). South Africa was one of only eight countries that refused to sign this seminal human rights document, in large part because the government was preparing to implement the apartheid programme which would systematically violate every one of the rights recognised in the UDHR. Until the first democratic election on 27 April 1994, the vast majority of South Africans had been excluded from participating in government and were subjected to a wide variety of human rights violations. Discrimination was by design.

It was only when South Africa became a constitutional democracy in 1994 that the human rights of all South Africans, as expressed in the Freedom Charter, finally received protection in the South African Constitution and its justiciable Bill of Rights. South Africa's Freedom Charter and the Constitution were widely regarded as the most progressive and rights-affirming documents at the time.

"This focus on redressing apartheid-era inequalities through corporate responsibility sets the South African private sector apart.



Box 14: Overlapping Policies, Frameworks, and Instruments Shaping the Social Dimensions of Business in South Africa

3.3 COMPLEXITIES SHAPING BUSINESS ACTIONS IN SOUTH AFRICA'S JET

The private sector is poised to be a pivotal player in South Africa's energy transition. A supportive policy framework has equipped the sector with certain capabilities to support the justice dimensions of the transition. However, the path forward is complicated by several deep-rooted challenges within the country's energy landscape:

The Future of Eskom

A key component of South Africa's transition involves the restructuring of Eskom, the state-owned utility responsible for the bulk of electricity generation in the country. Plagued by financial instability, ageing infrastructure, frequent labour disputes, and an ongoing corruption crisis, the process of "unbundling" the utility into three distinct entities for generation, transmission, and distribution has been set in motion. However, the state's ambitions are complicated by the need for extensive regulatory reforms, ensuring a smooth transition of assets and liabilities, and managing potential job losses. In addition, attracting sufficient private investment has been arduous and slow.

While unbundling is a key priority for the current Government – backed by the GNU and buttressed by the recently passed Climate Change Act[59] – unions and civil society organisations have expressed concern and resistance to increased reliance on the private sector. Citing examples from Kenya, Uganda, and Zimbabwe, they fear the nation's poor will bear the brunt of higher prices, job losses, and other undue impacts in the name of energy security via privatisation. This discomfort over the looming changes underscores the importance of a more robust approach to private sector involvement in the justice dimensions of the just energy transition.

Labour Union Scepticism

South Africa's labour unions, historical pillars of social justice and potent political actors, wield significant influence due to their large membership and deep-rooted political connections, particularly within the dominant African National Congress (ANC) party. With millions of members, unions command significant electoral power, influencing policy decisions and shaping the national dialogue. Their presence in various sectors – including energy– ensures that the voices of working people are heard in critical discussions about the country's future. Their capacity to mobilise social movements and potential for actions such as worker strikes enable them to compel state and private actors to hear and address their concerns.

While recognising the environmental imperative of the energy transition, unions' understandable concerns about job security and livelihoods create a complex landscape for private sector involvement. Divergent views on the meaning of a "just transition" – from retraining workers to outright opposition to change – highlight the deep-rooted challenges to achieving the JET.[60] There is a common refrain amongst those engaged in the just energy transition at the community level that "there was never justice to begin with" and this must be acknowledged and directly responded to in order to build an environmentally sustainable and equitable energy system moving forward. This multifaceted resistance complicates the private sector's role, requiring nuanced strategies to balance economic imperatives with social justice demands.

> **Many fear the nation's poor will bear the brunt of higher prices, job losses, and other undue impacts in the name of energy security via privatisation.**

> **While recognising the environmental imperative of the energy transition, unions' understandable concerns about job security and livelihoods create a complex landscape for private sector involvement.**

Corruption and State Capture

The scepticism on the role of business in advancing the JET is further compounded by the "manifestation of conflict of interest",[61] also known as "state capture" in South Africa. This is a systemic form of political corruption where private interests manipulate the state's regulatory and decision-making processes for their own advantage, often at a significant social cost.[62] Despite South Africa's robust legal framework and anti-corruption measures, corruption remains prevalent, and perpetrators often escape accountability due to weakened laws and enforcement mechanisms.[63] This undermines good governance and ability to deliver a just energy transition.

The coal-dominated energy sector in South Africa has long been a hotspot for corruption.[64] Eskom, the state-owned electricity utility, has faced numerous corruption allegations involving political parties, family connections, coal mine companies and industries.[65] These allegations range from tender rigging, collusion, and anti-competitive behaviour to misallocation of public contracts and diversion of public spending. Even mechanisms like Black Economic Empowerment (B-BBEE), designed to uplift historically disadvantaged groups, have been co-opted for vested interests,[66] blurring the lines between public service and private gain.

The transition away from coal and into a low-carbon and diversified economy – if absent of adequate safeguards for more responsible business – could risk repeating these kinds of socioeconomic impacts in affected regions. With the rising unemployment rate in the country, and the significant role of the coal industry in the employment sector, there have been calls for a more gradual energy transition process to cushion the effects of job losses to ensure socioeconomic considerations are adequately addressed.[67] The interplay of vested interests and influence of coal lobbyists poses decision making challenges and can perpetuate the status quo.

Businesses seeking to act as well-governed and trusted stewards in the JET will need to navigate these tensions, underscoring the importance of greater transparency, reinforcement of anti-corruption measures, real-time accountability, and demonstrable commitments to the justice dimensions of the transition over the long-term.

Inconsistent Social Performance of Independent Power Producers (IPP)

The Renewable Energy Independent Power Producer Procurement Programme (REIPPPP) is a landmark initiative launched in South Africa in 2011 aimed at stimulating private investment in renewable energy projects. The REIPPPP was designed to address the country's electricity shortage and promote a transition to a cleaner energy mix.[68] The REIPPPP operates through a competitive bidding process, awarding contracts to independent power producers (IPPs) to build and operate renewable energy facilities. It has resulted in contracts for 112 utility-scale projects to date, totalling the improved future capacity of 6,328 MW and $135.6 billion USD of investment.[69] The programme's framework mandates IPPs to engage with local communities, create employment opportunities, and contribute to socio-economic development through various measures, including the establishment of community trusts, skills development programs, and the prioritisation of local labour and suppliers.

Despite the programme's success in bringing significant renewable energy capacity online, it has also faced criticism for its slow implementation pace, bureaucratic hurdles, and inconsistencies in the procurement process. While the programme has made some progress in fulfilling its social objectives,[70] its impact on local communities has been uneven, with some projects struggling to deliver on their promised benefits.[71] This is partly driven by the programme's commitment to shareholder interests (easy access to land, quick environmental impact assessments), whereas socio-economic goals are catered for only indirectly.[72]

> **Businesses seeking to act as well-governed and trusted stewards in the JET will need to navigate these tensions.**

> **While the programme has made some progress in fulfilling its social objectives, its impact on local communities has been uneven, with some projects struggling to deliver on their promised benefits.**

Some commentators have also pointed out that, while local actors have participated in the REIPPPP, it set the stage for the transnationalisation of the energy transition. These commentators assert that where local businesses have had a positive impact on community ownership and opportunities for technology transfer, foreign operators have made only a limited contribution to these dimensions, partly because of the difficulties in entering into shareholder partnerships with local entities.[73]

These challenges exemplify the need for a holistic JET approach that prioritises both renewable energy goals and equitable community development and ownership in future iterations of the programme.[74]

The Dismal Track Record of Mine Closure and Rehabilitation

Mine closure in South Africa is a controversial and complex issue. Despite regulations intended to ensure environmental rehabilitation and community support post-closure, more than 6,000 derelict and abandoned mines are scattered throughout the country, posing a persistent threat to the health and safety of nearby communities and the environment.[75] It is currently estimated that more than a fifth of South Africa's operating mines are at risk to close within the next decade due to changing investment and demand patterns brought about by the energy transition.[76] Those most at risk are coal mines situated in Mpumalanga, and projections include energy-intensive operations in other regions as well, especially deep underground mines with high operating costs.

The impact of closures is expected to be severe. More than a quarter of South African municipalities host an operating mine and are at least "somewhat" reliant on mine funds for local service provision.[77] Over six million people live in mining host communities,[78] which puts them at risk for the loss of economic opportunities and jobs, but also for the environmental and health effects associated with mining and poor closures. For example, stranded tailings dams may be more likely to collapse, the devastating effects of such an event recently seen with the 2022 Jagersfontein diamond tailings dam collapse. Illegal mining can lead to severe occupational hazards and increased local criminal activity. Moreover, improper mine closure is associated with high risks of nearby water contamination, air pollution, and land degradation. Acid mine drainage (AMD) from unrehabilitated gold and coal mines is a particularly pervasive risk in South Africa. AMD may render water unusable and soils unproductive, and can corrode municipal water infrastructure. Effective AMD management is complex and costly, requiring diligent operational oversight during and after mining activities. Inadequate mine rehabilitation and weak regulatory enforcement exacerbate AMD concerns. Additionally, the Government currently does not provide essential data on water quality, hindering the identification and mitigation of AMD risks.[79]

The enduring issue of mine closures in South Africa is a complex web of challenges with far-reaching consequences. Lack of clear responsibility for the process has eroded public trust in mining companies and has brought into question their commitment to sustainability and environmental stewardship. It has resulted in growing calls for greater accountability and transparency from mining companies, including adherence to responsible mining practices and genuine commitment to environmental goals.

> **"Over six million people live in mining host communities.**

Looking ahead, mine closure and decommissioning of mines, coal-fired power plants and ancillary industries associated with carbon-intensive energy generation are unavoidable features of South Africa's energy transition. For these reasons, "responsible exit" is a crucial concept.[80] Companies will need to ensure communities that have come to depend on jobs in carbon-intensive or ancillary industries are adequately resourced to meet challenges posed by future divestment and exit. This means plans are needed for reskilling employees and contract workers, providing outplacement services to identify job opportunities, assisting with relocation as appropriate, and providing information (and where appropriate, resources such as microfinance loans) to set up new businesses in the green economy. Assessing risks of potential violent conflict is also important. Central to this is providing clear guidance to companies in the region that have a direct responsibility to help realise restorative justice as part of their participation in the energy transition.

Financing a responsible exit is an additional barrier, with the JET Investment Plan being criticised for insufficient resourcing of this dimension.[81] The South African state will not be able to deliver all that is required on its own, and the private sector is a critical participant in the work to obtain adequate financing.

Gulshan Khan / Climate Visuals

4. LIMITATIONS AND GAPS IN GUIDING BUSINESS ACTIONS

While South African policymakers have developed detailed plans to transform its energy system, more can be done to apply an equally systematic approach to shaping how business participates in constructively advancing, and not undermining, justice-related processes and outcomes. This section reflects on how guidance for businesses in South Africa's Just Transition Framework (JTF), Investment Plan, and Implementation Plan can be further shaped and implemented to deliver tangible contributions to the objectives of *procedural*, *distributive,* and *restorative* justice at the centre of the JET. It starts first with further background on the UN Guiding Principles on Business and Human Rights,[82] a key international standard guiding the conduct of business enterprises when it comes to their impacts on people, including in the context of climate action.

4.1 THE VALUE OF THE UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS

The UN Guiding Principles on Business and Human Rights (UNGPs)[83] set expectations of states and companies about how to prevent and address negative impacts on human rights by business. They were unanimously endorsed by the UN Human Rights Council (HRC) in 2011 and apply to all states and all businesses worldwide. Today they are being implemented by companies, governments, and their stakeholders on every continent, and are directly applicable to the climate action context.[84]

The energy transition is associated with significant adverse risks for workers, communities, indigenous peoples, and consumers. Many of these risks are foreseeable and preventable, yet if they go unaddressed, it will fundamentally undermine not only the "justness" of the transition, but also its pace and effective rollout. South Africa's JET Implementation Plan to assess risks to people as the prioritisation mechanism for determining appropriate action is fundamental to harnessing the full power of business to advance all forms of justice. It is in direct alignment with the international baseline expectation of companies to respect human rights by requiring them to take appropriate action where they have *impact*, not where they have *influence*.

The UNGPs provide a practical and operational human rights-based framework for all business enterprises of any size and sector – private and public – in mitigation and adaptation actions. The UNGPs furthermore distinguish between the *responsibilities* of companies and *duties* of states. States have obligations under international human rights law to protect against adverse human rights impacts involving non-state actors, including by businesses and other economic actors.[86]

The UNGPs offer a framework for operationalising respect for human rights within a business enterprise, based on its involvement in specific risks or impacts.

Box 15: The Corporate Responsibility to Respect Human Rights[85]

In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

a. A policy commitment to meet their responsibility to respect human rights;

b. A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;

c. Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute

UN Guiding Principle 15

Fundamentally, the corporate responsibility to respect human rights requires all business enterprises to:

i. "avoid causing or contributing to adverse human rights impacts through their own activities and address those impacts that occur; and

ii. 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".[87]

Since their unanimous endorsement by the UN HRC in 2011 (one of the only instruments to achieve unanimity in the HRC's history), the UNGPs have been incorporated into other key responsible business standards, including: The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, International Finance Corporation (IFC) Performance Standards, International Organization for Standardization (ISO) 26000, and many others. The process of ongoing human rights due diligence set out in the UNGPs has been piloted, deepened, and scaled across a vast range of companies, sectors, and geographies over the last fifteen years in particular, offering innumerable lessons-learned in the climate action context, as well as demonstrable benefits to business (see Box 17).[88]

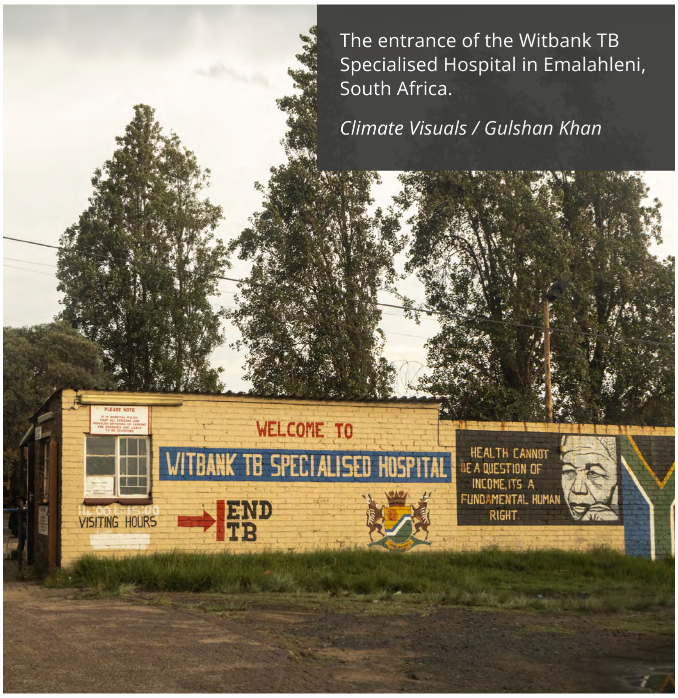
The UNGPs can and should serve as the foundational template for articulating responsible business actions in all energy transitions globally – from the national level down to the project level. They help refocus existing policy frameworks towards just transition outcomes and deepen the impact of existing social capabilities embedded in enterprises and value chains. The sections below offer further analysis informed by this standard and how corporate human rights due diligence approaches can be incorporated to support all three forms of justice prioritised in South Africa moving forward.

> The UNGPs can and should serve as the foundational template for articulating responsible business actions in all energy transitions globally – from the national level down to the project level.

Box 16: Duties of the IPG Governments to Ensure Responsible Business in each JETP

A range of companies operate in South Africa, including foreign-owned and international enterprises. South Africa, as the "host state", carries the primary responsibility to regulate the activities of businesses operating in their territory. There are also clear incentives to advance responsible business that can be set by the International Partner Group (IPG) Governments as the "home states" of many international companies investing in South Africa.

To date, there has been little discussion of the IPG Government's duties to ensure their headquartered companies investing in JETP countries are advancing, and not undermining, the justice dimensions of the JETP. This is an area ripe for much greater research and advocacy moving forward.



The entrance of the Witbank TB Specialised Hospital in Emalahleni, South Africa.

Climate Visuals / Gulshan Khan

Box 17: The Benefits to Companies of Respecting Human Rights and Justice in the Energy Transition

- Improved **risk management** with less chance of business disruptions, public campaigns and criticism, litigation, reputational harm, and harm to employee retention and recruitment;
- Greater **access to business opportunities** with governments, financers and business customers and buyers, who increasingly recognise the reduced risk to themselves when working with a company that effectively manages risks to human rights;
- **Positive recognition**, including from socially responsible investors and civil society organisations, of the company's improving human rights performance and its efforts to address challenges;
- **Improved relationships** with workers, communities and other stakeholders in societies, resulting in greater trust and a stronger social licence to operate;
- Improved ability to **preserve their reputation** when negative impacts occur, given better systems for addressing issues early and public understanding of their overall efforts to avoid such incidents;
- Improved ability to **attract and engage employees** and potential recruits, who are increasingly focused on companies' societal and environmental performance;
- A **comparative advantage** with a growing number of stock exchanges and public and private **financial institutions** scrutinising companies' non-financial performance.

4.2 PROCEDURAL JUSTICE

Procedural justice describes the fairness of the processes used to make decisions. It encompasses transparency, consistency, impartiality, and the opportunity for affected parties to collaborate, be consulted, or at least be informed of decisions.[89] Procedural justice focuses attention to *how* businesses conduct themselves in order to ensure risks to others are minimised and shared benefits are maximised.[90] When it comes to business, meaningful engagement with affected stakeholders is essential to ensuring appropriate action is taken to prevent harm to people and maximise the social, environmental, and economic benefits of the enterprise.

Business-related limitations and gaps

South Africa's JTF emphasises the importance of participatory decision-making structures, including the design and implementation of transition actions "as proposed by" individuals and communities in affected areas.[91] This type of engagement is essential to ensure businesses can prevent and mitigate risks to people effectively, as well as deliver the social, environmental, and economic benefits of specific transition actions, whether that is expansion, closing down, or a change to business model.[92] But there is little explicit guidance or expectation setting for business to deploy this principle. Instead, the emphasis is largely limited to a few references to existing Environmental, Social and Governance (ESG) approaches and encouraging the assessment of climate risks (i.e. risks to the business), rather than ensuring the prevention and remediation of adverse impacts to people posed by the company's operations, products, and services.

There are welcome signals to the forthcoming development of standards on feasibility, due diligence, and reporting that offer significant opportunity to now shape a smart mix of incentives and disincentives for business activities aligned to procedural justice moving forward – both for the transition-out of coal in the Mpumalanga region as well as the transition-in to new priority sectors including renewables, new energy vehicles, and green hydrogen. In particular:

- The JTF makes brief reference to the importance of corporate responsibility, but limits it to the context of distributive justice, without explicitly reflecting its relevance and interconnectedness to procedural and restorative justice (see 4.3 and 4.4 for more).
- The JTF emphasises the importance of companies incorporating climate risks and opportunities into business strategies and decisions (i.e. risks to *the business*). This is welcome but misses a critical opportunity to underscore the interconnected nature of risks and impacts to *people* within a company's climate-related strategies and decisions (sometimes referred to as "justice risks"[93] in the context of the energy transition), and if ignored will directly undermine justice-related processes and outcomes.
- When it comes to ESG standards and performance, the JTF takes a more holistic approach, encouraging companies to:
  - embed ESG principles across all operations;
  - ensure a board member has overall responsibility for and adequate training on these issues;
  - appoint skilled and experienced non-executive directors on ESG, sustainability, and climate change issues;
  - implement executive-level incentives for ESG and climate performance; and,
  - track and disclose ESG and climate impacts through "best practice" reporting.

> **South Africa's JTF emphasises the importance of participatory decision-making structures, including the design and implementation of transition actions "as proposed by" individuals and communities in affected areas.**

> **As presented within the JTF, these brief references to ESG principles and related standards do not represent a holistic mix of the incentives and disincentives needed in JET policy architecture to properly channel the significant force of business.**

However, none of these areas are elaborated upon in either the JET Investment Plan or Implementation Plan. More fundamentally, the many limitations of existing ESG approaches[94] will not yield the systematic and scaled actions desired compared to more holistic approaches to human rights due diligence and responsible business conduct.

- The JTF refers to some important local and international standards relevant to shaping private sector actions in South Africa's just transition, notably the Johannesburg Stock Exchange's (JSE) sustainability and climate disclosure guidance and Code for Responsible Investing in South Africa (CRISA) 2 in South Africa, as well as the Science Based Targets initiative (SBTi), the Task Force on Climate-Related Financial Disclosures (TCFD), and Carbon Disclosure Project (CDP) internationally. None of these standards or the expectations therein are translated into the JET Investment Plan, Implementation Plan, or other transition guidance for business. As presented within the JTF, these brief references to ESG principles and related standards do not represent a holistic mix of the incentives and disincentives needed in JET policy architecture to properly channel the significant force of business.
- Similarly, while there are welcome references in the JET Implementation Plan to "advanced due diligence" as part of project readiness, the *standard* of due diligence required when it comes to the justice-dimensions of project readiness is not elaborated upon. This misses a significant opportunity to align with established international standards, notably UNGPs aligned human rights due diligence, and at the same time cohere and deepen South Africa's maturing but still disparate ESG landscape.

- While the JET Implementation Plan provides a welcome signal to the forthcoming development of "appropriate standards on feasibility, due diligence, and reporting that must be applied to projects before they are included on the JET projects' pipeline and creating a repository of these reports", this seems to be limited only to the portfolio for the Mpumalanga region's transition out of coal and not any of the other sectoral portfolios (renewables, green hydrogen, new electric vehicles).

  This need for sector-specificity in JET policy guidance to business should be addressed moving forward. For example, the risks to people from wind[95] or solar projects[96] are distinct from green hydrogen[97] or electric vehicle production.[98] Understanding these sector-specific risks and opportunities requires a robust assessment of impacts (positive and negative), guided by appropriate standards, in order to enable business actions to advance, and not undermine, the justice-related dimensions of the energy transition.

- Lastly, the JTF recommends that "large" companies establish "just transition offices, when applicable to business operations", but does not elaborate on this further. Stakeholder interviews indicated this is a reflection of Eskom, the state utility, opening such an office – a first of its kind in South Africa and potentially globally. However, this is not clarified in the JTF or Investment and Implementation Plans, with the implication seeming to apply to all large companies, creating significant potential for confusion. For example, there is no clarity over the thresholds of what constitutes a "large" company; definitions of terms such as "when applicable" within operations; or when a "just transition office" is appropriate and its purpose and activities.

  Companies should have flexibility to make decisions according to context, but there is currently insufficient rationale behind this policy guidance and a lack of elaboration and clarity to ensure effective implementation. Moreover, there could be good reasons why a large company with a significant role in the energy transition *should not* establish a bespoke office, in cases where risks and benefits assessments call for a different utilisation of human and financial resources. In other words, the appropriate actions a company should take to prevent transition-related risks and maximise beneficial impacts should be guided by their impacts on and engagement with affected stakeholders, rather than a predetermined form of response.

Kusile Power Station, a coal-fired power plant owned by state electricity utility Eskom, in Mpumalanga province.

Climate Visuals / Gulshan Khan

4.3 DISTRIBUTIVE JUSTICE

Distributive justice refers to the equitable allocation of resources, opportunities, and burdens among members of a society. The multitudinal and complex ways in which the transition will produce impacts and benefits to different social groups make it a crucial aspect of the energy transition. The shift from high carbon to renewable energy is anticipated to cause labour market disruptions, transform access to and costs of energy, and will require infrastructure which may encroach on communal land. On the other hand, the transition also offers new jobs and economic opportunities as well as improved health and environmental outcomes.

Business-related limitations and gaps

South Africa's JTF, JET Investment Plan, and JET Implementation Plan all emphasise the importance of delivering "just outcomes" and "co-benefits" that advance local enterprises, skills, B-BBEE, and women's empowerment. However, there is little connection between these aims and the fundamental imperative to prevent harm, risking a perverse dynamic of transition "offsetting" whereby the emphasis on jobs and economic opportunity created is seen to outweigh adverse impacts elsewhere. A more holistic vision of distributive justice that explicitly connects benefit maximisation to risk prevention strategies – guided by corporate impact, not influence – would help advance JET priorities. In particular:

- The current JET policy landscape does not adequately reflect businesses' ability to assess and understand the distributional impacts – positive and negative – of their policies and investments.
- The JTF encourages the use of "corporate social investment to stimulate local enterprises and support skills development, pursuing the principles of Broad-Based Black Economic Empowerment, including women's empowerment".

"The JTF essentially limits the scope of corporate responsibility to the distributive justice track.

The JET Implementation Plan picks up this thread briefly, noting that

"In addition to commercial investments: the private sector makes material contributions to social and environmental projects through corporate social investment, enterprise development, and skills development. The proportion of these investments that contribute to the JET needs to be quantified, and opportunities for expanding their JET impact need to be built."

This is welcome, including the acknowledgment that further elaboration is required. Channelling this flow of corporate social investment is particularly crucial at this moment in time given the growing blockages to IPG financial flows.[99]

- Without adequate reflection of the procedural justice gaps outlined above, there is a significant risk of signalling that the positive co-benefits companies may drive within the JET (distributive justice) somehow offset or outweigh their potential adverse impacts on people (procedural and restorative justice). In other words, the JTF essentially limits the scope of corporate responsibility to the distributive justice track. This risks undermining the other two forms of justice (procedural and restorative) without a more holistic reflection of their interconnections, particularly the risks that must be prevented *in order to* maximise the potential distributional benefits and opportunities of the energy transition.

4.4 RESTORATIVE JUSTICE

Restorative justice refers to the repairing of past harms. It is interconnected to distributive justice, informing the allocation of resources to historically impacted and marginalised communities. It is also closely connected to procedural justice, requiring decision-making processes to recognise and include those who have been disadvantaged in the past or stand to be disadvantaged in the future. Furthermore, where societal costs have been unfairly shifted to certain groups or individuals (distributive injustice), or decisions been made without their input (procedural injustice) they should be able to make their injustices known and access redress (restorative justice).

Business-related limitations and gaps

For many South Africans, the energy transition was initiated within a landscape of historic injustices, the effects of which persist today. Remedying harms to individuals and communities is therefore seen by many in South Africa as a matter of national purpose and identity, and will be a central determining factor in whether the transition will be experienced as "just". South Africa's commitment to restorative justice is strong on paper. It will also be the hardest pillar to operationalise in practice.[100] One of the most effective methods for advancing this pillar will be through clear guidance to business on the importance of operational-level grievance mechanisms,[101] both for addressing historic impacts as well as future harms that will inevitably result as the transition unfolds, including as a central feature of responsible exit and closure plans. However, there is little guidance with the JET policy architecture to date that business can turn to understand how to operationalise this critical justice pillar in the transition.

In particular:

- The JTF rightly positions restorative justice on equal footing with the procedural and distributive justice pillars. It elaborates on how "historic responsibility" must guide the distribution of transition resources for positive impacts like support for innovation as well as building a "biodiversity economy" that includes the restoration of environments, particularly within Mpumalanga, in order to achieve the all-important economic diversification of the region as coal mines are shut down.[102] It ultimately signals that historic injustices will need to be remedied by building on existing mechanisms such as equitable access to environmental resources, land distribution and broad-based black economic empowerment.

  However, neither the JET Investment Plan nor JET Implementation Plan, nor any other obvious JET policy guidance to date, elaborates to provide greater clarity to business as to the expectations for how to operationalise this pillar. If unaddressed, this misses a significant opportunity to build on the important commitments made in the JET and existing approaches by business to remedy their impacts effectively in alignment with international standards and hard lessons learned historically.

- The JTF also does not offer much clarity in terms of restorative justice implications or plans in the context of planned new sectors, such as renewables, electric vehicles, and green hydrogen. As above, each sector raises their own mix of salient risks that require active prevention and plans for effective remediation to address impacts early and avoid escalation.

The sun setting on Kusile Power Station, a coal-fired power plant owned by Eskom in Emalahleni, South Africa.

Gulshan Khan / Climate Visuals

Box 18: Different Forms of Justice and Their Interconnections

Definition	Distributional Justice	Procedural Justice	Restorative Justice
	The way good and bad outcomes are shared between groups in society.	The processes that determine outcomes.	Repairing past harms through processes that acknowledge and address them.
JET outcomes	The costs of the transactions are not disproportionately shouldered by workers and communities, and the benefits are equitably shared.	Parties affected by the transition have participated in the decisions that affect them.	Historical and future harms to communities and the environment are redressed.
Business role	Actively assess risks and take appropriate action to prevent and mitigate impacts to people; maximise co-benefit creation.	Engage meaningfully with affected stakeholders; place people at the center of risk and opportunity assessments and decision-making.	Acknowledge and address historic harms. Remediate transition impacts, including through effective operational-level grievance mechanisms.

5. RECOMMENDATIONS AND GUIDING QUESTIONS

5.1 FOUR ESSENTIAL ELEMENTS FOR THE "J" IN JET

The current gaps within South Africa's existing suite of JET policy guidance for business can also be viewed as a significant opportunity moving forward. This section offers a framework that can inform future policy guidance and joint action for business to advance the justice ambitions of the energy transition.[103]

As South Africa increasingly moves from seeking to attract investment to actually deploying new operations, products, and services on the ground, these four elements are essential to shaping business actions aligned with the "justice" dimensions of the energy transition. When taken together, these four elements can drive a holistic and systematic approach to risk prevention, opportunity maximisation, and, ultimately, transformation, provided each is driven by the agency of and accountability to those most affected by the transition.

Each of the four elements are discussed below, contextualised against South Africa's existing capabilities and room for growth, and concludes with a set of "Key Questions to Ask" for government, business, and financial practitioners to help operationalise this approach in practice.

Box 19: Four Essential Elements for Safeguarding the "J" in JET

Impala Platinum mine and processing plant in Rustenberg. Platinum mining is a major industry for South Africa, a metal used around the world in car parts, electronics, and many other industries.

Flickr / BBC World Service

ESSENTIAL ELEMENT 1: RISKS AND IMPACTS

The Need

The energy transition will bring about profound changes to the business landscape (public and private, including financial institutions). It will result in business closures, job losses, the abandonment of business activities or assets, as well as increased land and resources use requirements to support the rapid rollout of renewables projects. All of these steps will pose risks to people, including workers, communities, indigenous peoples, and consumers. These risks need to be actively prevented and mitigated through ongoing human rights due diligence, and the impacts that do occur must be effectively remedied.

South Africa's JTF recognises the importance of "corporate responsibility", and the Investment and Implementation Plans refer to "safeguard risks and measures" and "due diligence", but there is a need for greater guidance and clarity on how to bring this to life in the context of complex transitions. As outlined in section 4.1, this offers a significant opportunity at this early stage of the energy transition to ensure best practice corporate risk management systems sit at the centre of the JET moving forward.

Existing Capabilities and Room for Growth: Preventing and Mitigating Harm

South Africa's private sector possesses some of the capabilities required to embed and scale people-centric, proactive just transition risk management, although its extent varies between firms and sectors. Evolving regulatory frameworks, voluntary standards, and stakeholder expectations have contributed to a growing emphasis on social risk management in some sectors. However, this capability still requires significant maturation and silo-busting between environmental science and social disciplines.

The strength of South Africa's Constitution and Bill of Rights has fostered an overall human rights-awareness – even a cautiousness – within the private sector, but it has not translated to embedded management practices consistently. Risk management tends to be employed narrowly, where strong incentives are present – e.g. where investors, regulators, or the presence of social risk in the operational context require it. Looking ahead, it will be important to deepen understanding around social risk assessments done for commercial purposes (i.e. risk to the business) and those focused on preventing harm to people and social benefit maximisation (i.e. just transitions).

A people-centric risk and benefits assessment furthermore examines the differing levels of vulnerability between potentially affected groups and other factors that determines its severity. As a starting point, this needs to reflect the principle that there is no offsetting when it comes to human rights or justice; good done in one aspect of the transition does not neutralise or nullify harm done elsewhere.

In order for companies to know they are not harming people and that they are in fact delivering positive outcomes – and then to show this to their boards, their investors, regulators, and their wider stakeholders – they have to implement a set of systematic processes that reflect the realities of their business models, activities, and relationships across their value chains. This expectation under the UN Guiding Principles on Business and Human Rights (UNGPs) must now be brought to life in the JET context.

Transformatively, the UNGPs apply across companies' full value chain, meaning the impacts and behaviours of their business partners may require intervention, including using various forms of leverage to improve their processes and outcomes. This cascading effect throughout complex webs of business relationships could prove essential to scaling the justice ambitions at the heart of the energy transition. This could also offer significant benefit to overcoming the perceptions and concerns around private sector involvement in South Africa in general, and to the energy transition and electricity management in particular, by driving a more orderly transition and far greater accountability by business to those most affected by the transition.

Existing Capabilities and Room for Growth: Remedying Impacts

Corporate grievance mechanisms are becoming increasingly common in South Africa, driven by legal requirements and evolving corporate governance standards (such as those outlined in the Companies Act and the King IV Report on Corporate Governance). They are more common in extractive and heavy industries (for example implementing social and labour plans in line with Regulation 46 of the Mineral and Petroleum Resources Development Act; end-of-life mine rehabilitation requirements in line with NEMA regulations). This is at least in part due to their integration into global supply chains and reliance on global capital flows providing incentives for grievance management. Additionally, the Promotion of Access to Information Act (PAIA) and the Employment Equity Act (EEA) support transparency and fair treatment of consumers and workers respectively, reinforcing the need for accessible grievance processes.

Despite these frameworks, there are notable gaps in effectiveness. On-the-ground studies reveal disappointing results[105] associated with a lack of resourcing, inadequate training of front-line employees, oversimplified policies that fail to deal with operational complexity, and a lack of integration with broader organisational practices. Moreover, there is often insufficient follow-up and resolution, exacerbated by poor communication and information sharing.

Lack of access to remedy has one of two outcomes: either affected parties are silenced and justice is never served, or efforts to demand justice are taken by other means. Conspicuous and compelling collective action is embedded in South Africa's culture,[106] not least because it played a major role in the fall of apartheid. Company-community conflict is particularly common in heavy and extractive industries where severe negative impacts on communities and workers can be easily traced back to specific operations. In these sectors, operational stoppages, strikes, and protracted legal actions are common strategies to counter power dynamics that favour corporate actors. Community related conflict – and the costs associated with it – is exacerbated by companies' lack of people-centric risk management.

> "Lack of access to remedy has one of two outcomes: either affected parties are silenced and justice is never served, or efforts to demand justice are taken by other means.

Box 20: UNGPs Effectiveness Criteria for Grievance Mechanisms [104]

A. Legitimate
B. Accessible
C. Predictable
D. Equitable
E. Transparent
F. Rights-compatible
G. A source of continuous learning
H. Operational-level mechanisms should also be: based on engagement and dialogue

These criteria can support South Africa's efforts to guide restorative justice in practice, including in the forthcoming Monitoring, Evaluation and Learning (MEL) framework.

Mechanisms to ensure access to effective remedies should be significantly scaled across all sectors involved in the energy transition, and the quality of such processes needs to improve in several ways. To address procedural shortcomings that restrict redress for harms, companies should enhance the size and capabilities of their community- and worker-facing teams. Community-facing teams need to be empowered to address issues pragmatically rather than cautiously. Equally important, companies seeking community consent should be transparent about issues that may foster grievances, such as overpromising benefits, underreporting costs, or failing to make communities aware of their rights. Lastly, companies should implement practices to address power imbalances that limit access to and fair outcomes of grievance procedures. This includes the appointment of independent assessors, robust appeals processes, and resources to investigate claims.

ESSENTIAL ELEMENT 2: OPPORTUNITIES AND BENEFITS

The Need

The human rights framework can be a key tool for designing truly "just" transitions, helping policymakers navigate the risks, opportunities, and trade-offs in a principled, pragmatic, and accountable way. However, too often human rights – the core baseline conditions for dignified life – are positioned as "benefits" and "opportunities" in the transition context. However, when understood as the core conditions required for people to be able to exercise their agency in order to negotiate opportunities and access benefits, the human rights framework can help unlock the potential for truly transformational planning at all levels of the transition.

South Africa's JTF, JET Investment Plan, and JET Implementation Plan all emphasise the importance of delivering "just outcomes" and "benefits". The aspiration of the JET Investment Plan is not just redistribution of existing resources, but to increase the total resources available for development, with corporate social investments, enterprise development, and skills development explicitly highlighted. However, clearer guidance is needed as to how companies should responsibly contribute to these aims. Specifically, how companies should be connecting their positive impacts to their prevention of harm. Just as companies are expected to map their adverse risks and impacts to people holistically, so should they be expected to holistically map their potential benefits and opportunities in the ongoing energy transition process. Built on this robust foundation of risk prevention, companies can fully consider the nature of their business, skill sets, and market position, and how each may enable them to innovate additional positive contributions to the energy transition's development imperatives and the Sustainable Development Goals (SDGs) more broadly.

Existing Capabilities and Room for Growth

The South African private sector has exhibited a focus on benefit creation on multiple fronts. The country's transformation policies have carved out an active role for businesses in resolving long standing issues of unequal access to economic opportunities. In some instances, private actors have voluntarily taken on service provision roles where government capacity fell short, and where potential reputational gains were clear. Historically, some companies have demonstrated commendable commitment to social and environmental causes, engaging in projects that address educational needs, health care, and community development. Major corporations often invest in initiatives aimed at improving infrastructure, supporting local businesses, and advancing skills development.

Legislative frameworks assign certain positive duties to companies, though the focus and extent vary. For instance, the Broad-Based Black Economic Empowerment (B-BBEE) Act and its associated codes require companies to contribute to socio-economic development, including skills development and training, to improve the economic position of previously disadvantaged groups. The Mineral and Petroleum Resources Development Act (MPRDA) also includes provisions that place positive obligations on companies, particularly in the mining sector, to invest in human development and community upliftment. The MPRDA mandates that mining companies invest in social and economic development projects as part of their social and labour plans (SLPs). These plans must address various aspects, including skills development, local economic development, and infrastructure improvements. This expectation is furthermore reflected in the REIPPPP, which requires successful bidders to contribute towards local community development through socioeconomic and enterprise development, local ownership and local job creation.

However, the scale of positive impact can be enhanced and modernised for the transition context. Notably, inadequate engagement with beneficiaries can result in projects that do not align with community needs or priorities. Fragmented and inconsistent efforts further undermine overall impacts. Stronger emphasis should be placed on rigorous implementation and enforcement of legal requirements, deeper and more genuine stakeholder engagement, and a shift towards more strategic and integrated initiatives that focus on long-term, sustainable outcomes for marginalised communities.

Ultimately, clearer elaboration of guidance is needed moving forward that directly connects companies' approaches to respecting human rights with their contribution to driving broader development outcomes. A more holistic vision for business should be guided by impact rather than influence, and by connecting benefit maximisation directly to risk prevention strategies.

ESSENTIAL ELEMENT 3: AGENCY AND ACCOUNTABILITY

The Need

Deliberate inclusivity and meaningful engagement with affected stakeholders will be essential to the success of all transition plans, processes, and outcomes in order to achieve bottom-up support for the necessary disruptions to come. Both risk prevention and opportunity maximisation are dependent on building accountability mechanisms for, and respecting the agency of, potentially affected stakeholders in transition planning and decision-making.

The South African JTF, JET Investment Plan, and JET Implementation Plan all prioritise procedural justice as the cornerstone to achieving distributive and restorative justice. These needs and demands of workers and communities can only be identified and actioned by ensuring that businesses involved in the energy transition engage early, meaningfully, and regularly with those most affected. In South Africa, and many other transition contexts, this starts with a foundational element of information sharing and awareness raising, as many affected stakeholders may need support in understanding JET fundamentals and project specifics in order to be able to exercise their own agency.

Existing Capabilities and Room for Growth: Engagement

Continuous and meaningful engagement will be crucial for enabling the type of equitable transition envisioned by South Africa's JET policies. It is the only way to support a transition pathway that not only addresses environmental imperatives but also promotes socio-economic stability and inclusive growth. It will be crucial for developing policies and directing business decisions related to job displacement, retraining needs, and economic diversification in coal-dependent regions, as well as in implementing corrective action and continuous improvement as learnings from the transition unfold over the coming years and decades.

For businesses, participation of workers and communities facilitates a deeper understanding of the socio-economic and environmental landscape, leading to more informed and robust business strategies. It better directs social investments in transition initiatives (such as reskilling programmes), and it can better inform risk mitigation strategies. The issue of participation is also central to responsible entry, particularly where new infrastructure and extractive projects require access to land that currently supports the livelihoods of indigenous or rural communities. Free, Prior and Informed Consent (FPIC) is one of the most important principles that indigenous peoples believe can protect their right to participation, and must be scoped and planned for appropriately.[107]

Several South African regulations require worker or community participation. Labour laws emphasise active dialogue between employers and employees, ensuring workers have a voice in decisions impacting their employment and working conditions. The Labour Relations Act (LRA) mandates that employers engage in meaningful consultation with employees on significant workplace changes such as restructuring, retrenchments, and health and safety concerns. Additionally, sector-specific regulations and collective bargaining agreements may further enhance worker participation rights. Community consultation is an increasingly important requirement, and recent court cases[108, 109] have reinforced the necessity of obtaining consent from affected communities, emphasising the legal weight of community engagement and consent in both environmental and resource management contexts.

> **Ensuring participatory processes are well-structured and well-resourced will be crucial in delivering on the procedural justice benefits the JET promises.**

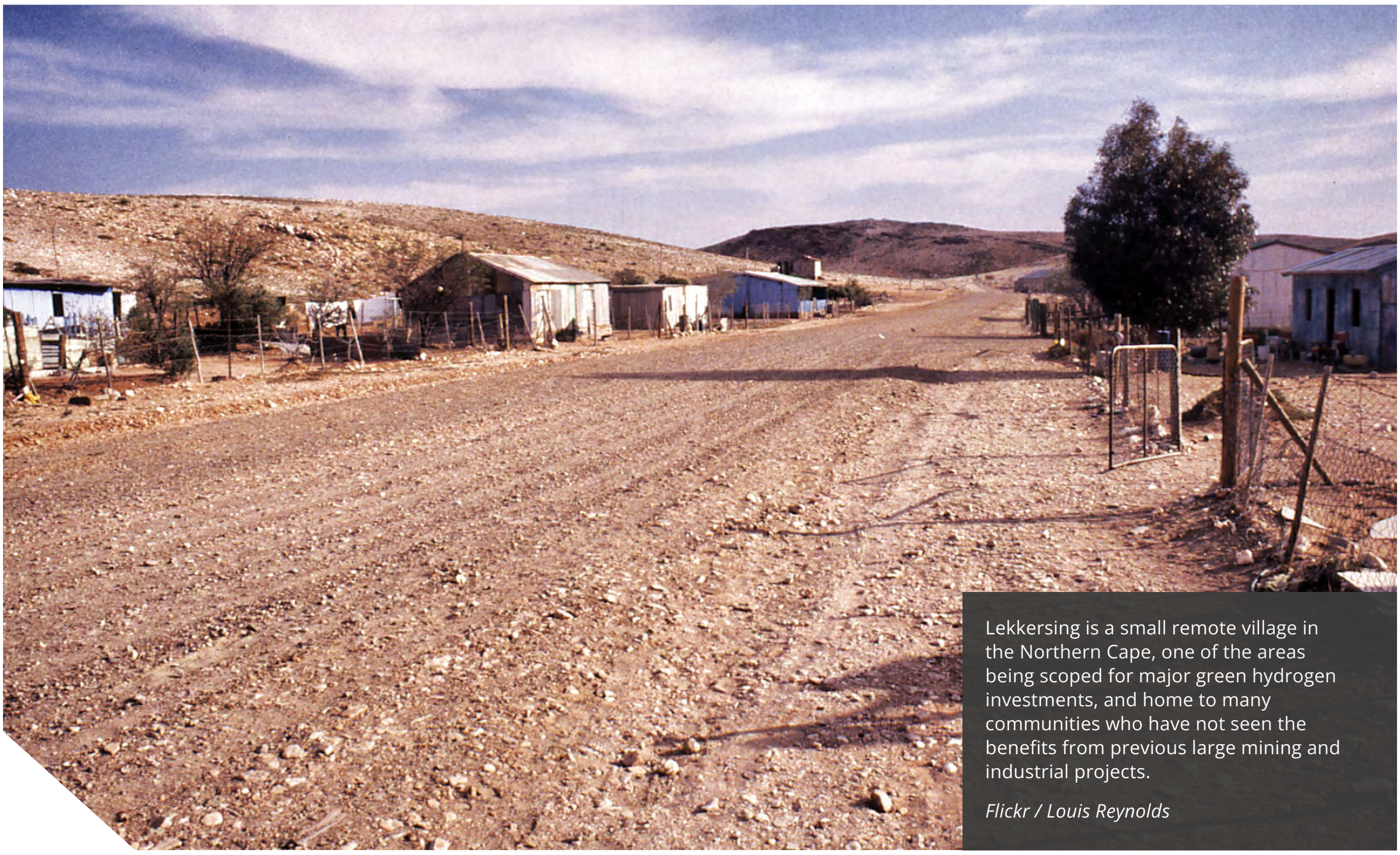
Sectors such as mining, energy, and large-scale infrastructure projects are particularly engaged in these consultative processes, addressing land use, environmental impacts, and socio-economic considerations. This evolving regulatory landscape seeks to ensure transparency, address community concerns, and promote equitable development.

In order to embed participatory practices moving forward, existing capabilities need to be scaled and refined. Existing participatory practices differ significantly across sectors, and, where implemented, have seen mixed success. Regulatory frameworks have created strong incentives to invest significant human capital in improving community consultation. A specialised practitioner community experienced in stakeholder engagement now is in place, alongside more structured and formalised processes for community input. This is particularly evident in the mining industry, where community engagement forums (CEFs) have been widely institutionalised, seen as effective vehicles for broad communication while avoiding engagement fatigue. Sharing lessons with other firms and sectors involved in the energy transition will be invaluable in scaling existing capacity.

There are also several areas to be addressed to improve the quality of participation. First, reforms are needed to end superficial processes that are rushed along compressed timelines, engage only a small number of people, and are poorly socialised in the broader community context. This can aggravate discontent and undermine trust. Second, communities need support with resources (such as transport and translation) to effectively participate, especially those in remote or marginalised areas. Finally, improved communication and information sharing is needed to avoid misunderstandings, feelings of disempowerment or conflict. Ensuring participatory processes are well-structured and well-resourced will be crucial in delivering on the procedural justice benefits the JET promises.

Existing Capabilities and Room for Growth: Informing and Communicating

The success of the JET hinges upon effective and transparent communication with stakeholders. This is not simply a matter of public relations; it is a fundamental requirement for upholding the rights of affected parties, building trust, and, ultimately, achieving the goals of the JTF. Consistent and ongoing communication, at every transition



Lekkersing is a small remote village in the Northern Cape, one of the areas being scoped for major green hydrogen investments, and home to many communities who have not seen the benefits from previous large mining and industrial projects.

Flickr / Louis Reynolds

phase, should at least include messaging about steps being taken to identify and address risks, mitigate adverse impacts, and pursue opportunities. Information should also shed light on processes, business considerations and decision-timelines, reasons for delay or complexity, as well as grievance mechanisms for raising issues.

Effective communication with communities requires understanding the unique local context and selecting dissemination channels that have a good local track record. This might involve producing content in local languages, testing messages with local people to ensure cultural sensitivity, and delivering information through trusted channels like existing community leaders, local radio, and in-person community gatherings. Utilising visual aids and interactive formats can enhance understanding and engagement, especially for those with limited literacy. Lastly, businesses should establish a dedicated point of contact to monitor the effectiveness of communications, and remove as many barriers as possible – physical, informational, financial, or otherwise – for affected people to ask questions, obtain information, or raise concerns.

South Africa's legal framework – including the Companies Act, The King IV Code on Corporate Governance, and the LRA – strongly emphasises transparency for stakeholder engagement. These frameworks mandate corporations to disclose material information, consult with stakeholders on critical issues, and maintain functional communication channels. In addition, South Africa's rich history of social movements and industrial action has fostered a stakeholder base that expects accountability and transparency. Where it is absent, the risk of social conflict is high.

Some companies have built proactive communication capabilities, but the practice lacks scale and maturity. Where communication channels exist, they appear transactional and lack the depth to truly address stakeholder concerns. The norm for larger companies is often to rely on annual reports, investor relations programs, and dedicated social media channels geared more towards reputation management than upholding procedural justice or people-centred transition planning. Furthermore, the focus on compliance can sometimes overshadow the true spirit of engagement, resulting in a "tick-box" approach. There is significant room for growth in developing a more proactive and inclusive communication culture, committed to justice and adapted to the local context.

While large corporations in South Africa may possess the human capital required to disseminate information about transition impacts, smaller businesses often struggle with resource constraints and lack the expertise to effectively engage diverse stakeholders. Investment in capacity building, particularly for smaller businesses, will be required to grow the necessary capabilities. Shifting the focus from mere compliance to genuine dialogue and relationship building is crucial. This requires developing internal frameworks that prioritise engagement with affected groups, empowering employees to actively listen to and respond to stakeholder concerns, and purposefully seeking feedback to improve communication practices.

Participatory processes can take many different forms, from relationship building through to collaborative decision-making. Regardless of the format, the importance of effective communication and information sharing cannot be overstated. For workers or other affected groups to participate effectively, they need accurate, timely, and comprehensive information about the issues at hand, potential impacts, and the scope of decisions being made. Such processes need to be well-considered and adequately resourced in order to achieve the justice related ambitions outlined in the JET.

ESSENTIAL ELEMENT 4: TRANSFORMATIONAL SYSTEMS CHANGE

The Need

Ultimately, the global just transition is about deep and fundamental restructuring of the systems that have created the dual inequality and climate crises: production, consumption, and growth patterns that transgress planetary boundaries; fossil fuel-based energy systems; unfair international trade relationships; a lack of decent jobs; overproduction within monopolistic food systems driving hunger and famine; and the inability to create shared prosperity systems. Whether a truly "just" transition can happen is entirely dependent on how these wider socio-economic dynamics are addressed.

South Africa's JET planning is demonstrably reflective of this transformation imperative, grappling directly with how the energy transition can contribute to reshaping the very nature of value, risk, and relationships across energy, land, urban, industry, transport, agriculture, and other economic systems. As it moves into implementation, the energy transition must continue to be engineered by, and for the benefit of, workers, communities, indigenous peoples, and consumers. It must continue to serve as the basis of democratic planning, policymaking, and resource allocation, as well as agenda-setting and narratives that redefine growth and challenge business-as-usual. Here, South Africa offers significant lessons to the rest of the world.

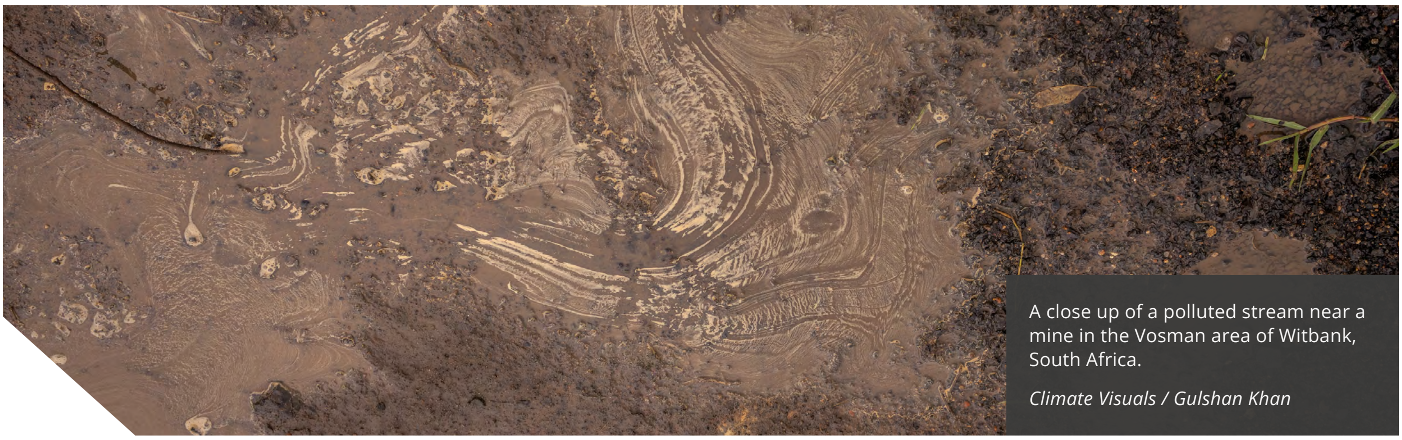
Existing Capabilities and Room for Growth:

The JET Investment Plan is a strategic initiative aimed at creating an investment-friendly proposition around South Africa's energy transformation. It provides a structured and phased approach over the next five years to develop a pipeline of projects that are both financially appealing to investors and supportive of South Africa's transition goals.

However, the conversation in South Africa's business landscape, and in many other emerging and developing economies, is that investors often prioritise the attractiveness of the macroeconomic environment when making decisions. This means they are typically more interested in achieving "risk-adjusted" returns – balancing potential profits with associated business risks – than focusing on broader "development objectives" like social or environmental impacts.

However, this "risk-adjusted" approach ignores the pervasive reality that business investments often externalise many social costs (e.g. poverty wages, land grabbing, environmental degradation, and pollution), distorting the real price of projects. These impacts also directly undermine development in the markets from which companies seek skilled workers, productive natural capital, and stable governance climates. Equally important, the value of investing in responsible business is often not considered, including the operational disruptions, delays, and conflicts avoided, as well as the many efficiencies saved, through robust approaches to integrated social risk prevention and opportunity maximisation. Better reflection of these costs and investments can support better decision making internally – for the benefit of the bottom line as well as for affected stakeholders.

How to achieve transformation in response to the challenges above can seem daunting, particularly in the context of a single company's activities or a specific transition project. However, if every company involved in South Africa's JET undertook early and ongoing human rights due diligence, aligned their social impact and beneficial outcomes efforts to their risk prevention strategies, all informed by meaningful engagement in transition planning and decision making with affected stakeholders, this would offer a truly transformational approach to private sector involvement in the JET. Put another way, significant transformational potential lies in the robust implementation of the previous three essential elements, complemented by candid sharing of the challenges and successes along the way.



A close up of a polluted stream near a mine in the Vosman area of Witbank, South Africa.

Climate Visuals / Gulshan Khan

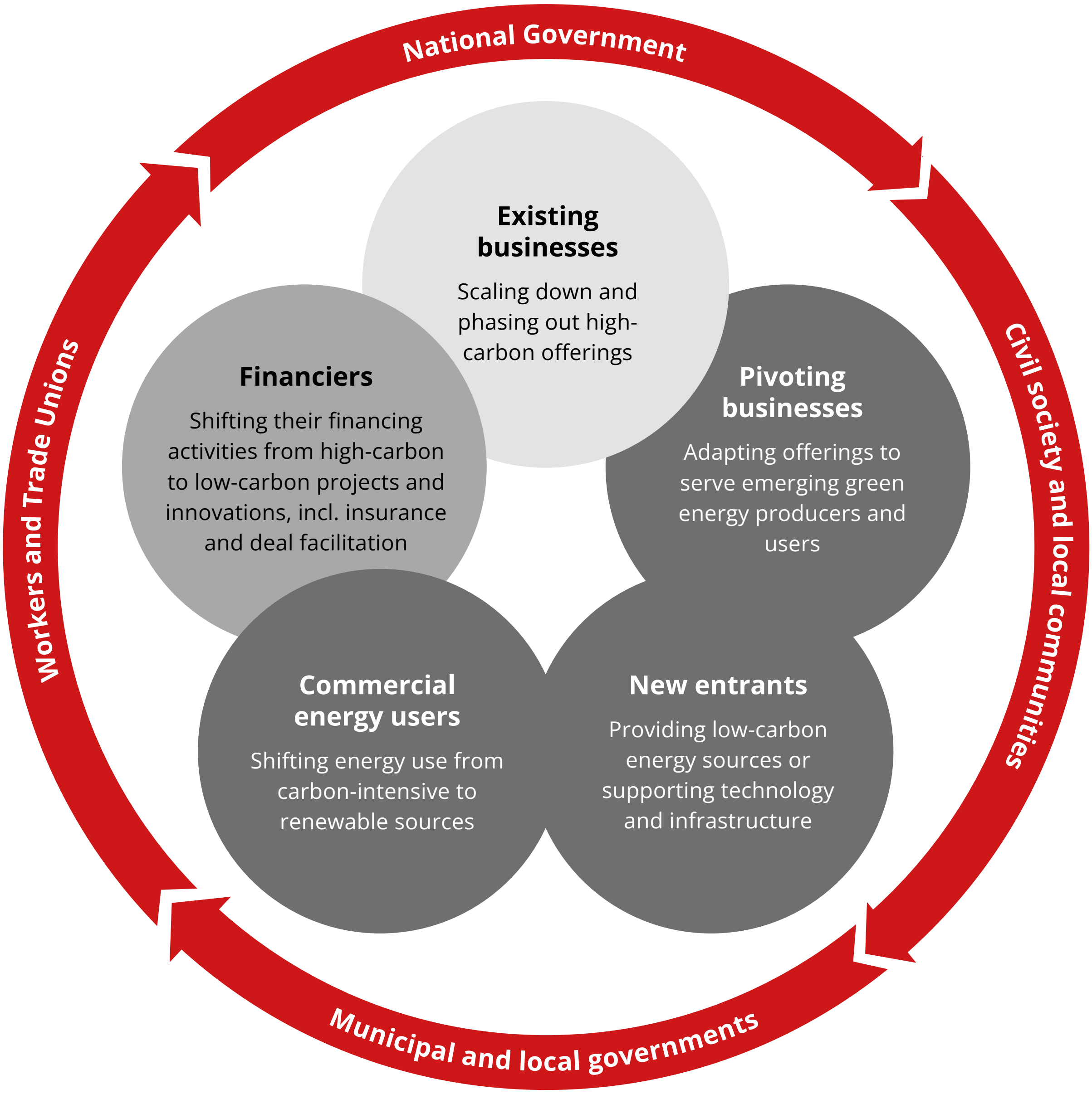
5.2 GUIDING QUESTIONS FOR JET PRACTITIONERS

The following guiding questions can help government, business, and financial practitioners to consider the various interconnections between their climate, social, and governance activities related to the JET. These questions seek to get to the heart of quality approaches through which business actors contribute to advancing, and not undermining, all three forms of justice in Africa's energy transition, in particular through ongoing human rights due diligence.

While directed primarily at institutional practitioners across business, government, and financial institutions, these questions are equally pertinent to union and civil society actors in South Africa to use in advancing and demanding accountability by these same actors.

Box 21: Actors Driving Decisions in the Energy Transition

This infographic conveys the continuum of transition activity by various business enterprises, the inter-relatedness of actors, and points of leverage between them. The distribution of power between these actors largely determines the nature of the energy transition – and whether it responds only to narrow financial interests or also the needs of affected stakeholders, particularly the most vulnerable.



Guiding Questions for Government Practitioners

Social Risk and Impact Prevention, Mitigation, and Remediation	Social Benefit and Opportunity Maximisation	Agency of and Accountability to Potentially Affected Groups
Given the extraordinary speed and scale required for the JET, how are we prioritising the risks to people from our climate action (both mitigation, including the transition "in" and "out", as well as adaptation)?	How are we supporting the advancement of universal social protection systems within the JET, including for the diverse vulnerable and marginalised groups intended to benefit from the JET?	How are we ensuring all engaged parties have access to the essential information necessary for them to provide informed views within JET decision making? How are we ensuring this is taking place at the earliest possible stage of decision making (and not just consulting on decisions already made)?
How are we working to increase our human and financial resource capacity to effectively meet the "J" in the JET?	Within our economic diversification efforts, how are we assessing and embedding the needs and priorities of local groups to advance economic equity and revenue sharing?	Are there mechanisms in place to ensure that workers, indigenous groups, and communities have a voice in shaping the design and implementation of energy projects that affect them?
How can our public finance support the implementation of robust safeguards and monitoring mechanisms to prevent or mitigate potential harms?	How will we know if tangible community benefits from the JET have not been achieved?	How are we measuring the extent and effectiveness of bottom-up approaches to project origination?
How are we driving top-level attention by business to the risks their transition products, operations, and services pose to people?		Where meaningful relationships with certain groups don't exist, how are we working to enable them (e.g. rather than finding alternative ways to engage with proxies)?
How are we incentivising (and disincentivising) businesses to take an integrated approach to environmental, social (including human rights and justice), and governance issues across their diverse business functions and units?	What mechanisms are in place to prioritise public investments in underserved areas and communities that have been disproportionately affected by energy poverty and environmental injustice, including dedicated support to restorative justice priorities?	Is there clarity about who has ultimate decision-making power over the outcomes of the project, and are there opportunities to expand local communities' ability to shape the outcomes of the project, for example through governance structures and new business models?

How are we advancing the focus of full value chain assessments of both the risks and opportunities to people posed by business activities?	How do we assess and demonstrate that our public finance resources are being directed to ensure equitable access to clean energy solutions, particularly for historically marginalised groups?	How are public finance decisions regarding energy transition projects transparent and accountable to the public?
How are we considering the quality of business enterprise (public and private) efforts to respect human rights and advance South Africa’s three forms of justice (i.e. not merely a comply-or-explain approach)? How is this being verified by the business?	What skills development measures and strategies are in place to train, retrain, skill and upskill workers in the transition? How are we ensuring freedom of association and representation of workers in the transition?	Given historic challenges around corruption and governance, how are these mechanisms being bolstered to ensure such feedback is investigated and public finance actors held accountable for their investment decisions and their impact on communities?
What remedy mechanisms do we have in place to receive grievances from those adversely affected by the transition? How do we know these mechanisms are effective?		How are we guiding quality - not just quantity - indicators to measure success and learning on the “J” in our JET projects?

Iron ore loaded trains at the Saldanha terminal, South Africa.

Flickr / jbdodane

Guiding Questions for Business Practitioners (including in SOEs)

Social Risk and Impact Prevention, Mitigation, and Remediation	Social Benefit and Opportunity Maximisation	Agency of and Accountability to Potentially Affected Groups
How does the company assess how a mitigation or adaptation activity could impact people (negative and positive)? Does this due diligence extend to business relationships?	How is the company mapping the beneficiaries of its climate action (e.g. jobs created), and how these overlaps or differs from those it may adversely impact? How are these insights shared internally?	How does the company identify those people who are most at risk of harm from its mitigation as well as adaptation action, based on their vulnerability?
Does the company have a means of integrating these assessments into its risk management processes in a way that retains the focus on risks to people, independent of risks to the business? Are there clear lines of accountability for the outcomes of the project, including the management of human rights risks and opportunities?	Is the company investing in inclusive business models and strategies? If so, how? If not, what barriers need to be overcome?	Has the company developed a process to ensure that the perspectives of impacted people are heard and responded to, from the outset, throughout, and beyond completion of the project in an effective manner?
Is there clarity about who has ultimate decision-making power over the outcomes of the project, and are there opportunities to expand affected stakeholders' ability to shape the outcomes of the project, for example through governance structures and new business models?	How is the company strategically aligning its positive impact portfolios (whether that is through CSR funds, philanthropic endeavours, impact investment portfolios, or otherwise) with its social risk management systems, to ensure efficient and effective deployment of (limited) human and financial resources on climate action?	How does the company engage with affected stakeholders to understand their experiences and perspectives, whether through direct dialogue, proxies who have knowledge of their lived realities, or (where such approaches are not possible) through experts with more general knowledge of how they may be affected?
Does the company have in place operational-level grievance mechanism(s) for the potential impacts that may arise from its climate action? How do we know that it is effective? How is the company addressing its historic impacts as part of South Africa's central commitment to restorative justice?	How is the business advocating for the respect, protection, and fulfilment of human rights in their public policy, government affairs, and regulatory activities? If not, what barriers need to be overcome?	Where meaningful relationships with certain groups don't exist, how are we working to enable them (e.g. rather than finding alternative ways to engage with proxies)?

Are processes in place at all tiers of decision-making to prevent corruption, including: employee training, transparency requirements, complaints and whistle blower mechanisms that are free from risk of retaliation, and reporting?		What structures and processes does the company have in place to integrate feedback from affected stakeholders into internal analysis and decision-making, including transition plan development, scenario analysis, and risk management systems?
What expertise on human rights impacts exists within or outside the company that can support holistic internal discussions and analysis and inform decision-making up to and at senior levels?		How are we guiding quality - not just quantity - indicators to measure success and learning on the "J" in our JET projects?

Rusting old buildings are pictured in the industrial area of Witbank, Emalahleni. In 2022, the High Court in Pretoria confirmed a judgement in the "Deadly Air Case", affirming that the poor air quality over the Highveld Priority Area is a breach of residents' section 24(a) constitutional right to a healthy environment.

Climate Visuals / Gulshan Khan

Guiding Questions for Financial Practitioners

Social Risk and Impact Prevention, Mitigation, and Remediation	Social Benefit and Opportunity Maximisation	Agency of and Accountability to Potentially Affected Groups
Are we connecting human rights standards and processes with ESG criteria and investment practices? If so, how?	How are our financial products, operations, and services supporting the development of clean energy solutions that contribute to long-term social, economic, and environmental benefits?	How do we know that our financing is aligned with locally-defined priorities and adds value to the communities where it is deployed?
How do our investment decisions align with principles of responsible investing, including respect for human rights, environmental sustainability, and social inclusion?	How do our private and blended finance initiatives align with national development priorities and international commitments, such as the Sustainable Development Goals (SDGs) and the Paris Agreement?	How are our investees and business partners engaging with local communities and stakeholders to understand their needs, concerns, and priorities regarding energy transition projects before investment decisions are taken?
Are there criteria in place to assess the social (including human rights and justice dimensions) and environmental impacts of energy transition projects before investing? If so, how do we know and show that these are quality criteria?	How will we assess and demonstrate their effectiveness?	Where meaningful relationships with certain groups don't exist, how are investees and business partners working to enable them (e.g. rather than finding alternative ways to engage with proxies)? What can we do to better enable this?
What measures are being taken to identify and mitigate risks associated with energy transition projects, including social and (not only) reputational risks?	How are we aligning our investments in socially and environmentally beneficial energy projects with our core responsibility to prevent social impacts and human rights risks?	How are investees demonstrating to these stakeholders that their views are being incorporated into our actual decision making?
Do our investees and business partners have appropriate strategies and grievance mechanisms in place to address potential conflicts with local communities at the earliest possible moment and before matters escalate? How do we know that these strategies and mechanisms are effective?		How are we costing these approaches to ensure a more accurate assessment of the value of responsible approaches?

How are we advancing social and human rights risk prevention within our investment de-risking activities in the energy transition, particularly in markets such as South Africa where the investment risks are perceived as higher due to systemic social, environmental, and economic barriers?		How are we tracking the costs of operational delays and other tangible and intangible costs due to poor stakeholder engagement? Are there ways we can better reflect these costs into future valuations to encourage early and ongoing relationship building with affected stakeholders?

Orlando Power Station is a decommissioned coal fired power station in Soweto, South Africa. The power station was commissioned at the end of the Second World War and served Johannesburg for over 50 years.

Flickr / Jorge Láscar

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Cover image: Rooiwal power station in Guateng, a five-unit coal-fired power plant with a total capacity of 300 MW. *Flickr/Tambako The Jaguar*

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