

# Is the clean energy transition a just transition?

## Introduction

In the move away from reliance on fossil fuels the development of renewable energy is a key factor in the transition to cleaner energy. This paper looks at how 'just' that cleaner energy future currently is. Drawing on our experience from supporting developers and financial investors, we explore with practical illustrations what a just transition could look like. We provide a brief overview of the role of renewable energy in the clean energy transition and the evolution of the requirements of businesses to uphold human rights – from voluntary agreements to increasingly prescriptive and stringent regulations. We summarise known risks to human rights from the renewable energy sector and how the energy sector has sought to address these risks. We conclude by identifying successes, lessons learnt and how priorities have changed over time.

## The role of renewable energy in the clean energy transition

In 2015, the United Nations Climate Change conference (COP 21) led to the Paris agreement which was adopted by 196 parties and is a legally binding international treaty on climate change. The Paris Agreement is considered a pivotal point in the climate change process as it is the first time that a binding international treaty has brought nations together to combat climate change and attempt to mitigate its effects. At the 2018 UN Climate change conference, Heads of State and Governments adopted the Solidarity and Just Transition Silesia Declaration, highlighting the importance of just transition as mentioned in the Paris Agreement, the International Labour Organisation (ILO's) Guidelines, and the United Nations 2030 Agenda for Sustainable Development.<sup>1</sup> This declaration emphasised the impact of climate change and climate change policy on workers and communities.

Renewable energy, such as wind, solar and hydropower, has a role to play in the low carbon transition due to lower emissions of greenhouse gases.<sup>2</sup> Investment in renewable energy projects has increased significantly e.g. from \$62 billion in 2004 to \$287 billion in 2016.<sup>3</sup> In 2023, renewable energy sources accounted for approximately one-seventh of the total primary energy supply worldwide.<sup>4</sup> Although the renewable energy share of global energy consumption is still relatively small, it is increasing with the emphasis on using energy transition to achieve climate targets.

## The evolution of the requirements of businesses to uphold human rights

Initial grass roots social movements demanding that businesses take responsibility for environmental destruction and erosion of the livelihoods of local people began in the 1970s. A rise in multinational corporations and a decrease in government regulation/control culminated in the need for corporate accountability for human rights violations. In 1976, the launch of the Organisation for Economic Co-Operation and Development (OECD) Guidelines for Multinational Enterprises (MNE) which included a paragraph on the human rights responsibilities of corporations encapsulated the beginning of this new era.

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<sup>1</sup> [A just green transition: concepts and practice so far \(un.org\)](#)

<sup>2</sup> [Transitioning to Renewable Energy: 3 Governance Approaches That Can Drive Change | World Economic Forum \(weforum.org\)](#)

<sup>3</sup> [Investor briefing - Renewable energy - Apr 2017.pdf \(business-humanrights.org\)](#)

<sup>4</sup> [Renewable Energy - Our World in Data](#)

The OECD Guidelines for Multinational Enterprises (MNE) on Responsible Business Conduct aim to improve business' contributions to sustainable development and to address the adverse impacts arising as a result of business activities. This has had various implications for the financial sector. The OECD MNE guidelines form part of the minimum safeguards under the EU Taxonomy Regulation and the Sustainable Finance Disclosure Regulation to ensure that companies engaging in sustainable activities meet certain standards including in relation to human rights and workers' rights. The OECD MNE Guidelines were most recently updated in June 2023 to include recommendations on how businesses should conduct due diligence on impacts and business relationships related to the use of their products and services.

The United Nations Global Compact (UNGC) launched in 2000 to bring business, labour, and civil society together around ethical principles and standards.<sup>5</sup> The UNGC emphasizes the importance of corporate sustainability defined as a company's value system and principles-based approach to doing business. The UNGC states that companies must operate in ways that meet fundamental responsibilities to human rights, labour rights, the environment, and anti-corruption. The UNGC advocates for the same values and principles wherever a business has a presence. It clearly stipulates that good practice in one area of the business cannot offset harm in another area. The Ten Principles of the UNGC are derived from the Universal Declaration of Human Rights, the ILO's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption.

In 2003 the Equator Principles were created to be a baseline and risk management framework for financial institutions to identify, assess and manage environmental and social risks when financing a project.<sup>6</sup> In 2006, the IFC created bespoke Environmental & Social Performance Standards (PS) that project developers must comply with to manage environmental and social risks in their investments and projects.<sup>7</sup> These PSs are embedded in the Equator Principles and define responsibilities in topics relevant to human rights, including risk management, labour, community, land resettlement, Indigenous Peoples, and cultural heritage.

Pivotal guidance that emerged in 2011 was the United Nations Guiding Principles on Business and Human Rights (UNGPs), a key instrument providing guidance on what laws apply to businesses and how they should be interpreted. These rights are interrelated, interdependent, and indivisible. Since the establishment of the UNGPs, the expectation that businesses should exercise human rights due diligence is becoming enshrined in law in many European countries e.g. the European Union Corporate Sustainability Due Diligence Directive (proposed in 2022) which led to the German Supply Chain Due Diligence Act which came into force in January 2023. The evolution of corporate responsibility for human rights signifies a shift from voluntary requirements of businesses to uphold human rights to increasingly prescriptive and stringent requirements. It is within this context that the clean energy transition, which has already been plagued with multiple human rights violations including child and forced labour, is taking place.

Known risks to human rights from the renewable energy sector

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<sup>5</sup> [Global Compact | UN Sustainability Goals & Corporate Responsibility | Britannica](#)

<sup>6</sup> [The Equator Principles - Equator Principles \(equator-principles.com\)](#). The Equator Principles are revised periodically to reflect changes in the operating environment, and emerging good practice. The most recent revision (EP4) took place in 2020 and included the update that developers seeking international financing from IFIs were required to complete a human rights assessment to be published alongside other key assessment documentation such as the environmental and social impact assessment (ESIA). The assessment could be an 'initial scan' or a full impact assessment depending on the severity of human rights risks identified during an initial screening. The language of human rights assessments and the approach is different to that of impact assessments. Key differences include consideration of rights-holders and duty bearers rather than stakeholders.

<sup>7</sup> <https://documents1.worldbank.org/curated/en/719051468155983382/pdf/502400BR0Box3413020090CODE200910061.pdf>

The move to clean energy poses challenges relating to human rights with known or alleged risks to human rights from the renewable energy sector. For example, allegations have been made about the use of forced labour in mining raw materials required for wind turbine and battery manufacture, and mining of silicon which is a key component in solar panels.<sup>8</sup> Confrontations have been reported between energy projects and Indigenous Peoples over the use of customary/tribal land or land with special meaning to Indigenous Peoples/ethnic groups (e.g. sacred land).<sup>9</sup> Sometimes large scale involuntary physical and/or economic displacements are associated with hydropower plants due to the creation of reservoirs, and subsequent loss of biodiversity.<sup>10</sup> Several energy projects have been accused of illegally re-settling communities or failing to inform communities about their rights and options pertaining to resettlement.<sup>11</sup>

Looking more closely at wind power generation, wind turbines rely on several critical minerals, including cobalt, copper, manganese, and nickel with demand expected to grow as wind energy investment continues to rise. A single 3 MW wind turbine contains approximately 4.7 tons of copper. The World Bank estimates that the world will need about 550 million tons of copper over the next 25 years to meet global demand, which is nearly the same quantity produced over the past 5000 years<sup>12</sup>. According to the Business and Human Rights Resource Centre, copper is associated with 69% of all allegations of human rights violations with many of these allegations linked to a limited number of companies.<sup>13</sup> In addition, there have been reports of health and safety issues for workers and the community as well as increased incidents of armed conflict and violence.<sup>14</sup>

Allegations regarding use of child labour in artisanal mines for materials such as cobalt that are used in wind turbine components and batteries (e.g. used in smartphones and electric vehicles) have been gaining international attention.<sup>15</sup> The ILO estimates that 168 million children worldwide are engaged in child labour, including about one million children in the mining and quarrying sector.<sup>16</sup> Mining is cited as one of the industries that is most at risk for modern slavery, in particular, artisanal mining which lacks any formal regulation. More than 70% of the world's cobalt is produced in the DRC with 15-30% of Congolese cobalt produced in artisanal and small-scale mines.<sup>17</sup> Public concern and negative publicity about the ongoing human rights violations associated with the mining of minerals vital to the renewable energy sector have led to a concerted effort from the international community to address these risks including through legislation and lender requirements.

#### How the energy sector has sought to address these risks

The renewable energy sector has acknowledged and attempted to address human rights risks in several ways. Relating to supply chain risks, lenders and sponsors have increased requirements for supply chain due diligence (vetting potential suppliers). Supply chain due diligence is frequently required by financial institutions prior to lending, requiring supply chain mapping beyond the primary or first tier of suppliers and in some case down to suppliers of raw materials such as silicon used in components for solar equipment. Supply chain due diligence is also being driven by regulatory changes such as the European Union Corporate Sustainability Due Diligence Directive and

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<sup>8</sup> <https://www.bbc.com/news/world-asia-china-57124636#:~:text=The%20global%20production%20of%20solar%20panels%20is%20using,research%20by%20the%20UK%27s%20Sheffield%20Hallam%20University%20says.>

<sup>9</sup> [Navigating Land Rights in the Transition to Green Energy | United States Institute of Peace \(usip.org\)](#)

<sup>10</sup> [Hydropower | WWF](#)

<sup>11</sup> [The energy injustice of hydropower: Development, resettlement, and social exclusion at the Hongjiang and Wanmipo hydropower stations in China - ScienceDirect](#)

<sup>12</sup> [New Roadmap from IFC and Partners Outlines Net-Zero Pathways for Mining Green Tech Metals](#)

<sup>13</sup> [2023 Transition Minerals Tracker JX5pGvf.pdf \(business-humanrights.org\)](#)

<sup>14</sup> [Final-ActionAid\\_Report-Human-Rights-in-Wind-Turbine-Supply-Chains \(1\).pdf](#)

<sup>15</sup> [Children mining cobalt in Democratic Republic of Congo, CBS News investigation finds - CBS News](#)

<sup>16</sup> [Guidelines for MNEs - Organisation for Economic Co-operation and Development \(oecd.org\)](#)

<sup>17</sup> [Why Cobalt Mining in the DRC Needs Urgent Attention \(cfr.org\)](#)

the German Supply Chain Due Diligence Act which require developers to demonstrate traceability in their procurement process.

Displacement is a common impact in many renewable energy projects. Standard mitigation measures where avoiding displacement is not possible have included development of resettlement action plans or livelihood restoration plans (aligned with international standards). Wind farms have been able to allow continuation of grazing activities once operational but now we are also seeing developers successfully piloting schemes that allow animals to graze under solar panels. This mitigation measure is still in the trial phase and will need to balance the needs for biodiversity conservation however, it represents an opportunity to minimise the loss of traditional grazing land where previously the loss of pastureland would have been permanent.

Finding alternative solutions to displacement is significantly more challenging for hydropower projects or projects located on land with customary rights held by Indigenous Peoples. For these projects, time and commitment for a long-term investment in relationship building and benefits sharing are key to sustainable success. For example, instead of looking to minimise staff during construction and operations phases, projects can work with local communities and invest in the long-term development of local people's skills. We worked on a wind farm project in Africa which now has 80% local people during operations in a remote area with significant levels of illiteracy. Key elements of success have been the company's long term commitment to maximise local employment. Training during construction commenced at a basic level e.g. working with people who had never worn shoes and therefore did not want to wear safety boots or use personal protective equipment. Skills training was then designed to recognize that the project needed locally based staff to manage and maintain the technology and controls once operations began. It is vital to look for alternative solutions and tools to ensure sustainable project success in challenging circumstances.

Development of livelihood restoration plans or Indigenous People's plans with benefit sharing agreements are also commonly used tools. Such plans and agreements are mandatory requirements for many financial institutions, especially those following the Equator Principles or the IFC PS. The World Bank and others also attempt to balance the needs of a project with the needs of local people. As part of the wider stakeholder engagement process that informs the development of these plans, there are opportunities to foster innovation.

## **Conclusion**

Before receiving a commitment for financing, renewable energy developers are increasingly expected to conduct a supply chain review and undertake a human rights due diligence in line with the UNGPs. The financial agreement negotiation phase is when investors have the most leverage to ensure compliance with standards and encourage change in the sector. We see human rights due diligence increasingly used as a condition by investors prior to disbursement. Developers are expected to engage with their suppliers. They are also expected to verify supply chain information and promote best practices that respect human rights. In addition, as part of the loan agreement there is greater emphasis on internal and external monitoring of human rights performance during construction and operation phases. The transition to clean energy sources is vital to our ecosystem, however, the human rights risks associated with this transition are clear. Ensuring a more just transition is not only a moral imperative, but a key component of a project's success and sustainability.