



## **CHRP Inputs on the “Extractive Sector, Just Transition, and Human Rights”**

15 May 2023

---

### **State duty to protect human rights**

- 1. How can States better advance human rights-compatible energy transition laws and policies that ensure responsible business conduct in all aspects of energy transition efforts and programs (e.g., including, but not limited to, design, approval, financing, implementation, and reporting of energy transition programs)?**

States can develop and adopt Energy Transition Frameworks that should be subsequently embedded in their National Development Plans. The framework should harmonize existing and subsequent energy policies to transition into more sustainable and resilient energy systems, wean away from traditional sources (i.e., coal, petroleum, and other fossil fuels), and develop and support alternative and renewable energy sources.

States must recognize and address the existing inequalities and varying challenges in the transition to a net-zero carbon economy. Climate neutrality cannot take place at the expense of people.<sup>1</sup> The green policy must put the citizen’s well-being at the heart of change because “if domestic and global policies are to achieve common goals, they must create not only a resilient economy but also a resilient society that leaves no one behind.”<sup>2</sup> Additionally, States must ensure a just transition towards an environmentally-sustainable economy that will guarantee “decent work for all, social inclusion and the eradication of poverty.”<sup>3</sup> This is particularly true for oil-based economies and those with workforces relying on carbon-intensive industries and their supply chains. The [Commission on Human Rights of the Philippines] endorses the recommendation that States, in the transition to net-zero, engage with stakeholders in developing economic strategies that

---

<sup>1</sup> Commission on Human Rights, National Inquiry on Climate Change Report, 2022, p. 112, available at: <https://chr.gov.ph/reports/> (last accessed May 5, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

are fair, inclusive, and sustainable; and provide support to workers through the creation of local, inclusive, and decent jobs.<sup>4</sup>

A just transition toward a carbonless economy cannot be achieved through mere technological innovations and global changes in national policies, but also necessarily includes [a] reduction in demand by altering consumer habits and mindsets.<sup>5</sup> Thus, the Commission invites self-reflection to examine whether our behavior contributes to excessive and irresponsible consumerism and recommends that we consciously take steps to reduce our carbon footprint and make positive choices to adopt a climate-friendly lifestyle consistent with global efforts for climate change mitigation and adaptation.

States should likewise adopt National Action Plans (NAP) on Business and Human Rights. The NAP shall contextualize the UN Guiding Principles on BHR based on actual and potential business-related human rights violations in their respective countries. Further, it will set out government expectations, responses, and targets, including action points and modalities of implementation. Monitoring and reporting mechanisms will also be included in the NAP, covering core human rights treaties to which the prospective country is a signatory.

- 2. Are you aware of any measures, both mandatory and voluntary, at national, regional, and international levels to foster business respect for human rights in the extractive sector, especially in the context of energy transition plans, programs and activities? If so, are these measures effectively enforced and do they provide the necessary coverage in light of evolving circumstances, including energy transition plans? Is greater clarity necessary in some areas of law and policy? What measures may reasonably correct this situation?**

The Philippines, in 2008, enacted Republic Act No. 9513, otherwise known as “An Act Promoting The Development, Utilization and Commercialization of Renewable Energy Resources And For Other Purposes.” It aims to accelerate the exploration and development of renewable energy resources to achieve energy self-reliance, through the adoption of sustainable energy development strategies.

In line with the law, the Department of Energy (DOE) developed the National Renewable Energy Program (NREP). NREP outlines the policy framework enshrined in Republic Act No. 9513. It sets the strategic building blocks that will help the country achieve the goals set forth in the Renewable Energy Act of 2008. The NREP signals the country's big leap from fragmented and halting renewable energy initiatives into a focused and sustained drive toward energy security and improved access to clean energy. The NREP

---

<sup>4</sup> *Id.*

<sup>5</sup> Supra note 1, p. 133

sets out indicative interim targets for the delivery of renewable energy within the timeframe of 2011 to 2030. Moreover, the NREP lays down the foundation for developing the country's renewable energy resources, stimulating investments in the RE sector, developing technologies, and providing the impetus for national and local renewable energy planning that will help identify the most feasible and least-cost renewable energy development options.

The Climate Change Commission (CCC) issued Commission Resolution No. 2016-001 entitled “Resolution on the Development of a Clear Policy on Coal-Fired Power Plants in Pursuit of a Low Carbon Development Pathway for the Philippines.” The Resolution calls for the CCC, together with other National Government Agencies and stakeholders, to facilitate a national policy review and framework development on energy, through a whole-of-nation approach. The Review adheres to the envisioned low-carbon development pathway and accounts for national goals and targets for climate change adaptation and mitigation set in the National Climate Change Action Plan for 2011-2028.<sup>6</sup>

Subsequently, the Philippines adopted the *Philippine Energy Plan (PEP) 2020-2040*. It is the second comprehensive energy blueprint supporting the government’s long-term vision known as *Ambisyon Natin 2040*.<sup>7</sup> The PEP provides for ambitious plans, policies and targets on renewable energy, natural gas, alternative fuels, and energy-efficient technologies. To make the country’s low carbon energy transformation a reality, the goals have been set for the medium to long-term planning horizon.<sup>8</sup>

There was an effort to introduce guidelines in the monitoring of human rights compliance in the mining industry. This was taken up as a response to operationalize the mining policies as stated in *Executive Order No. 79 (s. 2012)*.<sup>9</sup> It identified key government agencies which would provide mechanisms and guidelines for monitoring human rights and labor violations in the mining industry, and also to develop operational linkages with concerned government agencies, particularly the Commission on Human Rights (CHR) and the Department of Labor and Employment (DOLE) inter alia, to assist victims and to take appropriate action against violators. The effort was not meant to create new regulations but to streamline assistance to victims of human rights violations and taking appropriate actions against violators. The last meeting of the working group was in

---

<sup>6</sup> National Policy Review On Energy, *available at* <https://climate.gov.ph/our-programs/framework-standards-assessments-and-policy-review/national-policy-review-on-energy> (last accessed May 3, 2023)

<sup>7</sup> Philippine Energy Plan 2020-2040, *available at* <https://www.doe.gov.ph/pep> (last accessed May 3, 2023).

<sup>8</sup> *Id.*

<sup>9</sup> Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources, Executive Order No. 79, Series of 2012 (2012).

October 2020 where it was still waiting for inputs and support from the other concerned agencies. The effects of COVID-19 and the realignment of the priorities of the government to recovery efforts may have impacted the non-operationalization of the proposed guidelines.

There are also current efforts by civil society organizations in the Philippines to lobby for a law that ensures climate-related human rights violations find legal remedies. The Climate Accountability Bill or *CLIMA Bill* seeks to institute policies and systems to hold corporations (particularly carbon majors) and countries responsible for climate change, accountable through compensation for loss and damages suffered by climate change victims in the country. In addition to being a world-first loss and damage-focused legal framework, the bill also seeks to establish a specific climate-action track in adaptation and mitigation, while serving as an innovative and pioneering example of national legislation that enhances climate action, protects communities vulnerable to the adverse effects of climate change, and promotion of transformative change in the country.

The creation and adoption of a National Action Plan on Business and Human Rights, particularly in the ASEAN region is seen as a way to not only popularize the United Nations Guiding Principles on BHR but to also ensure that energy transition plans, programs, and activities are harmonized between national government agencies and also with the private sector.

**3. What mechanisms or processes should exist at the State level (e.g., inter-ministerial committee, ex ante human rights impact and risk assessment) to assess and ensure that extractive sector operations, including the production and distribution of transition minerals, do not negatively impact human rights? Are these measures effectively enforced and do they provide the necessary coverage in light of energy transition plans, programs and activities?**

In enacting laws and policies that operationalize the UNGP-BHR, the State secures a healthy and enabling economic environment that demands transparency and accountability in all business activity.

Additionally, comprehensive human rights due diligence should be mandated, particularly in the extractives industries where reports have shown that environmental and human rights have been infringed. By mandating the practice of human rights due diligence, the State can direct businesses to address the growing societal expectations for them to recognize their obligations and responsibilities in their business operations, especially concerning disadvantaged, marginalized, and vulnerable sectors such as women, children, persons with disabilities, older persons, and indigenous peoples, in the areas they operate in.

Climate-related financial disclosures “could promote more informed investment, credit, and insurance underwriting decisions” and “help financial market participants understand their climate-related risks.” Climate-related financial disclosures can help build consideration of the effects of climate change into routine business and financial decisions, and their adoption can help companies demonstrate responsibility and foresight. Better disclosure will lead to a more informed and more efficient capital allocation and help facilitate the transition to a more sustainable, lower-carbon economy. The Commission supports the recommendation that business enterprises disclose their: a) governance regarding climate-related risks and opportunities (governance); b) actual and potential impacts of climate-related risks and opportunities on the organization’s business strategies and financial planning (strategy); c) identification, assessment, and management of climate-related risks (risk management); and d) metrics and targets used to assess and manage relevant climate-related risks and opportunities (metrics and targets). In addition, business enterprises must quantify and disclose the following: a) risks from physical impacts of climate change; b) risks from transitioning to low to zero-carbon economies, including the possibility of stranded assets; and c) associated litigation risks.<sup>10</sup>

In 2020, the Bangko Sentral ng Pilipinas issued Circular No. 1085, more known as the Sustainable Finance Framework, which requires all banks to embed sustainability principles, including those covering environmental and social risk areas, in their corporate governance framework, risk management systems, and strategic objectives consistent with their size, risk profile, and complexity of operations. The Framework recognizes that climate change and other environmental and social risks could pose financial stability concerns considering their protracted and significant implications on the bank’s operations and financial interests. The BSP likewise, in issuing the circular, recognizes the critical role of the financial industry in pursuing sustainable and resilient growth by enabling environmentally and socially responsible business decisions consistent with the aspirations set out for the Filipinos under the Philippine Development Plan.

- 4. How do States encourage and regulate communication of energy transition efforts by business in the extractive sector, including State-owned enterprises (SOEs), to avoid the publication of misleading or unsubstantiated claims or reporting of an entity’s energy transition programs? Do these measures sufficiently ensure the adequacy, accessibility, reliability, and accuracy of information?**

---

<sup>10</sup> Supra note 1 at p.86

An increasing number of companies are demonstrating that disclosures concerning people are critical to business recovery, especially after the Covid-19 Pandemic.

One documented effort from the Philippine government is the *Securities and Exchange Commission (SEC) Memorandum Circular No. 4 (Series of 2019)*<sup>11</sup> which mandates all publicly-listed companies (PLCs) to include Environment, Social, and Governance (ESG) report annually. The report, which was developed through a series of consultations with concerned government agencies, is underpinned by existing international reporting initiatives (i.e. Integrated Reporting (IR), Global Reporting Initiative (GRI), Sustainability Accounting Standards Board (SASB), and Task Force on Climate-Related Financial Disclosures (TCFD), etc.), along with indicators found in the Philippine Development Plan (PDP) or the *Ambisyon 2040*.

The inclusion of the ESG aspect in a PLCs Annual Report, provides potential investors with a publicly-available lens to view both the financial and non-financial aspects of the companies they will be injecting capital into. The report enjoins companies to put a premium not only on profit but on the planet and its people. According to the SEC, since its inception, businesses that have submitted their ESG reports also improved their operational costs and promoted discipline in the company, knowing they are being monitored.

In its inception in 2019, the reporting was done through a “comply or explain approach.” But this year, it has become mandatory, with the SEC also pushing for the reporting to be mandated not only for PLCs but also for small to medium enterprises (SME).

- 5. Do current concessions, contracts, and bilateral investment treaties in the extractive sector aid or constrain domestic regulatory space available to States to meet their international human rights obligations in the context of the energy transition? What further changes in key provisions and licensing/procurement processes are desirable to advance energy transition in alignment with the UNGPs?**



- 6. What are the gaps in the development and implementation of existing National Action Plans, legislation, and domestic, regional, or international frameworks (e.g., the Paris Agreement or climate change laws) on business and human rights, particularly in relation to the extractive sector, which if addressed will advance a just and human rights-based energy transition?**

---

<sup>11</sup> Sustainability Reporting Guidelines for Publicly-Listed Companies, Securities and Exchange Commission (SEC) Memorandum Circular No. 4 (Series of 2019) (2019).

Although the Philippines was one of the first countries to initiate action in creating a NAP-BHR, the country has yet to enact its NAP. In 2016, together with the CHR, the United Nations Development Programme (UNDP) and Hans Seidel Foundation initiated a round table discussion to develop a framework for the NAP-BHR. In the same year, the Presidential Human Rights Committee Secretariat (PHRCS), the lead agency in preparing the NAP, spearheaded a government consultation workshop on developing the document. In that consultation, the PHRCS underscored the government's commitment to developing the NAP-BHR. However, the process did not move forward due to the reprioritization that came with the change of administration and the challenges that COVID-19 imposed.

Through an official correspondence with the CHR in June 2021, the PHRCS manifested its intention to conduct an inter-agency meeting for a renewed discussion on the formulation of the Philippine's National Action Plan on Business and Human Rights. However, the meeting has not yet been called as of this time.

- 7. How can energy transition policies, programs, plans and activities in one State have adverse human rights impacts outside of their territory or jurisdiction (including supply chain issues and sourcing)? What measures may reasonably correct this situation?**



- 8. How can States harness the potential of energy transition to accomplish important policy objectives related to human rights, such as achieving local empowerment, gender equality, protection of the environment, mitigation of climate change and realizing the Sustainable Development Goals?**

As previously mentioned, States should prioritize the needs of the vulnerable and marginalized segments of the population through programs that increase their adaptive capacities as they transition to a low-carbon economy. The Carbon Majors within Philippine jurisdiction may likewise be compelled to undertake human rights due diligence and provide remediation, including all Entities within the Carbon Majors' value chain.

There is also a need to cooperate towards the adoption of an International Legally Binding Instrument to Strengthen the Implementation of the UNGP-BHR, and Provide Redress Mechanisms for Victims of Human Rights Harms Caused by Businesses

Gender Equality is an explicit objective under the *2030 Agenda*, with Target 5.5 concerned with “ensuring women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.” A gender-response and human rights-based energy transition must take into account existing issues of gender inequality and capacitate women, girls, and persons of diverse SOGIESC to actively participate in the transition.

Women’s unpaid reproductive care work—or work highly dependent on women and girls’ access to natural resources and most impacted by environmental degradation—must also be recognized in the context of accelerating environmental degradation.

Increasing women’s participation and decision-making powers are essential components in improving women’s empowerment. Rather than only looking at women as victims of adverse impacts of environmental degradation, it is also essential to highlight their active role in environmental protection.

During the energy transition, policies must be in place to ensure that women are accorded access to technical, skills, and livelihood training in the context of renewable energy, and their role and challenges in using renewable energy technologies.

### **Corporate responsibility to respect human rights**

#### **9. What roles should business enterprises in the extractive sector play to integrate human rights into ongoing energy transition plans and programs to address adverse human rights impacts? Please provide examples if possible.**

The extractives sector needs to proactively address adverse human rights and environmental risks and impacts of their operations. Companies who have integrated policies and actions on these impacts have shown positive results, not only in the non-financial aspects of their business, but also positively affected their bottom line. An example of this is First Philippine Holdings, which have successfully integrated human rights due diligence in the operations of their Mt. Apo Geothermal Plant operations. Their efforts have shown that they have averted risks such as:

- a. Project delays and disruptions;
- b. Increased cost to manage conflicts and costly legal claims;
- c. Unmet investor demands;
- d. Volatile supply chains;
- e. Damaged reputation due to bad practices; and
- f. Regulatory exposure and cases



Through these efforts, they have also benefited from opportunities such as:

- a. Improved social license and business continuity;
- b. Costs are managed;
- c. Continued access to capital;
- d. Stable raw material and services;
- e. Improved reputation has led to:
  - i. Talent recruitment and retention
  - ii. Improved staff productivity
  - iii. Customer loyalty and acquisition
- f. Better anticipation of new rules

A good example would be the Human Rights training requested by the Semirara Mining and Power Corporation (SMPC) from the CHR. The 3-day workshop consisted of employees from the upper-level management down to the rank-and-file to review their processes and to give out recommendations based on the workshop discussion, on how they can incorporate human rights aspects into their company policies.

**10. Are human rights provisions, for example in existing concessions, contracts, and bilateral investment treaties, effective in encouraging businesses in the extractive sector, including investors, to respect all internationally recognised human rights? If not, what should be done to strengthen their efficacy?**

Yes, The importance and acceptance of the human rights lens in business have been increasing globally for the past years, driven by evolving regulations, investor demand, business relationships, and public interest.<sup>12</sup> Companies are beginning to recognize that its environmental, social, and governance policies and practices are inextricably linked to the long-term health of their businesses. Thus, it should strive to improve the well-being of its employees, the community, and the planet. In turn, a society with strong human rights allows the free flow of information, investment, and entrepreneurial innovation.

**11. Have you seen extractive sector investors play a role in preventing and mitigating, or in exacerbating, negative impacts of energy transition efforts on human rights? Should investors be required to conduct gender responsive HRDD in meaningful consultation with local communities, civil society organizations, Indigenous Peoples, and human rights defenders? What remediation responsibility should investors have?**

---

<sup>12</sup> Commission on Human Rights of the Philippines, *Guidance Document Business and Human Rights*, 2020 at page 12.

The financial sector plays a big role in ensuring that business enterprises do not have access to credit and financial facilities when it comes to investing in fossil fuel and other extractive energy sources. Recognizing that the banking sector has to play a big role in the country's commitment to transition to low-carbon economy, Banco De Oro (BDO), the country's biggest financial institution, has pledged in its Energy Transition Finance Statement, that it will provide improved financial access to affordable, reliable, sustainable, and clean energy through its Sustainable Finance program.

It has also declared that it will continue to not provide financial access to new coal-fired power plant capacities, which it has continually done since 2019. It has also pledged to divest and reduce its coal exposure to 50% by 2033, while ensuring that its coal exposure does not exceed 2% of its total loan portfolio by the same year.

Another good example comes from First Gen Corporation (FGEN) who have explicit gender equality and diversity policies.<sup>13</sup> FGEN's anchor's on a belief that the integration of gender equality and diversity into its operations, programs, and strategies contributes to a company's economic performance and long-term success, as well as the realization of the full potential of its employees and stakeholders.

In their Mt. Apo operations, First Philippine Holdings has also initiated genuine and meaningful consultations with the indigenous people communities in the area, ensuring full respect of their Free Prior and Informed Consent (FPIC) rights as defined by the Indigenous People's Rights Act (IPRA) of 1997.

## **12. What role can the informal economy (e.g., artisanal and small-scale mineral exploitation, including supply chains) play in advancing a just and human rights-based energy transition?**

At the center of a just and human rights-based energy transition is the social inclusion of individuals and communities, including the disadvantaged, marginalized, and vulnerable sectors. These groups play a critical role in effectively tackling complex community issues. The knowledge and perspectives they bring frame community challenges while their unique assets, skills, and resources enhance collective community action and help yield appropriate, responsive, and sustainable solutions. They should no longer be seen as passive recipients of social assistance. The disadvantaged, marginalized, and vulnerable sector agents of change and action. They must participate, without discrimination, in policy-making as well as in the development and implementation of programs.

---

<sup>13</sup> Philippine Business Coalition for Women Empowerment, *Workplace Gender Equality and Sustainability Reporting*, 2021 at page 21.

Supporting vulnerable people in this process means empowerment. So it is essential for States and other stakeholders to create enabling conditions for the empowerment of vulnerable people. Creating a conducive environment for the empowerment of the disadvantaged, marginalized, and vulnerable

- Fosters local communities as an enabler of empowerment and social inclusion
- Strengthens agents of change within the vulnerable group and the local context
- Enhances the potential of the local economy and social enterprises
- Supports local resources and services increasing the resilience of vulnerable people
- Stimulates mutual help and sharing of resources
- Increases their visibility and voice
- Reduces discrimination and stigmatization
- Encourages self-esteem, motivation, and own initiative
- Develops social, vocational, digital and practical skills

**13. Should concessions, contracts, and legislation require all business enterprises producing, purchasing, processing, and distributing transition minerals to apply and implement human rights-based impact and risk assessments and due diligence standards, including gender-responsive HRDD and heightened HRDD for conflict-affected areas? If so, how could such processes ensure meaningful participation of impacted communities, particularly vulnerable and historically excluded groups?**

Comprehensive human rights due diligence should be mandated, particularly in the extractive industries where violations of environmental and human rights violations have been documented. By mandating the practice of human rights due diligence, the State can direct businesses to address the growing societal expectations for them to recognize their obligations and responsibilities in their business operations, particularly concerning disadvantaged, marginalized, and vulnerable sectors such as women, children, persons with disabilities, older persons, and indigenous peoples, in the areas they operate in. Additionally, in enacting laws operationalizing the UNGP-BHR, the State secures a healthy and enabling economic environment that demands transparency and accountability in all business activity.

Likewise, human rights due diligence helps businesses specify the aspects of human rights they need to focus on and determine the differentiated needs of the vulnerable sectors affected by their activities.

**14. How could extractive sector associations, higher education institutions and other stakeholders promote awareness and encourage human rights-compatible business practices (e.g., addressing greenwashing and green scamming practices)?**

By incorporating the values and principles of the UNGP-BHR in the coursework of higher education institutions, we can create future business leaders who are already inculcated with values of responsible business conduct even before they become professionals. This will drive future businesses to be fully aware of their duties and expectations under the UNGP-BHR and will help the State secure a healthy economic environment wherein businesses are showing greater transparency in their company's sustainability performance, specifically in the context of environmental protection, and human rights.

Additionally, the academe and extractive sector associations can ensure that they incorporate gender equality and women's economic empowerment principles in their business conduct, operations, and in their supply and value chains. In coherence with the UNGP-BHR's emphasis on the issues of gender, vulnerability, and marginalization and as a critical element of their commitment to respect human rights, the relevant stakeholders have a responsibility for gender equality and women's empowerment. To aid them, the Women's Empowerment Principles (WEPs) of the UN Women and the UN Global Compact is a useful framework in tackling gender issues and improving their performance on gender equality through the integration of these principles into their strategies and policies.

**Access to remedy**

**15. What measures and mechanisms should be provided by extractive sector legislation, bilateral investment treaties, concessions, and contracts to allow individuals or communities affected by extractive activities to seek effective remedy for business-related human rights abuses? What remedies are best suited for this sector?**

In the Philippines, there was an effort to introduce guidelines in monitoring of human rights compliance in the mining industry. This was taken up as a response to operationalize the mining policies as stated in *Executive Order no. 79 (s. 2012)*. It identified key government agencies which would provide mechanisms and guidelines in monitoring human rights and labor violations in the mining industry, and also to develop operational linkages with concerned government agencies, particularly the Commission on Human Rights (CHR) and the Department of Labor and Employment (DOLE) inter alia, to assist victims and to take appropriate action against violators. The effort was not

meant to create new regulations but to streamline assistance to victims of human rights violations and taking appropriate actions against violators.

**16. Please provide examples of steps taken by States to investigate, punish and redress business-related human rights abuses related to the extractive sector in the context of energy transition projects. Are the steps and redress mechanisms effective in terms of both process and remedial outcomes?**

DAO-2022-04 ENHANCING BIODIVERSITY CONSERVATION AND PROTECTION IN MINING OPERATIONS

- aims to provide adequate measures for responsible mining towards ensuring biodiversity conservation and protection including progressive and final rehabilitation of mined-out areas. It also aims to minimize negative impacts on biodiversity and ensure its conservation of biodiversity, thereby promoting the sustainable development and utilization of the country's natural and mineral resources for the benefit of present and future generations.

Executive Order No. 79, s. 2012 INSTITUTIONALIZING AND IMPLEMENTING REFORMS IN THE PHILIPPINE MINING SECTOR PROVIDING POLICIES AND GUIDELINES TO ENSURE ENVIRONMENTAL PROTECTION AND RESPONSIBLE MINING IN THE UTILIZATION OF MINERAL RESOURCES

- aims to reform the mining sector and promote environmentally-sound mining practices. It lists areas closed to mining applications, specifically: areas listed under Sec. 19 of the Philippine Mining Act, protected areas, agricultural lands, tourism development areas, and other critical areas

Executive Order No. 147, s. 2013 CREATING THE PHILIPPINE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

- Institutionalized the Philippine Extractive Industries Transparency Initiative (PH-EITI)
- provided for the creation of, among others, the MSG, a secretariat composed of administrative and technical personnel, and TWGs as necessary for the PH-EITI
- The PH-EITI-MSG shall have the following mandates:
- Ensure sustained political commitment for the initiative and mobilize resources to sustain its activities and goals;
- Set the strategic direction required for effectively implementing the initiative in the Philippines;
- Assess and seek the removal of barriers to its implementation;

- Set the scope of the EITI process; and
- Ensure that the initiative is effectively integrated in the reform process outlined under EO No. 79 and any other related government reform agenda.

-

**17. Are you aware of any cases submitted to judicial and/or non-judicial instances (e.g., national human rights institutions, national contact points, mediation, etc.) regarding business-related human rights abuses in the extractive sector, particularly in the context of energy transition projects?**

For its part, the Commission on Human Rights (CHR) has initiated several efforts regarding cases involving alleged human rights abuses in the extractive sector, among them are:

- a. Spearheading an inter-agency working group to monitor the human rights situation in Semirara Island, Caluya, Antique due to threats of forced eviction against the community, resulting from coal mining activities;
- b. Monitored the human rights situation of affected communities in Aroroy, Masbate by the mining activities of Filminera;
- c. With the guidance of the CHR, the concerned citizens of Bulan, Sorsogon managed to get the LGU to issue a Sangguniang Bayan resolution interposing objection to all large-scale, destructive and irresponsible quarrying and/or mining therein;
- d. The CHRP acted as mediator and facilitated dialogues between the Tampakan Copper-Gold Mining Project of Sagittarius Mines Inc. and B'laan indigenous peoples over the dispute of the mining operations of Sagittarius Mines Incorporated on the ancestral lands of the B'laan people; and
- e. The Commission pioneered the conduct of a National Inquiry on Climate Change (NICC). The case is a novel attempt to haul the respondent "carbon majors" in one "global petition" involving human rights. The petitioners included typhoon survivors, advocates and non-governmental organizations, including Greenpeace Southeast Asia implicating 47 investor-owned carbon producers including Chevron, ExxonMobil, BP, Shell, Total, BHP Billiton, Suncor, and ConocoPhillips over their role in "human-induced climate change"; that "interferes with the enjoyment of Filipinos' fundamental rights.

**18. Are current dispute resolution provisions and frameworks in the extractive sector "fit for purpose" to address complaints related to human rights abuses linked to extractive activities and energy transition projects? If not, what are the alternatives for a legitimate, transparent, and effective dispute resolution system to address such complaints?**

The CHRP has the authority to call the parties, including duty-holders concerned, for a dialogue to discuss, among others, immediate courses of action and protection remedies, and/or possible submission of the matter to an alternative dispute resolution whenever applicable. However, human rights violations involving or with corresponding criminal and/or administrative liability which, pursuant to pertinent laws, rules, and regulations, cannot be the subject of a compromise and/or any mode of alternative dispute resolution cannot be a subject of conciliation or mediation.

As previously mentioned, the CHRP acted as mediator and facilitated dialogues between the Tampakan Copper-Gold Mining Project of Sagittarius Mines Inc. and B'laan indigenous peoples over the dispute of the mining operations of SMI on the ancestral lands of the B'laan people

### **Good practices and other comments**

#### **19. Please provide examples of good practices regarding the integration of human rights issues in the extractive sector in the context of the energy transition.**

Recognizing that the banking sector plays a big role in the country's commitment to transition to low-carbon economy, Banco De Oro (BDO), the country's biggest financial institution, has pledged in its Energy Transition Finance Statement, that it will provide improved financial access to affordable, reliable, sustainable, and clean energy through its Sustainable Finance program.

It has also declared that it will continue to not provide financial access to new coal-fired power plant capacities, which it has continually done since 2019. It has also pledged to divest and reduce its coal exposure to 50% by 2033, while ensuring that its coal exposure does not exceed 2% of its total loan portfolio by the same year.

#### **20. What specific renewable energy policies, practices and safeguards should be adopted by States and business so that energy transition does not have adverse effects on human rights?**

The *National Inquiry on Climate Change Report (NICC Report)* provides recommendations to the government in the context of climate change, specifically to “ensure a Just Transition Towards an Environmentally Sustainable Economy.”<sup>14</sup> The *NICC Report* emphasizes the necessity for global cooperation in working towards a just and equitable outcome:

---

<sup>14</sup> Commission on Human Rights (2022), *National Inquiry on Climate Change Report*, at 111-2.

The collective knowledge of the global community must complement the local and regional experience and realities, including an understanding of differences in goals, values, risks, barriers, and opportunities, in the development of just and equitable laws, policies, and process interventions that eliminate entrenched vulnerabilities to climate change.

Thus, States must recognize and address the existing inequalities and varying challenges in the transition to a net-zero carbon economy. Climate neutrality cannot take place at the expense of people. Green policy must put the citizen's well-being at the heart of change because "if domestic and global policies are to achieve common goals, they must create not only a resilient economy but also a resilient society that leaves no one behind."

States must ensure a just transition towards an environmentally-sustainable economy that will guarantee "decent work for all, social inclusion and the eradication of poverty." This is particularly true for oil-based economies and those with workforces relying on carbon-intensive industries and their supply chains. The Commission endorses the recommendation that States, in the transition to net-zero, engage with stakeholders in developing economic strategies that are fair, inclusive, and sustainable; and provide support to workers through the creation of local, inclusive and decent jobs.<sup>15</sup>

**21. Are there any specific recommendations to States, businesses (including investors), civil society, UN bodies and National Human Rights Institutions that would help further advance a just and human rights-based energy transition in the extractive sector? Any other comments or suggestions about the forthcoming report are also welcome.**

Besides recommendations mentioned in the previous item, the *National Inquiry on Climate Change Report (NICC Report)* also provides recommendations to States, businesses, UN bodies, and National Human Rights Institutions in the context of energy transition, climate adaptation, mitigation, and resilience actions.<sup>16</sup>

To Governments:

- A. Discourage dependence on fossil fuels - additionally, the NICC report recommends that apart from decreasing tax breaks and subsidies on coal-fired power plants, developed countries should totally phase-out coal power.<sup>17</sup> Such tax breaks and other incentives should be granted to renewable or clean energy technologies.

---

<sup>15</sup> *Supra note 14*

<sup>16</sup> *Id.* at 104-IX

<sup>17</sup> *Id.* at 106-i



- B. Collaborate on innovative climate action and guarantee that all the benefits of science and technology are enjoyed by all - towards this end, the report recommends the endorsement of the *Global Coal to Clean Power Transition Statement* which includes the rapid scaling-up of the deployment of clean power generation and technologies to transition away from coal-power generation.<sup>18</sup>
- C. Concretize the responsibility of business in the context of climate change - States that have the capacity to regulate environmental or human rights protection within their jurisdiction should require companies to prepare reports on how they intend to address their environmental and human rights impacts.<sup>19</sup> These reports should also be mandated to be publicly communicated, including disclosure of human rights due diligence, climate change impact assessments, and consideration of other human rights risks, consistent with the UNGP-BHR.
- D. Discourage anthropogenic contributions to climate change and compensate victims - the report recommends that States provide penalties for emissions and that the monetary penalties collected be earmarked as funds for climate change-related mitigation and adaptation activities.<sup>20</sup> Establishment of legal frameworks through courts or quasi-judicial bodies, that will provide redress and compensation mechanisms to victims is also recommended.
- E. Promote climate change awareness and education - the report recommends that the State take the lead in ensuring that formal and non-formal education raise the understanding on human rights and climate justice issues by nuancing discussions “not only on a scientific level, but also on a sociological and political level.”<sup>21</sup> Additionally, States should also invest in building the skills and capacities of the current generation of students to aid in the transition to a green economy.<sup>22</sup>
- F. Include the military in carbon accounting - States should take into account the size, scale, and spread of their global military operations and consider their fuel consumptions and emissions when developing their Nationally Determined Contributions (NDC).

To Businesses (particularly carbon majors and carbon-intensive industries)

- A. Publicly disclose due diligence and climate and human rights impact assessment results, and the corresponding measures taken in relation thereto - the report recommends that businesses disclose climate risks that their continued production, sale, and use of their products contribute to.<sup>23</sup> Transparency in how they are addressing issues arising from human rights impact assessments and due diligence

---

<sup>18</sup> *Supra note 14.* at 107-ii

<sup>19</sup> *Id.* at 109-iv

<sup>20</sup> *Id.* at 110-v

<sup>21</sup> *Id.* at 115-x

<sup>22</sup> *Id.* at 117

<sup>23</sup> *Id.* at 119-1

procedures should also be mandated, including public pronouncements of their commitments to combat climate change.

- B. Cease exploration for new oil fields and help in the global transition towards clean energy - it is recommended that fossil fuel explorations should stop and corporate resources and assets should be applied to research and development of alternative and renewable sources of energy and carbon sequestration.<sup>24</sup>
- C. Contribute to a green climate fund for the implementation of mitigation and adaptation measures - carbon majors, carbon-intensive, and other extractive industries should contribute in financing climate mitigation and adaptation measures “to alleviate the plight of those impacted by climate change-related harms.”<sup>25</sup>

For Financial Institutions and Investors:

- A. Financial institutions must refrain from financial fossil fuel-related projects and instead direct capital towards ‘green’ projects - The CHR fully supports the latest version of the *Equator Principles* and recommends its adoption by all financial institutions.<sup>26</sup> The CHR also encourages financial institutions to refrain from injecting capital in companies that have activities related to fossil fuel extraction, and conventional fossil fuel-based power generation.<sup>27</sup>
- B. Investors must exert social, political, and economic pressure on the fossil fuel industry to transition to clean energy by divesting therefrom - the report recommends financial institutions to take the planet and its people - beyond profit - in considering its investment decisions. As providers of capital, investors have the power to influence company actions and policies, and ensure that they do not continue to tolerate, propagate, and contribute to human rights violations in their operations and in their value chains.<sup>28</sup> The CHR also supports movements that call on investors to move away from financial instruments that continue to support fossil fuels in order to exert social, political, and economic pressure on companies to transition to clean and renewable energy sources.

For the United Nations:

The United Nations unique position as a platform for collaboration among States and world leaders can be used as a catalyst in encouraging developed States to help smaller countries in their climate adaptation and mitigation goals. This includes compensation for loss and damage arising from climate change

---

<sup>24</sup> *Supra note 14.* at 120-iii

<sup>25</sup> *Id.* at 120-iv

<sup>26</sup> *Id.* at 121-i

<sup>27</sup> *Id.* at 122-2

<sup>28</sup> *Id.* at 123-ii

impacts.<sup>29</sup> It is also in a strong position to promote and mandate the UNGP-BHR and ensure responsible business conduct and compelling the private sector to fulfill their human rights obligations. It can also enjoin States to provide access to remedy and “catalyze the development of mechanisms and processes for hearing human rights cases, especially those involving transboundary harm, universal liability, cross-jurisdictional enforcement, compensation, and proportional liability.”<sup>30</sup>

To National Human Rights Institutions:

Recognizing that NHRIs play a crucial role in the promotion and implementation of human rights standards, the report encourages NHRIs to be guided by declarations such as the *Mérida Declaration*, the *St. Julian’s Declaration on Climate Justice*, and the *Global Alliance of Human Rights Institutions (GANHRI) outcome statement on the role of NHRIs in combating the climate crisis*, in recognizing and affirming their role in addressing the climate crisis.<sup>31</sup> Guided by these declarations, the CHR encourages its fellow NHRIs to:<sup>32</sup>

1. Continuously engage with climate scientists and other experts in the field to keep abreast of the best available science on climate change, event attribution, as well as technological developments related thereto;
2. Collaborate with other NHRIs and engage in regional and international mechanisms to monitor government and business compliance with their duties and responsibilities when dealing with climate-related transboundary harms and cross-border human rights violations;
3. Ensure that climate change actions, including monitoring, investigations, decisions and legislation are participatory, transparent and accountable;
4. Contribute to the development of laws and legal frameworks on the intersection of human rights, climate change and business enterprises through monitoring, research, case studies, investigation, decision on cases and other activities within their mandates;
5. Pursue meaningful collaboration with government actors and encourage them to understand and integrate human rights obligations in national climate action policies by advising them on human rights-based approaches to climate mitigation and adaptation, through the integration of the different international climate agreements, the Sustainable Development Goals, and the adherence to the Geneva Pledge to promote and respect human rights in climate action;

---

<sup>29</sup> *Supra note 14.* at 124-4

<sup>30</sup> *Id.* at 125-1

<sup>31</sup> *Id.* at 126

<sup>32</sup> *Id.* at 127-128

6. Actively dialogue with the business sector and work for the development of normative frameworks that will embed the respect for human rights in the obligations of businesses—such as the conduct of environmental and human rights impact assessments and due diligence across all phases of their operations, as well as providing remedies in case of violations;
7. Increase monitoring and reporting on government's compliance with business, human rights and climate change obligations and 128 commitments, through international human rights mechanisms like the Universal Periodic Review and other treaty bodies;
8. Strengthen engagements with civil society, particularly in educating communities about the causes and impacts of climate change and how it relates to the realization of human rights in order to mainstream climate awareness in the public consciousness and drive responses ranging from individual changes of lifestyles to concerted climate actions;
9. Recognize that some climate actions are inevitable to negatively impact human rights; that the transition to a carbon-less economy would necessarily put some sectors at risk of losing their livelihoods or that evacuating those living in danger zones would necessarily lose their homes; the challenge is to find a balance towards the most just, humane and equitable climate solution; and finally
10. Commit to achieving climate justice, particularly for those acutely impacted but have least contributed to the climate crises.