Call for inputs - corporate accountability in the context of human rights and climate change

United Nations Human Rights – Office of the High Commissioner. Special Rapporteur on climate change

IOSH's Response to the consultation

Climate change risks and corporate accountability

To what extent are corporations giving consideration to climate change risks associated with investments in the fossil fuel industry or greenhouse gas intensive industries?

How are corporations disclosing and addressing such risks?

We believe that organisations are evidencing poor levels of accountability, disclosure, traceability, and transparency to climate change risks.

As the world progressively transitions towards sustainable energy and net zero targets and commitments, the fossil fuel industry makes slow progress. This is concerning, as it has a knock-on effect on the protect workers on human rights violations. On a similar basis, this cycle of neglect can also have a lifechanging impact for the livelihood of the communities located next to locations where this sector might operate, in the form of deforestation, water shortages, toxic chemical release or increased risk of exposure zoonotic and vector-borne infections and diseases.

One representative example of this can be seen on the practice of flaring - the burning of waste gas during oil drilling – that continues to take place in many regions of the world but mainly across Gulf States. Major oil operators continue to demonstrate poor levels of accountability in the Middle East area by failing to tackle air and occupational pollution from fossil fuels. Exposure to pollutants from flaring are known to be a contributing factor to strokes, cancer, asthma and heart disease according to the World Health Organisation.

Another area that continues to be overlooked are climate-related hazards affecting the health of certain groups of workers. These health impacts have the potential to extend beyond the heavy industries and their supply chains. For example, metal manufacturing can destabilise the human nervous system and possibly increase the risk of neurodegenerative diseases[1]; long-term exposure to mine dust has been found to have harmful health effects for artisanal and small-scale mining workers[2]. Other occupational effects can affect the reproductive health of female workers.

Vulnerable and disadvantaged workers, including women, ethnic minorities, migrants, older populations, and those with underlying health conditions tend to be neglected from climate change national health policies and adaptation plans. These workers are more vulnerable to the impacts of climate change. Many continue to be excluded from health promotion, disease prevention, treatment and care programs access, as well from social protection mechanisms.

Workers, including agriculture workers, farmers, emergency responders, and construction workers, are disproportionately impacted by extreme heat, occupational pollution and other climate change related events. Workers, especially those who work outdoors or in hot indoor environments, are at increased risk of heat stress and other heat-related disorders. Agriculture

[1] R. Chen et al., "Exposure, assessment and health hazards of particulate matter in metal additive manufacturing: A review," Chemosphere, vol. 259, p. 127452, Nov 2020, doi: 10.1016/j.chemosphere.2020.127452.

[2] Ngombe, L.K.,Ngatu, N.R., Christophe, N.M., Ilunga, B.K., Okitotsho, S.W., Sakatolo, J.-B.K., Danuser, B. and Numbi, O.L. (2016) "Respiratory Health of Artisanal Miner of Lwisha in Katanga/DR Congo"., Open Access Library Journal, 3: e3233. http://dx.doi.org/10.4236/oalib.1103233

workers are likely to wide variety of occupational issues, from facing increasing pesticide exposure, to experiencing higher levels of psychological distress and mental health disorders.

Boards and leadership/top management need to assume ownership by leading on the integration of human rights issues in the fossil fuel industry in the context of the energy transition and climate change given its multi-faceted impacts. With that in mind, a more holistic and equitable approach to capital allocation decisions, considering the workforce, stakeholders and providers of capital is needed.

What are investors and asset managers legal duties in relation to such climate change risks?

Improved levels of transparency in reporting practices are crucial for investors to have access to more meaningful and comparable social data from businesses to help inform investment decisions on human rights and climate change. In practice traction against this principle is proving complex. Institutional investors, namely pension funds, mutual funds, hedge funds, banks, insurance companies, and endowment funds continue to show poor performance to align with the Paris Agreement. According to SOMO, less than 1%[3] of the $255 trillion in global private financial assets pretends to be sustainable – is being addressed with ineffective tools touted by the financial industry[4].

Investors need to carefully scrutinise corporate performance data on human rights and climate change. This may include familiarising themselves with, and the use of, a set of indicators covering human rights and climate change that can be instrumental for better informing investors decision-making:

- ➢ Risk or history of poor labour governance
- ➢ Climate change disclosure statements, impact assessments on energy transition plans.
- ➢ Human rights and climate change risks from operations
- ➢ Lack of transparency of data and claims that relate to climate change and health
- ➢ Social risks in the supply chain that go unmanaged.
- ➢ Risk or history of poor social performance
- ➢ Risk from lack of climate change-related policies, practices and due diligence procedures

Socially responsible investors actively need to demonstrate transparency and consistency when it comes to investing in companies or organisations whose businesses run counter to their non-financial values and ethical principles or those, they perceive to have negative effects on society or their human capital. Traditionally these sectors have been linked to corruption issues, conflict-affected and high-risk sectors such as nuclear energy, garment, gambling, extractive industries, fossil fuel and others.

Some green jobs aren't necessarily safe, in fact they can be *dirty, dangerous and in need of reform*[5]. With the emergence of the so-called green industries, namely renewable energy

[3] Fichtner, Jan & Petry, Johannes & Jaspert, Robin. (2023). Mind the ESG gaps: transmission mechanisms and the governance of and by sustainable finance.

[4] SOMO. The trillion-dollar threat of climate change profiteers. November, 2023.

[5] O'Connor, Sarah. Not all green jobs are safe and clean. October, 2021. https://www.ft.com/content/111f9600-f440-47fb-882f-4a5e3c96fae2

production, water services, green transportation, waste management, green buildings, sustainable agriculture and forestry, recycling and the development and use of low-carbon technologies, expected to experience a seeing substantial growth it will be critical that investors and capital markets ensure the principle that these industries promote good and decent work.

Please also consider IOSH's response to the recent Call for inputs. Investors, ESG and Human Rights.

Net zero accountability and greenwashing. What laws, regulations or other standards are in place for net zero accounting by companies and other market players?

To develop stronger and clearer standards for net-zero emissions pledges by businesses, investors, states need to articulate and implement fit for purpose legislation. Examples of laws on mandatory human rights due diligence with an environmental perspective that proposes legally binding measures on net zero accounting are:

- Duty of Vigilance Law in France: requires businesses to establish and implement an effective Vigilance Plan which should include reasonable vigilance measures to identify and prevent "severe violation of human rights […] or environmental damage from the operations of the company and of the companies it controls, […] as well as from the operations of the subcontractors or suppliers".

- Act on Corporate Due Diligence Obligations in Supply Chains in Germany: requires businesses "to exercise due regard for the human rights and environment related due diligence […] in their supply chains".

- Responsible and Sustainable International Business Conduct Bill in the Netherlands: requires businesses to "exercise due diligence in their value chains" to identify, prevent, mitigate, and refrain from activities which "may have negative impacts on human rights, labour rights, or the environment".

- Draft Corporate Sustainability Due Diligence Directive in the EU: (at the time of writing) requires businesses to "take appropriate steps within their means to set up and carry out due diligence measures, with respect to their own operations, those of their subsidiaries, as well as their direct and indirect business relationships in their value chains" […] "to identify and address adverse human rights and environmental impacts". the EU's upcoming Corporate Sustainability Due Diligence Directive, must include asset managers and oblige them to avoid harmful climate impacts from their investments.

Another avenue is for human rights clauses to be firmly embedded into implementation plans for net-zero emission and energy transition programs and that those plans consist of international trade negotiations and trade agreements, by including human rights-based principles primarily targeted towards a more sustainable and human-centred trade[6] [7] as a mechanism to stimulate and mandate net zero disclosures.

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[6] Jones, R, Williams, I. and Zivkovic, M. Revitalising 2.0: building back better and healthier – Institution of Occupational Safety and Health Policy Brief. UN-WTO
Policy Hackathon, Institution of Occupational Safety and Health (IOSH), https://www.unescap.org/sites/default/files/135%20Final-Team%20Richard%20Jones-UK.pdf

[7] Williams, I. Recognizing the Imperative Need to Step up Integration Efforts of Occupational Health and Safety Provisions in Trade and Investment Agreements. September, 2021 Geneva. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/genericdocument/wcms_818105.pdf