Just Transition & Just Resilience

How the UN Guiding Principles can help companies to respect human rights when taking climate action

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Shift

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INTRODUCTION

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Companies are increasingly recognizing climate change as an issue that can result in financial risks (and opportunities) for their business performance. There is also growing recognition that climate change is integrally related not only to other 'environmental' issues (water stress, biodiversity loss, etc.) but also to a range of 'social' and 'governance' factors under the 'ESG' components of sustainability. With regard to 'social' factors, as the impacts of climate change become more evident, the human rights impacts of climate change, and of business responses to climate change are becoming increasingly clear.

Climate change is complex and many businesses find it challenging to develop an integrated approach to managing climate change and human rights risks. In a workshop held during Shift's 2022 Business Learning Program (BLP), we explored how the UN Guiding Principles on Business and Human Rights (UNGPs) can provide a framework to help companies bring these critical aspects of risk management together. This paper is informed by the findings of that workshop and provides a practical overview of how the UNGPs can help companies to layer a human rights lens into their climate change strategies.

I. TERMINOLOGY

Participants in the BLP workshop identified the lack of shared language and common understanding between environmental and social/human rights practitioners as a barrier to better integration of the two areas in companies. To address this, the Climate Background document provides more information on key climate change terminology and concepts.

In this paper we use the terms "transition risk", "physical risk", "mitigation action" and "adaptation action". These terms are used in frameworks that are widely adopted by companies to disclose climate-related financial information such as the Taskforce on Climate-related Financial Disclosures Framework (TCFD) and the EU Green Taxonomy. The concepts are explained in more detail in the rest of the report and in the Climate Background document.

- **Transition risk** refers to the extensive policy, legal, technological, and market changes needed to transition to a lower-carbon economy to reduce the amount of greenhouse gases that cause climate change. All these changes could affect economies and businesses. To address transition risk, companies take mitigation action to reduce the greenhouse gases that cause climate change.
- **Physical risk** refers to the changes in weather and climate that result from climate change that could affect economies and businesses. To address physical risk, companies take adaptation action to adjust to the effects of climate change.
- The term Just Transition typically refers to the requirement that the transition to a low-carbon economy should happen in a way that fairly shares the benefits of the transition while supporting those who will be negatively impacted. In this report, we look at the ways in which respect for human rights across companies' **mitigation actions** is essential to achieve that objective.
- The term Just Resilience is increasingly used in policy documents in the context of physical risk and climate adaptation. In this report it refers to the expectation that companies should respect human rights in the context of their **adaptation action** and in doing business in an operating environment that is changing as a result of climate change.

II. SCOPE OF THIS REPORT

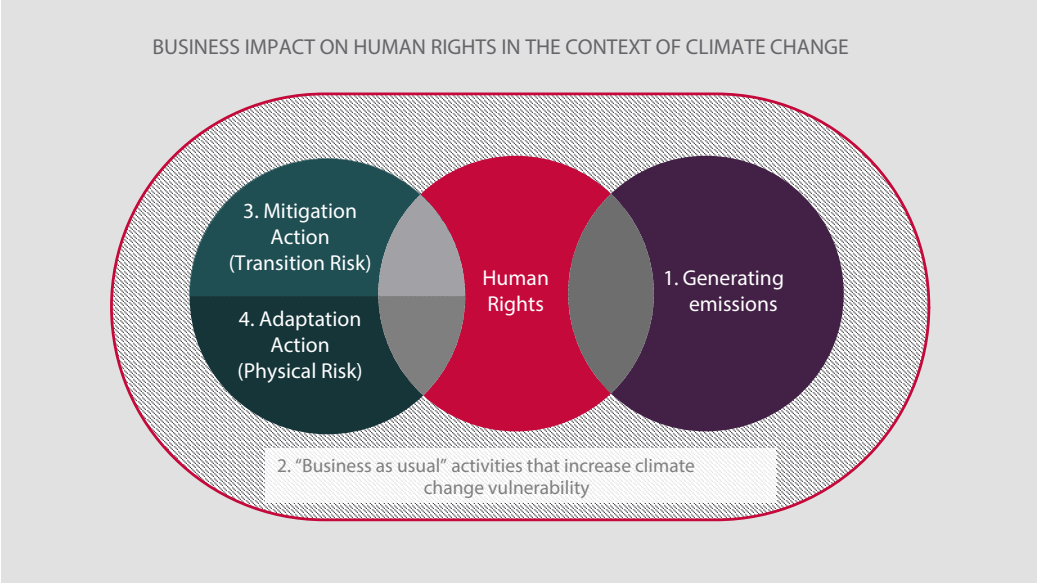
Under the UN Guiding Principles on Business and Human Rights (UNGPs), businesses have a responsibility to understand and address how their activities (their actions, decisions and omissions), as well as business relationships across their value chains, can lead to negative impacts on people's human rights in connection with their operations, products and services. As shown above, in the context of climate change, this means that businesses should consider the potential negative impacts on people's human rights resulting from:

1. Their business operations, products or services causing or worsening climate change – for example, by generating greenhouse gases or contributing to the destruction of carbon sinks that absorb greenhouse gases, for instance by converting forests to farms;

2. Their business operations, products or services increasing vulnerability and reducing resilience to climate change;

3. Mitigation actions taken by the business to minimize future climate change and to respond to transition risk, for example by exiting carbon-intensive investments, switching from fossil fuel-based energy to renewable energy or buying carbon offsets;

4. Adaptation actions taken by businesses to respond to the physical risks and impacts of climate change.



With regard to point 1 (generating emissions), in 2021 the Office of the UN High Commissioner for Human Rights (OHCHR) emphasized that businesses have responsibilities under the UNGPs in relation to greenhouse gas emissions generated by their own activities and in their value chain.[1] In July 2022, the UN adopted a historic resolution that declared access to a clean, healthy and sustainable environment to be a universal human right.[2] The question of the responsibility and potential liability of businesses for their greenhouse gas emissions is likely to become increasingly relevant in years to come.

This paper focuses on points 2 to 4 above: areas in which businesses are taking action but where there is often a lack of awareness of the potential human rights impacts involved and where the UNGPs can help to achieve better outcomes for people.

III. STRUCTURE OF THIS REPORT

The report is structured as follows:

Part 1 explains the central role that vulnerability plays in the context of climate change and shows how "business as usual" can exacerbate vulnerability to climate risk.

Part 2 explains how companies can be connected to human rights impacts in the context of their response to transition risk and physical risk. It also explains the need for a Just Transition and Just Resilience, and identifies the challenge that many companies face in developing an integrated approach to mitigation action and adaptation action.

Part 3 explains how the UNGPs can be leveraged to address the challenges identified in Part 1 and Part 2.

Part 4 outlines questions for companies to consider regarding the practical implementation of the UNGPs in the context of climate change.

PART 1

How businesses may exacerbate vulnerability in the context of physical climate risk

This section illustrates how vulnerability is one of the main factors that increases physical climate risk. It also explains that vulnerability is a major contributor to the uneven distribution of climate change impacts. It goes on to explain how companies can be connected to human rights impacts by continuing "business as usual" in a way that increases the vulnerability of people in their operations and value chains.

1.1 VULNERABILITY AND PHYSICAL CLIMATE RISK

Vulnerability is one of the three drivers of physical climate change risk. Reports issued by the Intergovernmental Panel on Climate Change (IPCC)[3] explain that physical climate risk results from the dynamic interactions between the following three factors:

- the climate-related hazard, which is a physical weather event that can be acute (e.g. storms, floods, wildfires, extreme heat) or chronic (e.g. drought, sea level rise and sea ice melt);
- the level of exposure to climate hazards, which is the presence of infrastructure or people in a place where the hazard occurs. For example, if there is crucial infrastructure – like a bridge – in the area that will be hit by extreme floods, the exposure is high. If there is no important infrastructure in the flood-prone area, the exposure is zero. The same concept is applied to people – if there is an area that will be hit by extreme floods, but there are no people living in the area, the exposure is zero. If there are multiple communities living in the area then exposure is high; and;
- the level of vulnerability, which is the sensitivity or susceptibility to harm and a lack of capacity to cope and adapt. Continuing the flood example, if the exposed bridge is 100 years old and built from wood, it would be highly vulnerable to flood damage. If the exposed bridge was built recently and designed to withstand extreme flooding, the vulnerability would be low. The same concept is applied to people. If the community members living in the flood-prone area are wealthy or have flood insurance, they would be less vulnerable because they would be able to use savings or funds from insurance to rebuild and recover from damage. If the members of the community are poor and have limited savings or insurance, their vulnerability would be much higher because they would lack the funds to rebuild.

IPCC risk drivers

In 2021, the International Organization for Standardization (ISO) published guidelines for the standardization of climate risk assessments (ISO 14091: 2021). The ISO standard uses the concept of "impact chains" to explain the complex cause-effect relationships in climate change impacts and risks. It also applies the concepts of hazard, exposure and vulnerability to recognize that climate risk increases if the climate hazard, exposure or vulnerability increase.[4] Impact chains have been widely used for climate adaptation planning and physical climate risk assessments.[5]

However, to date not many companies have used these approaches to assess the resulting impacts on people. As highlighted in a report from the Institute of Responsible Mining, *"the majority of assessed large mining companies cannot demonstrate they have considered how climate change may exacerbate the impacts of their operations on communities, workers and the environment."*[6] Using impact chains in combination with the UNGPs could highlight to a business how it could be increasing vulnerability and thereby potentially be increasing the risk of human rights impacts.

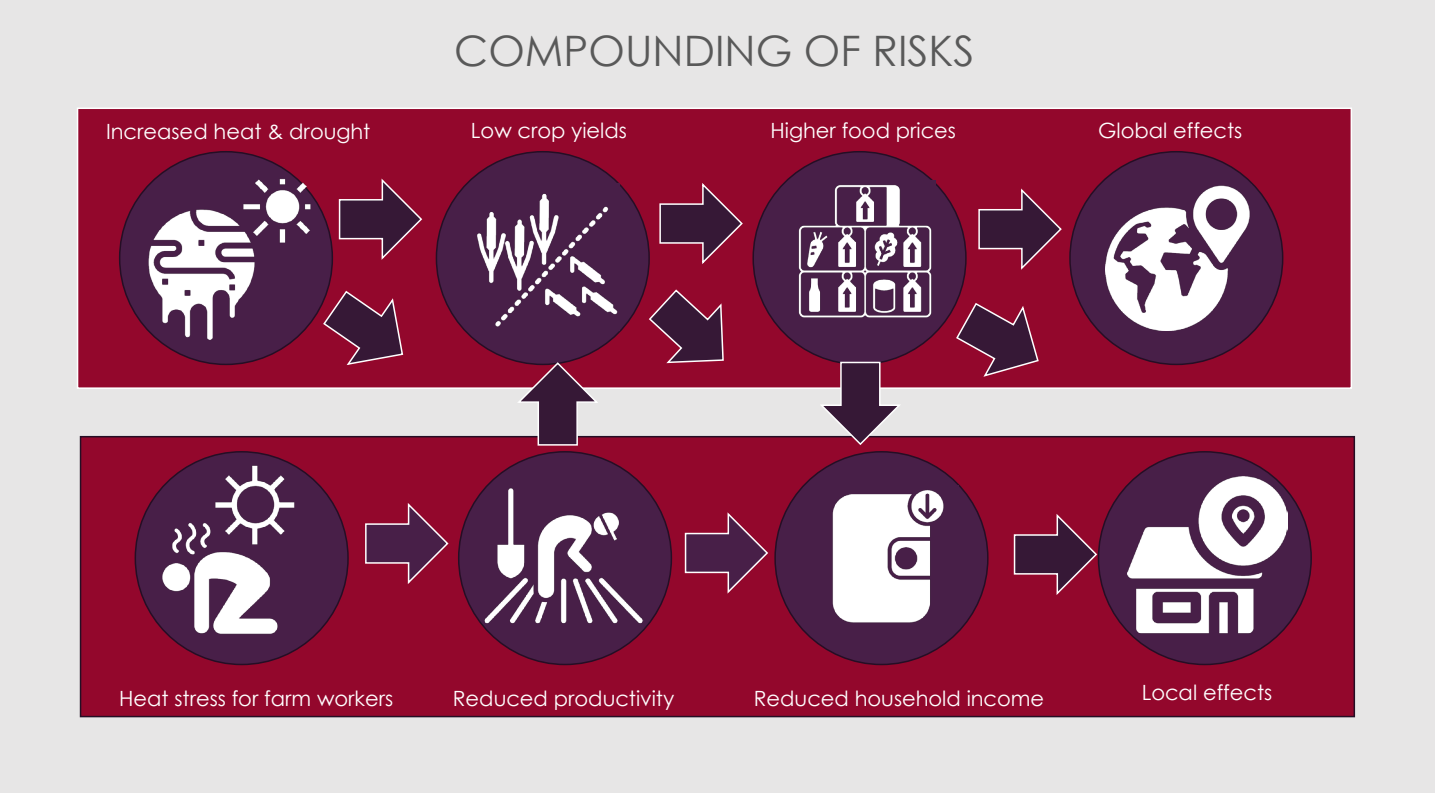
1.2 PHYSICAL CLIMATE CHANGE AND VULNERABLE GROUPS

The OHCHR has highlighted how climate change disproportionately affects the human rights of vulnerable groups.

- **Children.** The dangers of climate change are often more pronounced for children than for adults. One of the main reasons is that children are more vulnerable to vector-borne diseases than adults, and face greater dangers from undernutrition and diarrheal diseases. Children are also more vulnerable to natural disasters as they lack physical strength and often are vulnerable to exploitation if they are orphaned or separated from their families. Children are also likely to feel these effects for longer than adults.
- **Indigenous peoples and other traditional communities.** The UN Permanent Forum on Indigenous Issues highlighted the fact that indigenous peoples are often among the first to face the direct consequences of climate change due to their dependence upon, and close relationship with, the environment and its resources. Warming temperatures, for example, have already been found to have impacted the food security of indigenous groups living in the Arctic, coastal regions, and deserts. Climate change also exacerbates the difficulties already faced by vulnerable indigenous communities. Indigenous peoples who choose or are forced to migrate away from their traditional lands often face heightened discrimination both as migrants and as indigenous peoples. They may be more vulnerable to irregular migration such as trafficking and smuggling, owing to sudden displacement by a climatic event, limited legal migration options and limited opportunities to make informed choices.

  Deforestation, particularly in developing countries, is pushing indigenous families to migrate to cities for economic reasons, often ending up in urban slums.
- **Women.** Climate change may threaten women's rights and gender equality by exacerbating existing situations of inequality and discrimination. The UN High Commissioner assessed poverty as one of the key factors that will compound situations of vulnerability to climate change, with women comprising 70% of the world's poor. In many contexts, particularly in rural areas, women bear the burden of securing food, water, and fuel. Travelling long distances and through unfamiliar terrain exposes women and girls to physical dangers and sexual violence. The time spent undertaking these activities also detracts from any time for education, rest and recreation, which affects their over-all well-being and that of their families. It has also been found that gender stereotypes may define and limit women' and girls' responses when natural disasters strike. Many women and girls may be at home, caring for children and the elderly, when disasters strike but are not targeted recipients of early warning systems and information on disasters.
- **Workers.** The health and safety of workers can be affected by the impacts of a changing climate. For example, higher temperatures directly increase the risks of heat stress for outdoor and underground workers. Changes in climate may also lead to forced short- and long-term migration due to income reduction, job losses and some regions of the world becoming uninhabitable.

- **Older persons and persons with disabilities.** People could be more vulnerable to climate change as a result of age and disability. Older persons may be vulnerable to environmental harm because they are more susceptible to heat, pollutants and vector-borne diseases. The vulnerability of persons with disabilities to natural disasters and extreme weather is often exacerbated by barriers to receiving emergency information in an accessible format, and to accessing means of transport, shelter and relief.



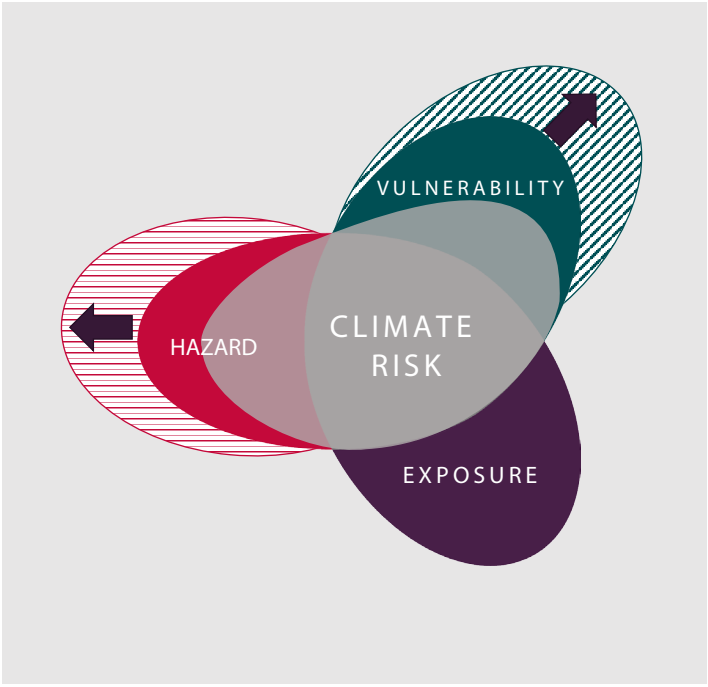
As shown above, climate change is a universal driver and multiplier of risks. IPCC reports provide clear evidence that the impacts of climate change cannot be explained by looking exclusively at temperature changes and climate hazards, but that 'social' factors also play a crucial role. For example, IPCC reports indicate that:

- The **heightened vulnerability** of some people to climate change results from social, economic and cultural factors as well as from demographics, migration and employment patterns, not from climate hazards on their own. For example, poverty heightens vulnerability, meaning that the same weather event can affect people very differently. A study referred to in the most recent IPCC report found that across 92 developing countries, the poorest 40% of the population experienced losses that were 70% greater than the losses of people with average wealth.
- **People who are marginalized** (socially, economically, culturally, politically, institutionally or otherwise) are especially vulnerable and are more exposed to climate change and some negative impacts of adaptation and mitigation responses regardless of the countries they live in.
- There are many **intersecting factors that compound the risks** for vulnerable people in the context of climate change. Low-income people are at risk of falling into extreme poverty if they experience repeated and successive climate events. Before they can recover from one disaster, they face another impact. The risk intensifies with factors like stagnant wages and rising costs of living.

1.3 UNDERSTANDING HOW "BUSINESS AS USUAL" CAN EXACERBATE VULNERABILITIES TO CLIMATE RISK FOR PEOPLE

Companies can also be involved with human rights impacts related to climate change through actions (or failures to act) that are not themselves part of a response to the changing climate. Where companies fail to take account of the changed operating environment that climate change creates, their practices can decrease people's resilience thereby increasing their vulnerability and ultimately resulting in higher climate risk.

For example, poverty places people at higher risk of other human rights impacts in the context of climate change. Doing work for poverty wages in a company's value chain constitutes a human rights impact. But in the context of climate change, the lack of a living wage or living income could be generating further human rights impacts because poverty increases vulnerability and decreases the resilience of workers. For example, if a company has smallholder farmers in its supply chain ("exposure") and it does not pay enough for the products produced by those farmers, the farmers may not be able to afford to switch to more expensive drought-resistant seeds that could cope with increased droughts caused by climate change ("hazard"). As shown, if the climate hazard (e.g. drought) increases and the farmers cannot afford drought-resistant seeds due to lack of a living income, their vulnerability increases and the climate risk that they are exposed to, is higher.



Moreover, as the effects of climate change become more severe, what used to be a living wage or living income in the past may not be a living wage/income in the future. One of the elements of living wage/income is that it should allow "provision for unexpected events." As climate risks increase, companies should consider whether the wages being paid to workers in their value chains and the prices paid to farmers and other providers of commodities allow people to be resilient enough to recover from climate hazards.

Since people in positions of vulnerability are especially at risk of suffering adverse human rights impacts in connection with business practices, the UNGPs require that companies pay particular attention to these groups when identifying and assessing human rights impacts in their operations or value chains. Part 3 explains how the focus of the UNGPs on vulnerability and stakeholder engagement can support companies in identifying risks to people and in taking actions that result in more resilience, less vulnerability and lower physical climate risk for potentially affected stakeholders.

Living Wage

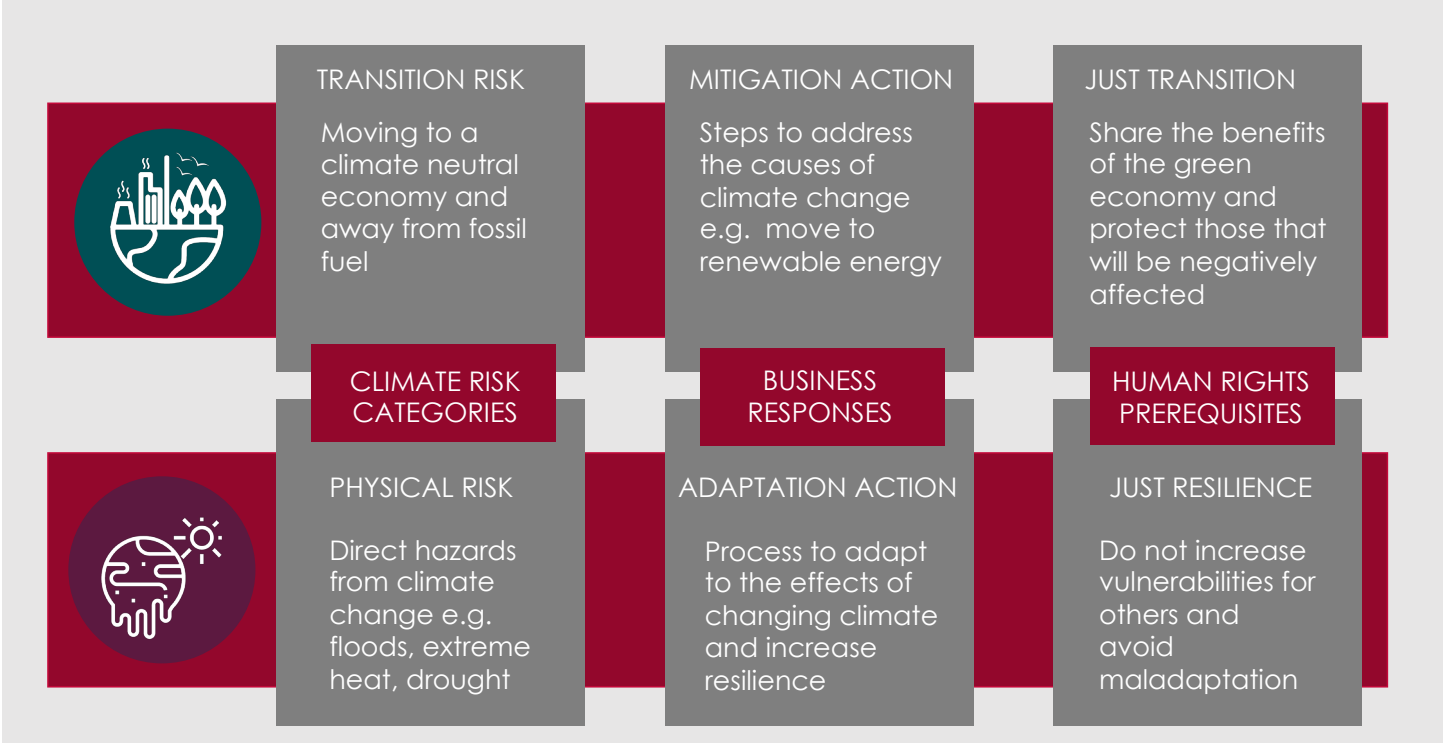
According to the Universal Declaration of Human Rights, 'everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity.' The term that is in common use today is "living wage". There is no universally agreed definition, however almost all definitions incorporate the idea that a living wage is "the remuneration received for a standard workweek by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his dependents. Elements of a decent standard of living include food, water, housing, education, health care, transportation, clothing, and other essential needs including provision for unexpected events."

For more information see: **bhr-navigator.unglobalcompact.org/issues/living-wage/** and **globallivingwage.org/about/anker-methodology/**

PART 2

Transition risk, physical risk and human rights impacts: the need for integrated action

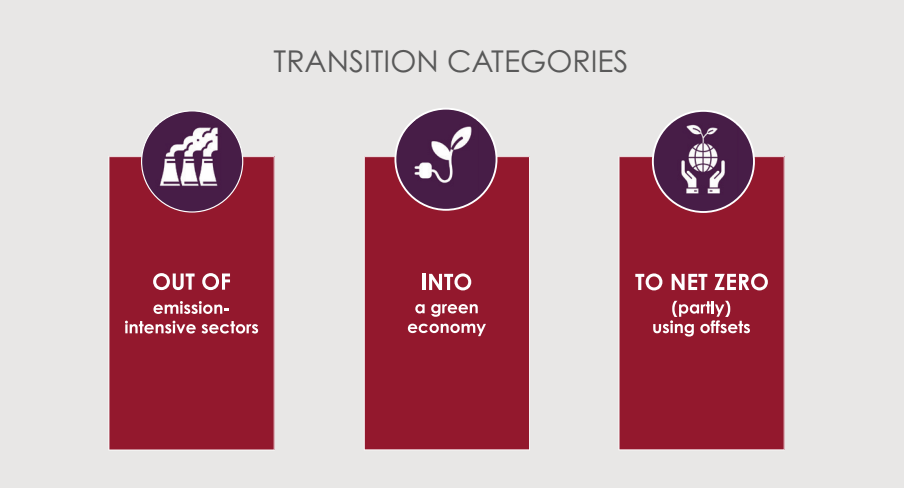
This section demonstrates how companies may be connected to human rights impacts in the context of their responses to transition risk and physical risk and underscores the need for a Just Transition and Just Resilience.



2.1 TOWARDS A JUST TRANSITION: ADDRESSING THE HUMAN RIGHTS IMPACTS THAT MAY ARISE FROM RESPONSES TO TRANSITION RISKS

It is widely recognized that the transition to a low-carbon economy will impact workers and communities as the world moves away from fossil fuels and fossil fuel dependent growth. Although it does not have a standard definition, the concept of "Just Transition" recognizes that the transition to a low-carbon economy should happen in a way that fairly shares the benefits of the transition while supporting those who will be negatively impacted. The concept originated as a trade union requirement for the fair treatment of workers whose livelihoods or jobs were dependent on fossil fuels and at risk in a low-carbon future. In recent years, "Just Transition" has evolved into a mainstream policy concept and has been widely adopted by companies and experts in discussions on human rights and climate change. Multiple frameworks and methodologies have been developed to guide the transition to a low carbon economy in a way that is "just" not only for workers, but also for communities that may be affected in the transition.[7]

When considering the impacts of companies on people in the context of a transition to a low-carbon economy, it is useful to think of three transition categories as shown:



A. Transition out – i.e. away from emissions-intensive activities. As companies transition to cleaner forms of energy and production, large numbers of jobs could be lost, or replaced with lower-quality jobs. Transitioning out of traditional industries could lead to stranded assets such as coal mines – which may in turn result in stranding the communities that depend on them and a loss of cultural heritage. The transition out affects more than just the fossil fuel industry. Reducing the greenhouse gases that cause climate change will also impact sectors like agriculture, transport, manufacturing and construction.

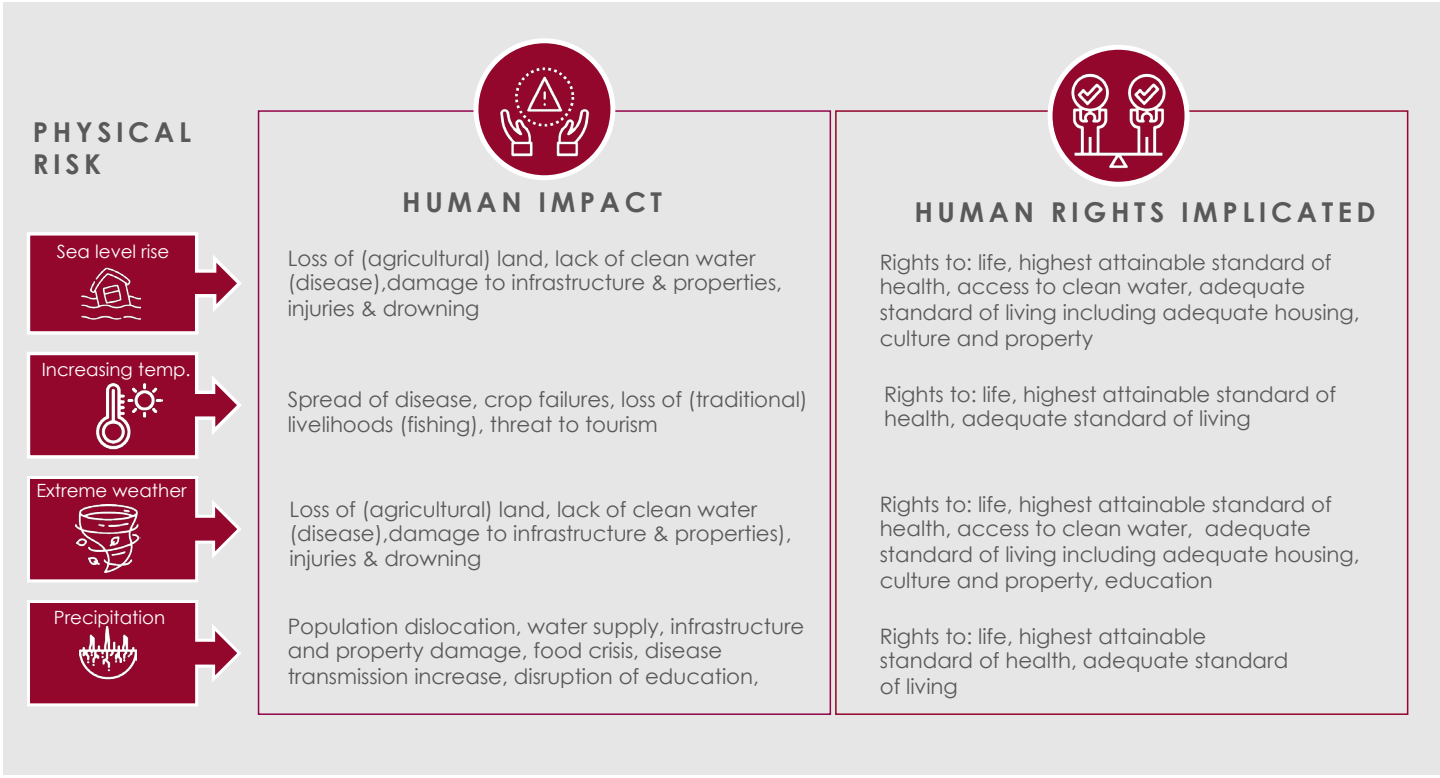
B. Transition in – i.e. into a green economy through the use of new technologies, new means of production and renewable energy.

- It is well documented that forced labor is endemic in parts of the solar supply chain.[8]
- Growing demand for renewable energy will significantly increase demand for raw materials such as cobalt and copper, which have many well-documented human rights risks.[9]
- Extraction of the raw materials needed for a green economy may also increase pressure on water supplies. For example, mining copper is a water-intensive activity that requires ever more water as ore bodies decline. Around half of existing global copper supply comes from three regions of water scarcity (Chile, Peru and the African copper belt), meaning that water use by copper mines could result in water shortages for local communities.
- If renewable power installation is not preceded by engagement with local groups to understand impacts, it could affect the land-related rights of indigenous peoples and other communities. This is not a new risk and applies equally to the fossil fuel industry, but terrestrial wind and solar farms require at least ten times more land area per unit of power produced than fossil fuel.[10] To reach the targets set in the Paris agreement, global renewable energy supply must rise to around 66% in 2050 (from around 15% in 2015), meaning that the demand for land is likely to increase significantly in years to come.[11]
- Transitioning into new ways of manufacturing or new modes of business could also have human rights impacts. For example, as electric vehicles become the norm, "charging deserts" may mean that some communities are left behind.[12]

C. Transition to net zero – greenhouse gas emissions from heavy transport such as trucks and aviation and the heat-intensive manufacturing of some materials such as steel and cement are difficult to reduce because the technology to do so at scale does not exist yet. Companies in these "hard to abate" sectors, as well as companies aiming to reduce their emissions, often rely on nature-based offsets that could be causing, contributing or linked to human rights impacts. For example, some projects aiming to reduce emissions from deforestation have been alleged to impact the rights of indigenous peoples. Where land is needed for new forestry projects, this may also impact existing land rights.

2.2. TOWARDS JUST RESILIENCE: ADDRESSING HUMAN RIGHTS IMPACTS THAT MAY ARISE FROM RESPONSES TO PHYSICAL RISKS

It is widely recognized that countries and people who did the least to contribute to climate change are likely to suffer the most from the natural hazards caused by climate change. As shown below, physical climate change can have a range of human rights impacts. However, support for people and communities negatively impacted by physical climate change has so far received relatively limited attention and has generally not been included in Just Transition discussions, which tend to focus on employment and job issues.



The IPCC sixth assessment report makes it clear that more steps must be taken to prepare for the physical impacts of climate change, even in a in a world where warming is limited to 1.5°C. As the effects of climate change are felt more acutely around the world, there has been an increased focus on resilience and leaving no-one behind. Some examples include:

- The UN backed Race to Resilience, which was launched as a sibling campaign to the Race to Net Zero in order to mobilize businesses, investors, cities and civil society to strengthen the resilience of 4 billion people in vulnerable communities by 2030;
- The IIGCC is working on a Climate Resilience Investment Framework to complement its Net Zero Investment Framework;
- Just Resilience is central to the EU Adaptation strategy;
- The European Environment Agency uses the concept of "Just Resilience" to emphasize that "leaving no-one behind" requires a focus on equity at all stages of adaptation planning, implementation and monitoring, and the meaningful engagement of vulnerable groups.

Companies may assume that they cannot be connected to human rights impacts from the effects of physical climate change because they are not responsible for the weather that causes harm. **However, companies could be connected to human rights impacts associated with their responses to – or failures to respond to – physical climate change.**

For example:

- A company building or strengthening infrastructure to protect its own assets from physical climate change risks could **increase the potential impact of physical risks on surrounding communities**, for example by building flood defenses for its own assets that increase the risk of flooding in those communities, that could result in injury or death;
- A company that relied on rainfed crops in the past may invest in irrigation infrastructure to adapt to drought conditions caused by climate change. Irrigation by the company may deplete water tables and result in water scarcity for surrounding communities;
- If a company's climate adaptation responses are not sufficient, it may also **harm workers and have negative social impacts**. For example, as temperatures increase it may no longer be safe for workers to work outside at certain times of the day or to work inside buildings without cooling systems. If workers are not provided with adequate protection, it could impact their health and even result in death. If a company does not take action to adapt factories or buildings to acute weather events such as storms or floods, it could also put workers at increased risk.
- Failure to take adequate adaptation action could also **harm surrounding communities**. If a company fails to reinforce oil storage tanks against melting permafrost, it could lead to oil spills, causing environmental damage that deprives surrounding communities of their ability to make a living off the land in the area. If a mining company fails to reinforce tailings dams against flood risks that increase due to climate change, it could put surrounding communities at risk.

As shown above, companies can be connected to human rights impacts associated with physical climate change as a result of:

- a **failure to take action to adapt** to the effects of physical climate change; or
- **maladaptation**: taking adaptation action to protect its own operations against the effects of climate change, but in a way that has negative consequences for others.

According to the IPCC's sixth assessment report, maladaptation occurs when adaptation for one group imposes higher costs and negative consequences for another group by increasing their vulnerability or exposure to climate change. Maladaptation often happens as an unintended consequence of poorly planned adaptation actions. However, it can also occur in carefully considered decisions where more emphasis is placed on single or short-term outcomes than on broader, longer-term threats. For example, high-yielding crop varieties may increase revenues of farmers in the short term, but increase the exposure and vulnerability of those mono-crops to climate change, undermining the resilience of farmers in the longer term. Equally, the effects of actions across different time scales may be discounted or overlooked.[13] For example building levees along a flood-prone area may provide immediate protection to coastal infrastructure but might encourage unsustainable development within that area over a longer time horizon that results in more damage when the levees fail.

Physical climate change impacts and human rights impacts often happen beyond the typical 3-to-5-year business planning cycle of companies – or even the longer timespans of investment projects. Research shows that some of the reasons for maladaptation include:

- insufficient understanding of the vulnerabilities and social inequities around adaptation projects;
- insufficient analysis or evaluation of long-term effects and potential positive and negative spill-overs on other areas or groups (such as focusing on the short-term at the expense of adapting in the long-term); and
- insufficient participation or exclusion of marginalized groups in the design and implementation of adaptation projects.[14]

2.3. THE INTER-RELATED NATURE OF TRANSITION RISK, PHYSICAL RISK AND HUMAN RIGHTS IMPACTS

The business models, markets, sectors and locations of companies and their assets will (to some extent) influence whether individual companies are more exposed to transition risk or physical risk. For example, companies that are heavily dependent on agricultural commodities in their value chain, would be exposed to physical climate change risk as a result of lower agricultural yields and changing weather patterns. Similarly, companies in sectors with high greenhouse gas emissions (for example oil and gas, thermal power, metals smelting and cement) would be exposed to transition risk if carbon taxes are increased or if subsidies are removed, resulting in a higher cost of doing business.

However, climate change is a complex systemic risk resulting from multifaceted chain reactions between ecological conditions and unpredictable political, technological, social and economic developments. This means that most businesses are likely to feel the effects of both physical climate change risk and transition risk. The question is only how much of the one, and how much of the other. As shown below, the relative levels of physical risk and transition risk depend on which scenario plays out. For example:

- In a disorderly scenario where different transition policies are adopted by different countries or for different sectors, the transition risk would be high because companies would be subject to a chaotic range of measures. However, even if the measures are uneven, they could limit climate change, thus the physical risk would be lower (but still present).
- In a hothouse world scenario, where some policies are implemented but global action to limit climate change is insufficient, there would be a lower transition risk because companies would be able to continue business as usual, but physical risk would be very high.[15]

Despite the interrelationship between transition risk and physical risk – and the likelihood that most companies could be affected by both categories of risk – companies tend to focus largely on transition risks, with attention devoted mostly to Net Zero targets and transition pathways, and much less to physical risk. This tendency is demonstrated when looking at the public commitments and strategies communicated by companies.[16] There is also a strong focus on the environmental and financial aspects of climate change, with limited attention to human rights aspects.

Since a failure to reduce the emissions that cause climate change will lead to more severe climate change in future, and since businesses could incur liability for their emissions in future, taking action on emissions is urgent and justified from both a human rights and business perspective.

However, even in the most optimistic mitigation scenarios, where Net Zero is reached by approximately 2050, global warming will continue in the short to medium term. Limiting warming to 1.5°C would reduce, but not eliminate the negative impacts of climate change. Most companies appear to be unprepared for the effects of physical climate change on their businesses directly or in their value chains. A study that reviewed the adaptation strategies of 1600 companies, found that a minority of companies consider risks outside of their own operations; most companies underestimate or do not estimate the costs of adaptation; and many assume linear impacts and responses which do not account for tipping points or the acceleration of risk profiles.[17] The record-breaking climate impacts that are making headlines today demonstrate that even at the current level of 1.1°C warming, ecosystems are reaching their limits. Some climate impacts are becoming irreversible, clearly showing the urgent need for Just Resilience.

Moreover, if a company focuses resources on Net Zero targets and transition risks alone, it is likely to overlook adverse human rights impacts that may arise in the context of physical climate change risk. For example:

- If a chocolate manufacturer focuses all of its efforts on greenhouse gas emissions generated in its dairy supply chain (transition risk) it may overlook the fact that it sources nuts from a water-scarce region in a country now at risk of prolonged droughts due to climate change (physical risk). This sourcing decision supports agricultural practices that may deplete the water resources for surrounding communities (need for Just Resilience).
- In response to investor and consumer demands, or in anticipation of carbon taxes, a clothing company may focus all its efforts on working with suppliers to reduce their greenhouse gas emissions by switching to energy-efficient automated manufacturing methods and supporting the workers whose jobs will be lost (transition risk and Just Transition). While focusing on transition risk, the company might overlook that the factories are requiring the remaining workers to work shifts during the night when it is cooler. This may mean that a predominantly female workforce must travel to work in unsafe conditions. It may also overlook that workers harvesting cotton or working in yarn mills are facing dangerously high temperatures (physical risk, maladaptation and the need for Just Resilience).

PART 3

Leveraging the UNGPs to support the just transition and just resilience

Under the UNGPs companies should: "*(a) avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and (b) 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".*

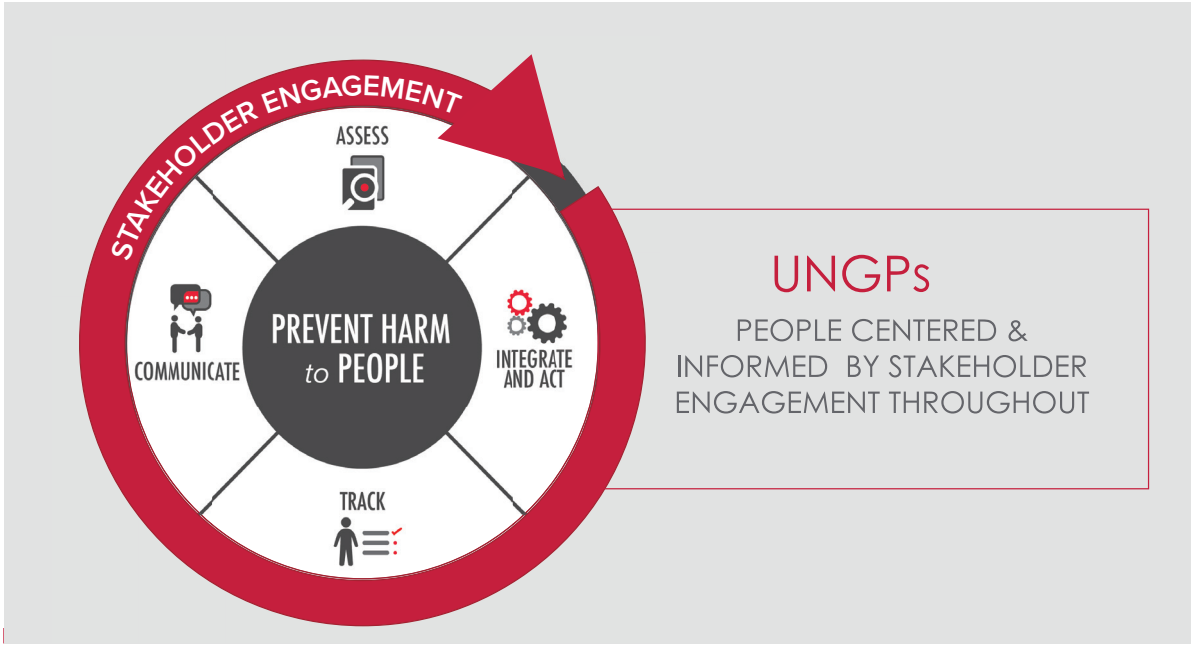
As illustrated in Part 1 and Part 2, there are many ways in which a company can be connected to human rights impacts in the context of climate change. This section considers two key ways in which the UNGPs can help companies to address some of these challenges: through effective engagement with potentially affected stakeholders, and through the prioritization of action on the basis of the severity of risks to people. Taken together, these two key aspects of human rights due diligence enable companies to integrate respect for human rights into their responses to climate change and provide the key to holistic climate strategies.

3.1 INTEGRATING ENGAGEMENT WITH AFFECTED STAKEHOLDERS INTO CLIMATE CHANGE RESPONSES

Since people in positions of vulnerability are especially at risk of suffering adverse human rights impacts in connection with business practices, the UNGPs require that companies pay particular attention to marginalized or vulnerable groups when identifying and assessing such impacts in their operations and value chains.

The human rights due diligence framework set out in the UNGPs has many elements in common with other risk management frameworks: assessing risks, taking action, tracking progress and communicating. However, as shown, it has two key differences:

- its focus is on **harm to people**, as opposed to harm to the business;
- and it requires **ongoing engagement** with affected stakeholders.



These two elements can play a critical role in helping companies understand and identify workable ways to address human rights impacts associated with responses to climate change.

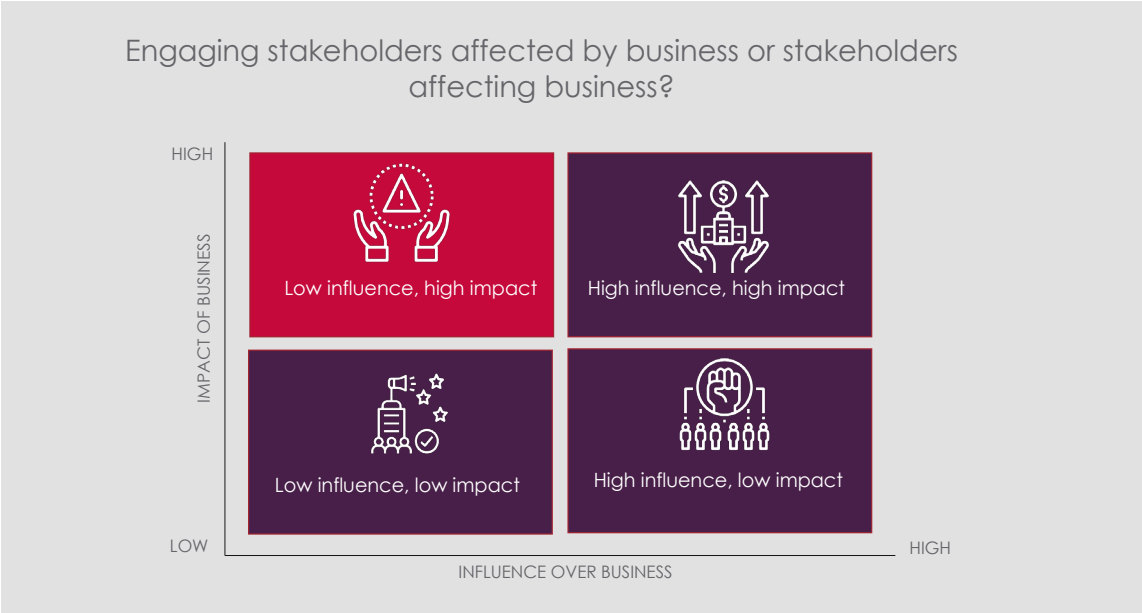
3.1.1 Focusing stakeholder engagement on the most vulnerable

A common pitfall for companies is to focus their efforts exclusively on impacts on people that could harm their bottom line. For example, companies often focus on risks to labor rights among their first-tier strategic suppliers, assuming that this is where their reputation is most exposed. However, the greater risk to workers is frequently found more remotely, particularly among smaller suppliers. And in practice it is frequently these issues that make headlines and affect companies' success.

Due to the central importance of risks to people under the UNGPs, and the resulting attention to vulnerability, the process of engagement with affected stakeholders is integral to human rights due diligence. Robust stakeholder engagement can help companies to identify risks to people from both transition risk and physical risk and broaden their focus beyond the parts of the value chain where the potential risk to business is (often mistakenly) assumed to be greatest.

Under the UNGPs, a "stakeholder" is *"any individual who may affect or be affected by an organization's activities"*, while due diligence focuses on those who are or may be affected. Stakeholder engagement is defined as an *"ongoing process of interaction and dialogue between an enterprise and its* ***potentially affected stakeholders*** *that enables the enterprise to hear, understand and respond to their interests and concerns, including through collaborative approaches"*.[18]

When companies focus on business risk, they tend also to focus on stakeholders that are influential actors, such as shareholders and financiers that can affect the business. As shown below, these actors would be in the top right-hand quadrant (high business impact and high influence).



This is often to the detriment of attention to stakeholders who are particularly vulnerable and may be affected by the company's response to transition or physical risks from climate change, who fall in the top left-hand quadrant. They often have low influence over the actions of companies and others; but they will be hardest hit by the impacts of climate change and the response of companies. When companies pay insufficient attention to stakeholders in the top left-hand quadrant, it becomes more likely that they miss severe potential or actual impacts on people and thereby exacerbate vulnerabilities.

3.1.2 Stakeholder engagement in service of both Just Transition and Just Resilience

Just Transition: It is by now widely acknowledged that people have to be at the center of the transition in order to avoid social resistance that could put the creation of a climate neutral world economy at risk. There is also increasing awareness of the impact that the transition could have on workers, communities and consumers. However, more needs to be done to address risks to people in a context where there may not be an immediately obvious business risk – for example risks to workers in mineral supply chains needed for the transition, and communities whose livelihoods or land may be lost in the transition to renewable energy or as part of carbon off-set schemes. Companies that conduct

stakeholder engagement as envisaged under the UNGPs will be better equipped to identify potential risks to people in their supply chains from transition plans, and to take appropriate action.

Just Resilience: The value of a focus on vulnerable people, Just Resilience and meaningful stakeholder engagement can be illustrated through an example that highlights the likely impacts of climate change on people in India. A study of India's cotton value chain assessing the risk to production and the wider cotton value chain posed by 41 climate hazard and socio-economic indicators showed that:[19]

- Climate change could expose one third of India's cotton growing regions to high risks from temperature increases, changes to rainfall patterns and extreme weather events by 2040.
- In the 2040s, cotton-growing regions across India will be subject to greater heat stress than under present-day conditions.
- In some regions, this increase in temperature is projected to be coupled with an increase in water stress.
- All districts are projected to experience an increase in the number of days at which labor productivity significantly decreases due to extreme weather.
- Common areas of vulnerability across all districts covered in the study include multidimensional poverty, low female work participation rates, low literacy rates, and limited access to banking services, technology and information.

In responding to the present and future effects of climate change, companies in the cotton value chain in India may, for example, decide to invest in irrigation, change to drought resistant crops, or to do nothing and exit the Indian market in 2040 when crops deteriorate. All of these actions are examples where the shorter-term financial consequences could be emphasized at the expense of broader long-term threats and impacts on people. Maladaptation may result from choices made by companies in this value chain, but the impacts may not become visible until it is too late to do anything.

However, if the companies apply a human rights lens to their business decisions and engage with potentially affected stakeholders to understand their interests and perspectives, they would be better equipped to understand the longer-term impacts of their decisions – whether choosing to stay and adapt, by switching to irrigation (which may affect water availability for others), to switch to drought-resistant crops (which may affect farmers that do not have sufficient capital to make the change) or doing nothing and exiting the market when it collapses, leaving farmers with a sudden and severe loss of income. As explained above, maladaptation results when there is insufficient attention paid to the interests of vulnerable people and the longer-term impacts of adaptation actions on them. Companies that identify and engage with these vulnerable groups in their value chains will be able to take decisions that are more likely to result in better outcomes for people in the long term.

3.2 Prioritizing action in response to transition and physical risks

Companies need to implement ongoing human rights due diligence across their value chains to identify and address impacts on people's human rights resulting from their activities or business relationships. In addition to bringing attention to situations where vulnerable stakeholders may be exposed to harm, a human rights due diligence approach can also help companies gain a holistic view of climate-related and human rights risks, and provide a clear basis for how to prioritize their responses.

Businesses are already grappling with the complexity and systemic nature of climate change risk and the challenges of managing this new systemic risk in an integrated way. Companies with large numbers of entities in their value chains or that operate in different sectors or countries may find it challenging to take action on all the potential adverse human rights impacts connected with climate change. There is no hierarchy of human rights under international law that would provide a basis for companies to prioritize: all civil, political, economic, social and cultural rights are inherent to the dignity of every human and are inter-related and interdependent. They therefore have an equal status as rights. The UNGPs recognize the challenge of prioritization for companies and guide prioritization through an assessment of severity and likelihood.

3.2.1 Assessing the severity of human rights impacts

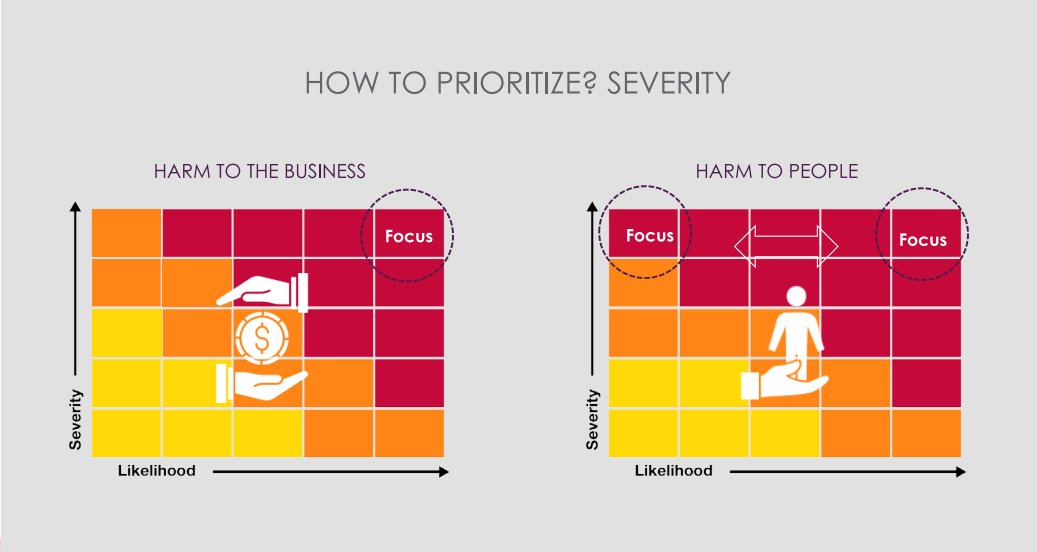
Where impacts cannot be addressed all at once, the UNGPs make clear that companies should focus on those impacts that cause the greatest harm to people. This means that companies should first seek to prevent and mitigate those human rights impacts that would be most severe.

Severity refers to:

- **Scope**: how widespread would the impact be in terms of the number of people affected?
- **Scale**: how grave would the impact be on the rights concerned?
- **Irremediability**: how easy would it be to set things right?

It is typical in risk management practice to consider the likelihood of an impact and the severity of the impact if it were to occur (the probability of an event multiplied by its consequence). In managing risk to a business, the focus would be on those risks with a high probability/likelihood and high severity (as shown in the top right-hand corner of the "Harm to the business" matrix. So even if the business consequences of an event would be financially significant, if it is very unlikely to occur, then the business may decide not to take action.

However, when it comes to assessing human rights risk, the fact that a human rights impact has a low probability of materializing does not justify a failure to act if the potential impact would be of high severity – for example if it would be grave and irremediable.[20]



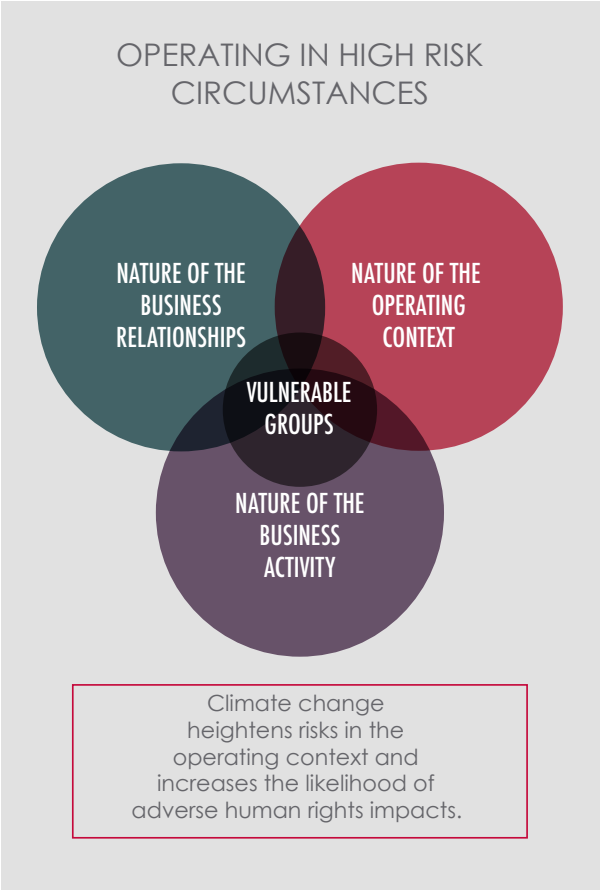
In the context of climate change, this means that a company that is facing a physical risk and considering potential adaptation actions, needs to consider not only the potential effects of those actions on its business (for example a risk of major financial losses) but also the severity of potential effects on vulnerable stakeholders (for example whether they may face grave and irremediable harm to their human rights).

For example, if an agricultural company is considering investing in irrigation equipment to water crops that can no longer be rain-fed due to continuing drought, it may assess the likelihood that the water table becomes depleted to be low, and decide to proceed with the investment, notwithstanding the high cost to the business should that depletion come about. If the same company takes a holistic approach that integrates respect for human rights, it would also consider the high severity of the impact that running out of water would have on surrounding, subsistence farming communities that rely on the water source for drinking water and livelihoods. This understanding might lead the company to look for an alternative adaptation option – or alternative project – given the severity of those consequences. Severity is the key factor here, and is weighted more heavily than the probability (as shown in the top left-hand corner of the "Harm to people" matrix.

3.2.3 Assessing the likelihood of human rights impacts

Human rights risks associated with business are often dynamic and change as the business and circumstances change. As illustrated,[21] heightened risk of severe human rights impacts can arise from:

- The **broader operational context**, including factors such as conflict, corruption and weak governance;
- **Business relationships**, including the experience, track record and capacities of suppliers, joint venture partners, customers and others to manage human rights risks;
- **Business activities**, including activities commonly associated with human rights impacts, such as land acquisition and resettlement, extensive water usage, waste disposal, use of certain chemicals, and the outsourcing of production to low-wage facilities;
- The **presence of vulnerable groups**, meaning those groups within a society who experience political, social or economic marginalization that leaves them particularly at risk from business impacts.



All these factors increase the likelihood of adverse human rights impacts. **Climate change does not add another risk, but it changes the operational context for companies, increases vulnerability and changes the impact of business activities.**

Business activities that were not harmful to people in the past, may be more likely to cause harm in future. For example:

- the level of water use by a company may have had little impact on the surrounding communities in the past, but in a world where there are increasing droughts, the likelihood of business activities affecting water availability for communities increases.
- wages that were sufficient in the past to allow people to save for unexpected events may not be sufficient as successive climate impacts become more likely and people become more vulnerable as a result.

Heat is an example of how climate change will affect the operating environment. Some parts of the earth will become uninhabitable under a business-as-usual pathway. Extreme heat is associated with increased mortality, lower crop yields and food scarcity. Entire regions in South America, Central America, Africa, India, southern Asia and Australia could become uninhabitable due to a mix of high temperatures and humidity levels. An extreme-heat event, like the 2003 heatwave in Europe that killed over 70,000 people would have occurred once every 50 years in the pre-industrial climate. According to IPCC analysis, such an event is likely to occur 4.8 times in a 50-year period under the current climate. At 2°C of warming, it would occur nearly 14 times and under 4°C nearly 40 times in a 50-year timeframe.[22]

The increasing heat means that events that were quite unlikely to occur in the past, will become much more likely. The increased likelihood of harm to people, combined with the severity of those harms, should be reflected in companies' due diligence processes and shape decisions on which actions they prioritize to address both transition and physical risks associated with climate change.

PART 4

Questions for companies to consider

By applying this people-centric approach to the analysis of human rights risks from both climate change and climate action, companies can adopt a principled approach to prioritizing their efforts that is aligned with the international standards of responsible business conduct.

For companies looking to take a holistic approach to climate change and to integrate an understanding of risks to people's human rights into their responses, the questions outlined below may prove useful. The first set of questions relates to the awareness of human rights risks in company responses to climate change, while the second focuses on the key due diligence tools that support a holistic, integrated approach to action.

Awareness and analysis of human rights risks in company responses to climate change

a. Has the company considered the impact on people from its climate change mitigation action and does it include the impacts from the "transition in" and the "transition to net zero" alongside considerations of the "transition out" of fossil fuels?

b. Has the company considered the impact on people from physical climate change – for example the increasing likelihood of extreme heat and the impact on workers; or the impact that its business processes may have on vulnerable communities' access to water?

c. Where a company is taking action to adapt to the physical impacts of climate change does it consider the impact such action may have on people in its value chain? If so, does it consider impacts over an appropriate time horizon that extends beyond the 3-to-5-year business planning cycle?

d. In its climate risk management strategy, does the company consider impacts on people in addition to the impact on business? If so, does it consider impacts in the value chain as well as in its direct operations?

e. Where the strategy of the business will be fundamentally transformed as a result of climate change (for example changing from combustion engine vehicles to electric vehicles), has the company accounted for the potential impacts on people resulting from moving to a new way of doing business?

f. Is there sufficient awareness at board and senior management level of the impacts that the company's climate action may have on people's human rights?

g. Is the company focusing too narrowly on a Net Zero strategy, and therefore missing impacts on people from physical climate change or from doing business in an operating environment that will be changed by climate change?

h. Will new salient human rights risks arise from the company's climate change action?

Integration of human rights due diligence into climate risk strategies

a. How does the company map its stakeholders? Does it identify those people who are most at risk of harm from climate change and company responses to climate risk, based on their vulnerability? If so, how are these insights shared internally?

b. 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?

c. 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, risk management systems and so forth?

d. Does the company assess the salient human rights risks – meaning those where the impact on people would be most severe – associated with both its mitigation actions and its adaptation actions?

e. Does the company have a means of integrating these assessments into its climate risk management processes in a way that retains the focus on risks to people, independent of risks to the business?

f. 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?

ENDNOTES

1 See this OHCHR frequently asked questions document.
2 See this blog for a useful summary of the background to the resolution.
3 The IPCC is the United Nations body for assessing the science related to climate change.
4 https://link.springer.com/chapter/10.1007/978-3-030-86211-4_25
5 https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-38-frequently-asked-questions-human-rights-and-climate
6 https://www.responsibleminingfoundation.org/research/climatechange/
7 Initiatives include: https://www.sse.com/sustainability/poweringnetzeropact/; https://www.worldbenchmarkingalliance.org/just-transition/; https://www.irena.org/How-we-work/Collaborative-frameworks/Just-and-Inclusive-Energy-Transition; https://www.inclusivecapitalism.com/just-energy-transition-company-framework/
8 https://www.seia.org/sites/default/files/SEIA-Backgrounder-Supply-Chain-Ethics-Sustainability.pdf; https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/financing-and-genocide
9 https://media.business-humanrights.org/media/documents/2022_RE_investor_guide_vEYihQv.pdf; https://www.business-humanrights.org/en/from-us/transition-minerals-tracker/
10 https://www.brookings.edu/wp-content/uploads/2020/01/FP_20200113_renewables_land_use_local_opposition_gross.pdf
11 https://sustainabledevelopment.un.org/content/documents/21898IRENA_Global_Energy_Transformation_2018_summary_EN.pdf
12 https://www.washingtonpost.com/business/2021/12/09/charging-deserts-evs/
13 IPCC, 2022: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change
14 https://www.carbonbrief.org/guest-post-why-avoiding-climate-change-maladaptation-is-vital/
15 See https://www.ngfs.net/ngfs-scenarios-portal/
16 Many businesses are setting targets to reach Net Zero by 2050. For example, approximately 25% of S&P 500 companies and 10% of MSCI All Country World Index Companies have made net zero commitments.
Many investors made commitments through bodies like the UN-backed Net Zero Asset Alliance, which has 33 of the world's largest asset owners as signatories. Asset managers and financial institutions made carbon reduction commitments under industry coalitions like the Net Zero Asset Managers Initiative and the Glasgow Financial Alliance for Net Zero (GFANZ).
17 Goldstein, A., W.R. Turner, J. Gladstone and D.G. Hole, 2019: The private sector's climate change risk and adaptation blind spots. Nat. Clim. Chang., 9(1), 18–25, doi:10.1038/s41558-018-0340-5. As quoted in the IPCC report page 2584
18 See https://www.ohchr.org/sites/default/files/Documents/publications/hr.puB.12.2_en.pdf, page 8.
19 https://www.wtwco.com/en-GB/Insights/campaigns/cotton-2040#download-01
20 For example, the low assessed likelihood of a factory in Bangladesh's capital city collapsing, or of a tailings dam at a mine in Brazil breaking should not have led to the deprioritization of attention to these risks given the scale, scope and irremediable nature of the impacts on human life that could be anticipated should they occur – as they did.
21 https://www.ifrc.org/sites/default/files/2022-10/Extreme-Heat-Report-IFRC-OCHA-2022.pdf
22 For more on human rights due diligence in high risk circumstances see: https://shiftproject.org/resource/human-rights-due-diligence-in-high-risk-circumstances/

Just Transition and Just Resilience: How the UN Guiding Principles can help companies to respect human rights when taking climate action
Shift, New York. February 2023

ABOUT SHIFT

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Shift's global team of experts works across all continents and sectors to challenge assumptions, push boundaries, and redefine corporate practice, in order to build a world where business gets done with respect for people's dignity.

Shift was established following the 2011 unanimous endorsement of the Guiding Principles by the UN Human Rights Council, which marked the successful conclusion of the mandate of the Special Representative of the UN Secretary-General for Business and Human Rights, Professor John Ruggie. Shift's founders were part of Professor Ruggie's core advisory team that helped develop the Guiding Principles.

Shift is a non-profit, mission driven organization headquartered in New York City.

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