



Members Fortnight Call – Opening Statements

The Food Network for Ethical Trade – Every fortnight 10 – 11 hrs



Competition Law and Safe Space Statements

Participant Identity:

*Please display your **name** and the **business name***

Competition Law Statement

“We are meeting to discuss issues raised in the forum of the Food Network for Ethical Trade.

We take competition compliance seriously. Whilst discussions can cover matters of interest to our industry, we cannot discuss or exchange sensitive commercial information.

If at any time during this meeting, you think our discussions may be in breach of competition rules, please inform the Chair. The Chair may close the meeting at any time if the chair believes that discussions are in breach of competition law”

Safe Space Statement

The fortnightly members call is a safe space for members to discuss and exchange ideas on human rights risks and improvement actions and all are reminded to please always respect this principle.

Agenda 15th November 2023

Timing	Item
10.00 – 10.05	Arrival & agenda
10.05 – 10.10	Member notices
10.10 – 10.15	FNET All member meeting, and meeting updates
10.15 – 11.30	Webinar on Indigenous People

Upcoming FNET meetings



- **Webinar on Indigenous Peoples** in fortnightly call Wednesday 15th November - 10- 12pm
- **FNET All Members Meeting** - Wednesday 22nd November Co-op Manchester 9.00 - 15.30
- **FNET & haulage companies introductory meeting** – Wednesday 29th November 2-3pm
- **Developing common due diligence tools working group** – 17th January 2024 Samworth Brothers Melton Mowbray 10-3.30pm
- **Climate Change & Human Rights working group** – Thursday 18th January 1-3pm
- **Raw Materials & Services working group** - Wednesday 24th January 1-3pm
- **Empowering Work working group** – Thursday 25th January 2-4pm
- **Responsible Recruitment working group** – Tuesday 30th January 2-3.30pm



FNET webinar on Indigenous Peoples in Food Supply Chains

15th November 2023

Agenda 15th November 2023

Timing	Item
10.15 – 10.20	Introduction
10.20 – 10.35	Break out discussion & feedback
10.35– 10.50	<i>Indigenous Peoples and Human Rights Due Diligence</i> - Francesca Thornberry, Senior Specialist, Forest Peoples Programme
10.50 – 11.05	<i>Free, Prior & Informed Consent & Indigenous Peoples</i> - Genevieve Rose, Senior Advisor, International Working Group for Indigenous Affairs (IWGIA)
11.05 – 11.20	<i>The 'green rush' or a Just Transition based on shared prosperity?</i> Frances House, Senior Advisor, Institute for Human Rights & Business (IHRB)
11.20– 11.30	Discussion & close

Webinar objectives



To have more understanding of some of the human rights concerns Indigenous Peoples face in food supply chains.

To gain insights in how to conduct effective and meaningful due diligence to ensure Indigenous Peoples' rights.

To hear examples of best practice that relate to meaningful engagement and Indigenous Peoples' rights.

Questions

Are there Indigenous Peoples connected with your supply chain and on which tier?

Does your risk assessment include Indigenous Peoples?

Do you have concerns or challenges for your business regarding Indigenous Peoples' rights?

A close-up photograph of a person's hands holding a small, round, blue beaded bag. The bag is decorated with a map of the Americas, where the continents are represented by horizontal bands of yellow, orange, and red beads. The person holding the bag is wearing a garment with a vibrant, geometric pattern in yellow, red, and black. The background is a soft-focus view of green foliage.

Indigenous peoples and human rights due diligence

Rights challenges

- Expansion of agribusiness, industrial plantations driven by growing demand for conflict commodities, including beef, soybean products, palm oil, timber, pulp, rubber, biofuels and minerals.
- Weak land tenure security, top-down concession and land allocation frameworks coupled
- Lack of transparency and corruption in land allocation
- Lack of recognition of customary land rights of forest peoples
- Lack of FPIC and adequate ongoing consultation and consent
- Indigenous peoples at higher risk of labour rights violations
- Contradictory national economic and development policies
- Lack of, or faulty redress mechanisms
- Impunity for human rights violators
- Flawed industry certification schemes: weak compliance, conflicts of interest, ineffective grievance mechanisms and major loopholes in accountability of company members
- Limited transparency and weak accountability in global supply chains: weak business disclosure on due diligence, monitoring, verification and enforcement mechanisms and limited / inconsistent reporting on supplier compliance.



CLOSING THE GAP:

RIGHTS-BASED SOLUTIONS FOR TACKLING DEFORESTATION



Incentives for a human rights- based approach



Increased legitimacy and trust following impact assessments and consultation and consent processes. This can help reduce the risk of conflict.



Facilitation of dialogue between stakeholders to identify common priorities and solutions.



Improved understanding of potential impacts on rights-holders at a level of detail that may not be possible without their direct involvement.



Improved human rights capacities, engagement strategies and decision-making processes.

Human rights due diligence steps

1. Assessment of human rights impacts (actual and potential)
2. Integration of findings from impact assessments into relevant internal processes;
3. Monitoring performance and responses to ensure any impacts are being effectively addressed; and
4. External reporting and communication on such responses

An **ongoing process**, rather than a single event.



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

RESPECTING THE
RIGHTS OF INDIGENOUS
PEOPLES: A DUE
DILIGENCE CHECKLIST
FOR COMPANIES

Screening – Companies undertake an analysis of the strategic environment in a given country as well as the project-specific context, engaging in initial dialogue with the indigenous peoples potentially affected.

Impact assessment – Companies assess the actual or potential impacts of a business project or operation on indigenous peoples.

Consultation – Based on the results of the comprehensive impact assessment, companies consult with indigenous peoples with a view to obtaining agreement or consent.

Implementation and monitoring – Companies establish permanent and institutionalised mechanisms for continuous dialogue, as well as access to grievance mechanisms to effectively address emerging concerns.

Screening

Key questions: screening	Red Flag	References/comments
Are there indigenous peoples who may potentially be affected by the project?	Yes = 	In countries where the state does not accept or use the term "indigenous peoples" the assessment should be based on the identification criteria contained in ILO Convention No. 169, including self-identification. ⁹ If specific groups fulfil the relevant criteria then the rights frameworks that apply to indigenous peoples should be applied.
Has the state ratified ILO Convention No. 169 and/or formally recognized indigenous peoples' rights in its legislation?	No = 	The ratification of ILO Convention No. 169 and/or legal recognition of indigenous peoples' rights should provide a framework for legal security and appropriate procedures. However, where there are gaps in implementation of ILO Convention No. 169 or other provisions to protect indigenous peoples' rights, there may be additional risks for private sector actors, so this should be carefully assessed.
Are there institutionalised mechanisms for consultation* with indigenous peoples prior to beginning work on any project that may affect indigenous peoples and/or their lands, territories and resources? *cross-reference with Section 3 of this Checklist on consultation for further	No = 	Both UNDRIP and ILO Convention No. 169 stipulate that indigenous peoples should be consulted: before consideration of legislative or administrative measures that may affect them; and prior to the exploration and exploitation of resources pertaining to their lands. ¹⁰ Therefore, consultations should begin before the granting of concessions and licenses or other measures likely to have an impact on indigenous peoples.



Impact assessment

Key questions: risk assessment	Red Flag	References/comments
Have indigenous peoples been considered in the scoping or Terms of reference for the impact assessment?	No = 	<p>There should be formal processes in place to facilitate collective decision-making among stakeholders, who then participate in the design and conduct of the impact assessment.</p> <p>The participatory impact assessment is the starting point for determining the specific scope of consultations to be undertaken with indigenous peoples.</p>
Does the assessment team include indigenous peoples' experts?	No = 	Specific impacts may require expert indigenous knowledge in order for an adequate assessment to be made.
Has a detailed stakeholder mapping and analysis been undertaken, clearly identifying the different groups of rights-holders and their representative institutions, as well as other stakeholders (including civil society organisations as well as local and customary authorities) in the broad area of project impact?	No = 	<p>The methodology should identify rights-holders and their corresponding rights, and clearly differentiate between rights-holders and other stakeholders within the broad project area.</p> <p>Pay particular attention to rights to lands, territories and natural resources; to identification of all representative institutions, and ensure that both men and women, elders and youth and particularly vulnerable groups have been consulted, e.g., indigenous peoples living in voluntary isolation or experiencing initial contact.</p>

Consultation

Key questions: consultation	Red Flag	References/comments
Have the parameters and steps of a formal consultation process been agreed on with the representative institutions of the indigenous peoples concerned?	No = 	Both UNDRIP and ILO Convention No. 169 require consultation of indigenous peoples through appropriate procedures and in particular through their representative institutions. Agreeing on the parameters and steps for the consultation process is an important element of defining these 'appropriate procedures'. It can be difficult to determine who the representative institutions of indigenous peoples are in a given context. It is advisable to seek advice from experts including indigenous peoples in the process.
Do the indigenous peoples/communities in the broad project area have formally recognized and demarcated land and resource rights in line with ILO Convention No. 169 and UNDRIP?	No = 	Both ILO Convention No. 169 and UNDRIP provide for recognition of indigenous peoples' territory, including the total environment of the areas, which they traditionally use and occupy. ²⁷ The basis for establishing indigenous peoples' land rights is the traditional occupation and use rather than the eventual official recognition or registration of that ownership. ²⁸ Evidence of occupation can be obtained from multiple sources in addition to formal land titles, including from indigenous peoples' own participatory maps and their indigenous knowledge. It is advisable to seek indigenous peoples' expert advice in ensuring that all relevant land under ownership (formal or customary) or occupation and use has been identified.

Implementation and monitoring

Key questions: implementation	Red flag	References/comments
Has a specific plan for engagement with indigenous peoples been developed and agreed with concerned indigenous peoples/ communities?	No = 	<p>Engagement with indigenous community should be ongoing, rather than a "one-off" event. The engagement planning should include a set of actions and measures to promote dialogue and communication that are contained in a time-bound plan. The aim should be to build trust and continuous dialogue among the parties, which will often be initiated as part of the ICP process but should be continued in subsequent phases of project implementation, evaluation and operation.</p> <p>Pay special attention to the inclusion of agreements reached with the concerned indigenous peoples/ communities in the plan. The plan should be subject to consultation</p>
Has a project-level grievance mechanism been developed and agreed with concerned indigenous peoples/ communities and/or external experts? Has this information been disseminated to the concerned rights-holders?	No = 	<p>Design and implement an effective and culturally appropriate project-level grievance mechanism. This should facilitate early indication of, and prompt remediation for, those who believe that they have been harmed by the company's actions.</p> <p>Companies should ensure that the grievance mechanism is in accordance with the eight criteria for effective non-judicial grievance mechanisms, as set out in the UNGPs.³⁶</p> <p>Pay special attention to accessibility of the grievance mechanism for indigenous peoples in terms of procedures, language etc.</p>

Grievance and remedy

- Identify mechanisms for access to **effective, accessible** and **timely** remedy.
- Clearly communicate options and processes for access to judicial and non-judicial remedy to all affected rights-holders.
- Effective operational-level grievance mechanisms for individuals and communities should be:
 - **Clearly communicated** to all relevant rights-holders, regardless of the existence of actual grievances or not.
 - **Accessible** - directly accessible without cost and using appropriate methods and indigenous languages. Alternatively, support could be foreseen for communities to engage using independent legal advice.
 - **Meaningful** - present a real opportunity to resolve grievances and where necessary, take remedial action.
- Ensure indigenous decision-making processes and governance institutions are respected and integrated in remedy mechanisms




Lessons learned

- Base identification criteria for indigenous peoples on international law – the rights issues are the same, regardless of formal recognition in a specific state
- Embed a human rights-based approach and measures to secure community rights
- Ensure **ongoing** human dialogue and human rights due diligence
- Give primacy to community tenure rights and strong systems of community governance
- Ensure engagement of **representative** indigenous institutions
- Engage indigenous experts
- Strengthen company compliance and human rights due diligence policies and their implementation
- Strengthen grievance and complaints procedures, including options for affected communities to access independent legal opinions and support
- Put in place urgent safeguards for untitled or unrecognised community lands and forests while land delimitation and demarcation processes remain pending
- In weak regulatory environments the principles enshrined in the UNGPs can help mitigate confusion over which standards apply as they provide that **business enterprises should seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements**



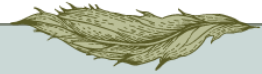
Useful resources

- [Respecting the rights of indigenous peoples: a due diligence checklist for companies](#)
- [Human rights impact assessment guidance and toolbox](#)
- [National Action Plans on Business and Human Rights \(globalnaps.org\)](#)
- [Closing the gap: rights-based solutions for tackling deforestation](#)
- [Promoting human rights in fisheries and aquaculture](#) (resource page)

A circular wreath of various botanical illustrations surrounds the central text. The plants include green ferns, orange flowers, red leaves, purple flowers, and green leaves. A small green leaf is positioned at the bottom center of the wreath.

Free, Prior and Informed Consent & Indigenous peoples

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)



UNDRIP (2007) recognises Indigenous Peoples' rights to:

- lands, territories and resources; The concept of territories, covers the total environment of the areas which IPs occupy or otherwise use, including aquatic ecosystems and resources as well as coastal and riverine lands.
- practise and revitalize their cultural traditions and customs as well their right to engage freely in their traditional and other economic activities.
- consultation and participation, including free, prior and informed consent (FPIC), whenever decisions, laws, projects or other measures are likely to affect Indigenous



Free, Prior and Informed Consent

Free:

- Voluntarily and without coercion, intimidation or manipulation, bias, conditions, bribery or rewards;
- Rights-holders determine the process, timeline and decision-making structure;
- Information is offered transparently and objectively at the request of the rights-holders;
- Meetings and decisions take place at locations and times and in languages and formats determined by the rights-holders; and
- All community members are free to participate regardless of gender, age or standing.



Free, Prior and Informed Consent



Prior

- Prior implies that sufficient time is provided to understand, access, and analyze information on the proposed activity. The amount of time required will depend on the decision-making processes decided by the rights-holders;
- Information must be provided before activities can be initiated, at the beginning or initiation of an activity, process or phase of implementation, including conceptualization, design, proposal, information, execution, and following evaluation;
- That means that FPIC should be an on-going and iterative process, and should be obtained at every major step of the project, for instance from exploration, to feasibility, operation and post-operation.



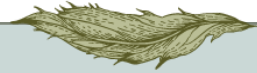
Free, Prior and Informed Consent

Informed

- Accessible, clear, consistent, accurate, and transparent;
- In the local language and in a culturally appropriate format
- Objective, covering both the positive and negative potential of the proposed activities and consequences of giving or withholding consent;
- Complete, including possible impacts, risks and benefits and including the nature, size, pace, duration, reversibility and scope of any proposed project, its purpose and the location of areas that will be affected;
- Delivered with sufficient time to be understood and verified;
- Provided in an ongoing and continuous basis throughout the FPIC process, with a view to enhancing local communication and decision making processes



Free, Prior and Informed Consent



Consent

- A freely given decision that may be a “Yes”, a “No”, or a “Yes with conditions”, including the option to reconsider if the proposed activities change or if new information relevant to the proposed activities emerges
- A collective decision (e.g. through consensus or majority) determined by the affected peoples in accordance with their own customs and traditions;
- The expression of rights (to self-determination, lands, resources and territories, culture); and
- Given or withheld in phases, over specific periods of time for distinct stages or phases of the project activities. It is not a one-off process.

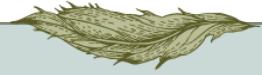


Examples of FPIC in international standards



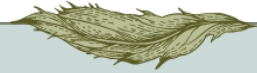
- International Financial Corporation (IFC) Performance Standards 7 on indigenous peoples, which requires indigenous peoples' FPIC.
- OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023) provides further practical guidance in relation to FPIC and Indigenous Peoples
- The Global Biodiversity Framework (2022)
- Pending - EU Corporate Sustainability Due Diligence Directives

FPIC & the food sector



- FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2022) & Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries (2015)
- FAO guidelines on FPIC in relation to land acquisition (2014)
- Round Table for Sustainable Palm Oil (RSPO) Principles and Criteria (2018) requires its members to respect indigenous peoples' rights to FPIC.

Indigenous Peoples FPIC protocols

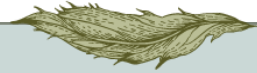


Indigenous peoples have developed their own FPIC protocols. It includes

- the specific pre-conditions that must be in place for any meaningful consultation process.
- the timing, the sequence of events and the locations.
- who is to be consulted and how decisions are to be taken
- It draws from a variety of legal sources, including indigenous community's own customary law and legal institutions, international human rights law and national legislation, regional instruments, treaties and jurisprudence.



FPIC in practice

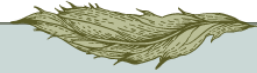


South Africa: Khoikhoi Peoples Rhooibos Biocultural Community Protocol (2020)

- Access and benefit-sharing relating to the commercial use of the rooibos plant.
- Rights and provisions of policy guidance to gain FPIC for the use of IPs knowledge and resources.
- how external actors may gain consent to the use of the knowledge, how community entry is to occur, and sets out the basis for future internal community regulatory measures for external actors.
- Fishing communities in South Africa have also been involved in BCP processes as a way of affirming their customary law practices.



FPIC in practice



Canada /Department of Fisheries and Oceans
Integrated Fisheries Management Plan process

- First Nation rights-holders sit at a table with License Holders to determine an allowable commercially catch for every species of fish.
- combine science and Indigenous traditional knowledge on fish species with industry data to determine best practices for harvest
- guide the conservation and sustainable use of marine resources
- support the management of sustainable fisheries





**The 'green rush' or a
Just Transition based
on shared prosperity?**



- **INFLUENTIAL SCIENTIST, ACTIVIST AND AUTHOR DR VANDANA SHIVA - FIGHTING TO PROTECT BIOLOGICAL AND CULTURAL DIVERSITY**

- **Since 2012, 1733 defenders have been killed trying to protect their land and resources: that's an average of one defender killed approximately every two days over ten years.**
- *Global Witness 'Decade of Defiance' Sept. 2022*

Norway - Fosen Vind



INDIGENOUS POPULATION

Around 50 000 Sami



EXPLOITATION OF THE NORTH

Favourable wind conditions and seen as “empty”



COMPETING LAND INTERESTS

Reindeer herding requires large areas



LEGAL PROTECTION

Most comprehensive legal protection of Sami

FOSEN VIND - 2018

Fosen Vind, owned by Statkraft, built two wind farms in areas that Sami use for reindeer grazing resulting in large protests and legal proceedings

In 2021, licences were ruled invalid by the Supreme Court as they violated Sami right to enjoy their culture. However, the turbines are still in operation despite the ruling



Mexico - Gunna Sicarú



INDIGENOUS POPULATION

Around 400 000-650 000 Zapotec



EXPLOITATION OF THE ISTHMUS OF TEHUANTEPEC

One of the greatest wind potential in the world



ILLEGAL AND UNETHICAL LAND ACQUISITION

Indigenous land has been illegally or unethically obtained



LEGAL PROTECTION

Legal protection has proved insufficient

GUNNA SICARÚ - 2015

French company EDF planned to build 115 wind turbines in the Oaxaca region, on land belonging to an indigenous community

Historic cancellation of energy supply contracts after large protests and legal proceedings over insufficient free, prior and informed consent and violation of land rights



Chile - Chiloé wind farm



INDIGENOUS POPULATION

Around 1.7 million Mapuche



LAND RIGHTS

Struggle to regain colonized lands



CONSTITUTION

New constitution will formally recognize Indigenous peoples



LEGAL PROTECTION

Human right defenders have been unlawfully incarcerated

Chiloé wind farm - 2011-2015

Plans for Chiloé wind farm, owned by Ecopower, were approved in 2011. While the Mapuche claimed it would negatively impact their livelihood, the project gained notoriety for its adverse impact on marine life, especially the great blue whale.

In 2012, operational licences were suspended by the Supreme Court as Ecopower failed to properly consult the Mapuche. However, the company has been revising its plans and is planning to commence operations.



Canada



INDIGENOUS POPULATION

First Nations, Métis, and Inuit



GROWING INDIGENOUS PARTICIPATION

Leader in indigenous participation in renewable energy projects



INITIATIVES INCENTIVISING COMMUNITY OWNERSHIP

Various federal, provincial, and utility-based financing schemes



LEGAL PROTECTION

Right to self-determination, right of self-government, and respect for reconciliation

OWNERSHIP MODELS

Five general classifications of ownership arrangements can contribute to reconciliation:

1

INDIGENOUS OWNERSHIP

e.g. Sukunka Wind Energy Project

2

GENERAL PARTNERSHIP: INDIGENOUS COALITION

e.g. Mesgi'g Ugju's'n Wind Farm

3

GENERAL PARTNERSHIP: INDIGENOUS-DEVELOPER (50/50)

e.g. Apuiat Wind Farm

4

LIMITED PARTNERSHIP (60/40)

e.g. Cowessess Wind Development

5

EQUITY OWNERSHIP (<25%)

<e.g. Rivière-du-Moulin wind farm

Impact on Indigenous Communities



BALSA WOOD

River pollution affecting farming & drinking water.
Illegal crops increasing drug use and abuse.

Payment in liquor and marijuana leading to alcohol and drug abuse.

Landslides that wipe out towns and farmlands.

Girls kidnapped to be made slaves or prostitutes around the logging camps.



LITHIUM

Land grab; loss of farmlands

Water shortages affecting artisanal salt harvesting and agro-pastoral practices.

Decreasing freshwater availability.

Declaration of Exhaustion to various sub-basins.

Over-promised water resources to companies.



Cobalt & Copper

Loss of homeland, farmland, and drinkable water.

Water source inadequate or in states of despair.

Exposure to dust, noise, and fumes.

Exposure to toxic metals leading to long term health issues.

Long-term degradation of land.

Challenges and opportunities





RESPECTING THE HUMAN RIGHTS OF COMMUNITIES

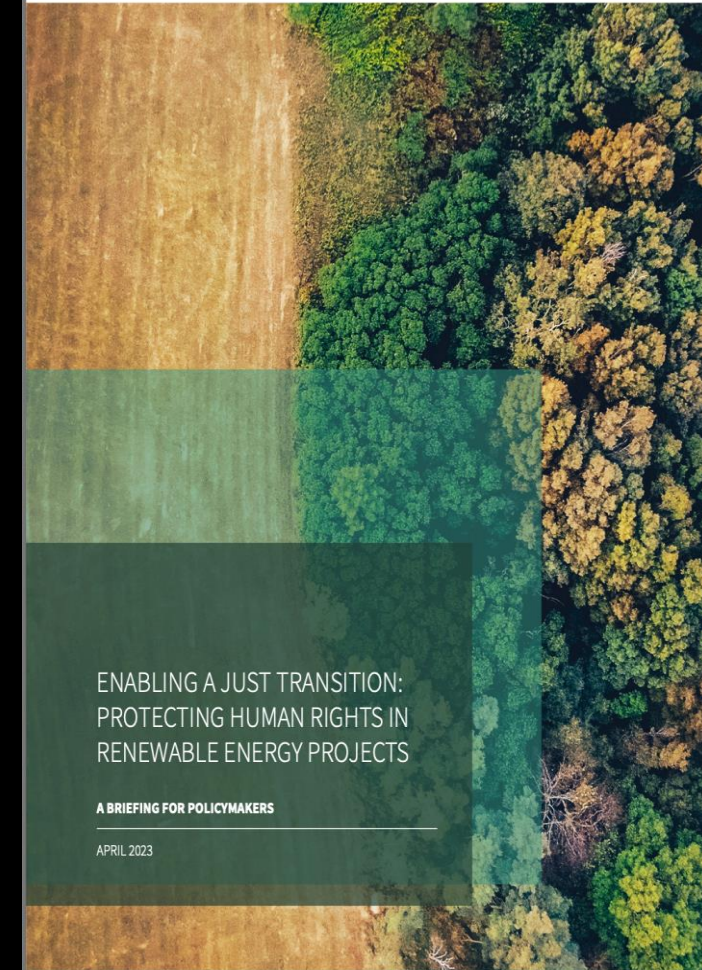
A LEGAL RISK PRIMER FOR COMMERCIAL WIND AND SOLAR PROJECT DEPLOYMENT

MARCH 2022

SARAH DOLTON-ZBOROWSKI & SAM SZOKE-BURKE

5 key policy priorities that policymakers should pursue:

1. Recognize and respect human rights, including all legitimate tenure rights,
2. Facilitate meaningful engagement with affected peoples and communities,
3. Advance local-level development, including through co-equity models and benefit sharing,
4. Institute systems to address human and land rights harms, and
5. Protect the safety of environmental, land, and human rights defenders.



ENABLING A JUST TRANSITION: PROTECTING HUMAN RIGHTS IN RENEWABLE ENERGY PROJECTS

A BRIEFING FOR POLICYMAKERS

APRIL 2023

A fast and just transition

3 core principles:

- **Shared prosperity:** business and investment models that deliver long-term revenues to communities and workers through *co-ownership models and equitable benefit-sharing* approaches.
- **Duty of care:** the enforcement of companies' *human rights and environmental due diligence* before investment and during operations is critical. The identification of human rights risks and an action plan to mitigate them builds trust and ensures it is not lost. Measures to protect the environment are imperative.
- **Fair negotiations:** *free, prior and informed consent (FPIC) for Indigenous peoples* is enshrined in international law and must be respected in line with the recognition and protection of their rights to their lands territories and resources and to self-determination. Companies also need to guarantee the protection of leaders who speak out against injustice or irresponsible investment – silencing and intimidation of these defenders must end.

Discussion



