

An aerial photograph of a solar farm. The solar panels are arranged in a grid pattern, with rows of panels extending across a green, grassy field. The panels are dark blue with white grid lines. The perspective is from a high angle, looking down at the panels.

# **RENEWABLE ENERGY RISKING RIGHTS & RETURNS:**

**An analysis of solar, bioenergy  
and geothermal companies'  
human rights commitments**



**Business & Human Rights  
Resource Centre**

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# CONTENTS

|   |           |
|---|-----------|
| <b>Executive summary</b>                        | <b>1</b>  |
| <b>Introduction</b>                             | <b>4</b>  |
| <b>Analysis</b>                                 | <b>6</b>  |
| <b>1. Leaders and laggards</b>                  | <b>6</b>  |
| <b>2. Public commitment to human rights</b>     | <b>12</b> |
| <b>3. Commitment to community consultations</b> | <b>12</b> |
| <b>4. Access to remedy</b>                      | <b>14</b> |
| <b>5. Labour rights</b>                         | <b>16</b> |
| <b>6. Supply chain monitoring</b>               | <b>17</b> |
| <b>Recommendations</b>                          | <b>19</b> |
| <b>Annex</b>                                    | <b>21</b> |

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# EXECUTIVE SUMMARY

## Key messages

- Renewable energy is key for our transition to a low-carbon economy, but companies' human rights policies and practices are not yet strong enough to ensure this transition is both fast and fair.
- Evidence shows failure to respect human rights can result in project delays, legal procedures and costs for renewable energy companies, underlying the urgency to strengthen human rights due diligence. We cannot afford to slow the critical transition to renewable energy with these kinds of impediments.
- As renewable energy investments expand in countries with weak human rights protections, investors must step up their engagement to ensure projects respect human rights.

Renewable energy has experienced a fourfold increase in investment in the past decade. Starting at \$88 billion in 2005, new investments hit \$349 billion in 2015.<sup>1</sup> This eye-catching rise in investments is a welcome trend and reflects international commitments to combatting climate change and providing access to energy in the Paris climate agreement and the Sustainable Development Goals.

Climate change poses a grave threat to people and the planet, making a transition from fossil fuels to renewable energy a human rights imperative. Transitioning to renewable energy sources will reduce emissions and decrease pollution, thus mitigating the threats climate change poses to the rights of access to health, housing, food, and water. It will make energy accessible to more people. Investment must continue to rise in order to realise these goals.

**However, the benefits of renewable energy risk being tainted by harms to people and livelihoods if the sector does not step up its engagement on human rights.** This briefing shows that there is an alarmingly low level of engagement on human rights in the solar,

bioenergy and geothermal industries, echoing findings from our [previous analysis](#) of wind and hydropower companies.

**Alongside the moral imperative, companies can also avoid significant legal risks, project delays and financial costs by introducing rigorous human rights due diligence policies and processes.** Evidence from the extractive sector reveals significant and avoidable costs from company-community conflicts – a recent study cites numerous examples, such as the Esquel project in Argentina, which was forced to write-off up to \$379 million in assets and forgo \$1.33 billion in estimated reserves.<sup>2</sup> Renewable energy companies have an opportunity to learn from these experiences – and similar examples are starting to emerge within the sector as well. For example, the Kinangop wind energy project in Kenya was halted by community protests over lack of consultation and land compensation. The developer, Kinangop Wind Park Limited, brought a lawsuit against the Kenyan Government to the International Court of Arbitration. Although the court dismissed the case, the claim was for Sh31 billion (\$308 million), more than five times the estimated value of shareholder investment in the project.

<sup>1</sup> <https://www.bnef.com/dataview/clean-energy-investment/index.html> ; <http://fs-unep-centre.org/sites/default/files/publications/gtr2018v2.pdf>  
<sup>2</sup> [https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict\\_Davis%20%20Franks.pdf](https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict_Davis%20%20Franks.pdf)

Allegations against renewable energy companies are on the rise. The Business & Human Rights Resource Centre has reached out to renewable energy companies 112 times since 2010 inviting them to respond to allegations that their operations have resulted in human rights abuses, including killings, threats and intimidation, labour rights concerns, harms to indigenous peoples' lives and livelihoods, and dispossession of land. There is a risk that these types of concerns will become more acute in coming years as projects are increasingly taking place in countries with weak land tenure systems and poor enforcement of human rights protections. In 2017, three countries accounted for more than half of new global investments in renewable energy: China, Brazil and India, with Mexico and UAE experiencing significant growth in investment.<sup>3</sup> This investment is welcome, but it is urgent that it is also matched with respect for human rights.

**The current level of commitment by the majority of renewable energy companies is insufficient to prevent, address and mitigate human rights harms, especially as the sector rapidly expands.** Governments have a key role in protecting human rights, but companies cannot rely on government approvals of land and project permits to ensure successful projects. They must also ensure they meet their responsibility to respect human rights and provide remedy for abuses as set out by the [UN Guiding Principles on Business and Human Rights](#) in order to gain and maintain their social license to operate.

In this context, renewable energy companies and investors cannot afford to overlook the importance of having strong human rights due diligence policies and processes in place. This briefing sets out areas of strengths and weakness among solar, bioenergy and geothermal companies' current human rights commitments and provides recommendations for improvements to ensure that our transition to a low-carbon economy is not only fast, but also fair.

### Key findings:

- [Insufficient human rights commitments by companies in biggest renewable energy markets:](#)
  - **Europe:** Out of 17 companies headquartered in Europe included in this report, 8 do not have public human rights commitments in place: **Alco Group, BDI Bioenergy Intl., Climeon, Enerparc, Gigawatt Global, Lightsource BP, NurEnergie, and Reykjavik Geothermal.** All eight companies have operations around the world.
  - **USA:** Out of the 6 companies headquartered in the US in this research, 4 have a public human rights commitment in place while two do not: **Calpine** and **NextGen Solar.**
  - **China:** Even though China accounts for 45% of global investments in renewable energy, only one out of 5 Chinese solar companies included in this research has a commitment to human rights. This company is **Trina.** The other four do not have any public human rights commitments in place: **Harbin Electric Corporation, Hareon Solar, Jinko Solar, and ReneSola.**
  - **India:** Only one out of four India-based companies in this research, **Adani Renewables,** has a public commitment to human rights. **Avaada Energy, ReNew Power Ventures, and Suzlon** do not have a public commitment in place.

<sup>3</sup> <https://www.bnef.com/dataview/clean-energy-investment/index.html> ; <http://fs-uneep-centre.org/sites/default/files/publications/gtr2018v2.pdf>

- Small leadership group on human rights with bulk of companies lagging behind: Only five out of 59 companies met a set of basic criteria on human rights, community consultation and access to remedy:<sup>4</sup> **Scatec Solar** (Norway), **Contact Energy** (New Zealand), **Green Resources** (Norway), **Lantmännen Agroetanol** (Sweden), and **Novozymes** (Denmark). Several companies with the most detailed commitments also had human rights allegations against them highlighting tension between high level policies and practices on the ground. 47% (28 out of 59) of companies do not have any of these basic commitments or processes in place.
- Alarming low level of commitment to consultation with affected communities: Less than 30% (17 out of 59) of companies have a stated commitment to consultation with communities affected by their projects. Only 8 companies reference indigenous peoples' rights and 4 companies have a commitment to free, prior and informed consent of indigenous communities.
- Gap in access to remedy for affected communities: Although a majority of companies have internal grievance mechanisms and/or whistleblower protection policies for employees, only 31% (18 out of 59) have an external-facing grievance mechanism available to communities.
- Uneven commitment to labour rights: The strongest area of labour rights commitments in the three industries is anti-discrimination, with policies in place at 54% of companies, followed by the prohibition of child labour (42%), as well as forced labour and modern slavery (41%). However, all three industries are weak on committing to the core labour rights of collective bargaining and freedom of association, with policies in place at only 36% of companies.
- Supply chain monitoring not yet extended to human rights: Although half of companies analysed (32 out of 59) undertake some monitoring of their contractors, manufacturing and mineral supply chains for areas such as quality management, only 15 do so on at least one specific human right and an additional 13 monitor for adherence to ethics, social responsibility or environmental responsibility. Only 15% (9 out of 59) companies reference conflict minerals in their policies.

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<sup>4</sup> These companies met at least four out of five of the following criteria without being subject to international judicial or semi-judicial proceedings on human rights records: (1) public commitment to human rights, (2) commitment to community consultation, (3) external-facing grievance mechanism, (4) core labour rights (5) supply chain monitoring on human rights. See Analysis section for more information.

# INTRODUCTION

Renewable energy companies and their investors have a critical role in driving a fast and fair transition to a low carbon economy. This can carry major benefits for human rights including through mitigating climate change impacts as well as providing broader access to sustainable energy. However, the transition risks being tainted by harms to people, slowing down its speed and increasing its costs, unless it is managed with respect for human rights. A lack of respect for human rights is already causing project delays as well as financial and legal costs for companies and investors. Businesses and investors have an interest in getting this right urgently to build a truly sustainable new energy industry in the long-term. This briefing seeks to support companies and investors in adopting human rights practices and therefore contributing to a fast and fair transition to a low-carbon economy.

The briefing identifies emerging leaders and laggards, highlights examples of better practice, and provides data on specific financial and legal risks already incurred by companies. Companies

can use the briefing to compare how they fare against their peers on human rights commitments, learn about the risks and responsibilities they carry to respect human rights, and adopt better practices. Investors can use the briefing in conjunction with the corresponding investor briefing as a tool for engagement with companies and to integrate human rights into their screening and management criteria when investing in renewable energy projects. The [investor briefing](#) provides a breakdown of types of engagements relevant by asset class as well as a set of questions for company engagement.

While the human rights impacts covered in this briefing reflect the primary concerns brought to the Business & Human Rights Resource Centre, these are not a comprehensive review of all the potential human rights impacts of renewable energy companies. All companies should undertake human rights due diligence to identify, address, and remedy human rights impacts related to their operations.

# METHODOLOGY

In May 2018, the Business & Human Rights Resource Centre reached out to 60 renewable energy companies in the solar, geothermal, and bioenergy industries with 18 questions regarding their approach to human rights. The questions focused on company practices related to human rights due diligence, supply chain management, community engagement and consultation, indigenous peoples' rights, security, and access to remedy (see Annex 2). We received responses from 10 companies and conducted desk-based research on all 60. One company (US Geothermal) was subsequently acquired by another company included in the outreach (Ormat), bringing the total companies analysed to 59.

In selecting companies, we focused on including a broad range of solar, geothermal, and bioenergy companies, including several of the top developers (by installed capacity) in each industry, and aimed for geographic diversity, with the majority of companies operating in more than one country. All of the solar companies included

are involved with project development, and a few also manufacture solar panels and/or other system components. We excluded multi-industry companies that were included in our [2016 research on the wind, hydropower, and utilities sectors](#), apart from Suzlon, which we approached again because of its prominence in the Indian solar market. In order to produce this analysis, Business & Human Rights Resource Centre assessed responses received as well as publicly-disclosed information about each company, including their website, annual reports, and CSR and sustainability statements.

Full responses by the 10 companies that completed the survey questions are available on our [Renewable Energy & Human Rights company platform](#): **Biopalma (owned by Vale), Contact Energy, Dinant Corporation, First Solar, Lantmannen Agroetanol, Mannvit, Marubeni, Neoen, Scatec Solar, and W Dusk Group**. The platform also includes sections on companies that did not respond to the survey.



## SOLAR

- **What is it?** Converting sunlight into electrical energy using photovoltaic cells and/or concentrated solar power systems.
- **Why is it important?** Renewable energy industry with the highest level of growth (29.3% growth between 2016-17).
- **Land impacts:** Depends on project siting and design and can vary from minimal (rooftop installations) to more significant (solar farms).
- **Supply chain:** Producing solar panels can be resource-intensive, involving mined minerals such as copper, tin, lead, aluminum, boron, gallium and indium among others. Solar panel manufacturing takes place overwhelmingly in Asia (69% in China as of 2016).
- **Examples of human rights allegations faced by solar companies:** Allegations of lack of meaningful consultation with local communities (Western Sahara), solar panel waste affecting environment & health (China), and labour rights at solar panel installers (USA).
- **Relevant initiative:** The Solar Scorecard by Silicon Valley Toxics Coalition ranks companies on transparency around environmental health, safety, and sustainability issues.

## BIOENERGY

- **What is it?** Harvesting organic material (such as wood, crops, or by-product of agricultural processes) to produce heat energy – from home heating, to power stations to fuel for transport. Includes biofuel and biomass.
- **Why is it important?** Renewable energy industry with the largest land footprint; 5% growth in capacity between 2016-2017.
- **Land use & supply chain:** Bioenergy relies on forestry, farms, and plantations for raw materials. Large land footprint carries similar human rights risks as agriculture, including labour rights and health & safety.
- **Examples of human rights allegations faced by bioenergy companies:** Loss of livelihood and customs particularly for indigenous people, threats and violence against project opponents (Honduras), workers' health & safety (Central America), land grabbing and right to food (Mozambique), access to water/contamination (Brazil).

## GEOTHERMAL

- **What is it?** Extracting heat from the Earth through technologies including dry steam stations, flash steam stations, or binary cycle stations.
- **Why is it important?** Most site-specific renewable energy source; 8% growth since 2016
- **Land use:** Geothermal equipment takes up less land area than other forms of renewable energy, but is highly site specific leading to potential land conflicts, similar to extractive industries.
- **Examples of human rights allegations faced by geothermal companies:** Failure to respect indigenous peoples' rights (Kenya), inadequate community consultations (Kenya), access to water/contamination (Indonesia).

# ANALYSIS

## 1. Leaders and laggards

This briefing analyses companies in five key areas: (1) public commitment to human rights (2) commitment to community consultation, (3) access to remedy through both internal & external-facing grievance mechanism, (4) labour rights policies, and (5) supply chain monitoring. In addition, the analysis takes into account international judicial and semi-judicial claims regarding companies' human rights records.

These five areas include actions all companies are expected to take under the UN Guiding Principles on Business and Human Rights. The areas analysed focus on public commitments and processes as a first step, though it is important to note that having policies and processes in place does not necessarily indicate a good human rights performance on the ground, as seen from the allegations against some companies in this sector described below.

### Emerging leaders

Five of the companies analysed in this briefing met at least four out of five of criteria above without being subject to international judicial or semi-judicial proceedings on human rights records. They are **Contact Energy** (New Zealand), **Green Resources** (Norway), **Lantmännen Agroetanol** (Sweden), **Novozymes** (Denmark), and **Scatec Solar** (Norway).

In addition, **SunPower** and **W Dusk Energy Group** also demonstrated leadership through their human rights policy and community-driven approach, respectively.



| COMPANY                                      |  | Human rights commitment | Ongoing consultations commitment | External-facing grievance mechanism | Core labour rights commitments | Supply chain monitoring for human rights | Intl. Judicial/ semi-judicial proceedings on human rights record | Responded to questionnaire |
|--|--|-------------------------|----------------------------------|-------------------------------------|--------------------------------|--|--|----------------------------|
| SOLAR  | Marubeni                                     | ●                       | ●                                | ●                                   | ●                              | ●  | !  | ✓                          |
|  | Scatec Solar                                 | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | Contact Energy                               | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | SunPower (majority owned by Total)           | ●                       | ●                                | ●                                   | ●                              | ●  | !  |                            |
|  | Neoen  | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | W Dusk Energy Group                          | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | First Solar                                  | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | Adani Renewables                             | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | ACWA Power                                   | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | GCL  | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Canadian Solar                               | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Trina  | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | SunEdison                                    | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | SolarEdge                                    | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Access Power                                 | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Globeleq                                     | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Lightsource BP                               | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Biotherm Energy                              | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Hareon Solar                                 | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Harbin Electric Corporation                  | ●                       | ●                                | ●                                   | ●                              | ●  | !  |                            |
|  | ReneSola                                     | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Enerparc                                     | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Shunfeng Clean Energy                        | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | NurEnergie                                   | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Suzlon                                       | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Avaada Energy                                | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | NextGen Solar                                | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Jinko Solar                                  | ●                       | ●                                | ●                                   | ●                              | ●  | !  |                            |
|  | ReNew Power Ventures                         | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Gigawatt Global                              | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Genesis Eco-Energy Developments              | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
| Vena Energy                                  | ●  | ●                       | ●                                | ●                                   | ●                              |  |  |                            |
| BIOENERGY                                    | Marubeni                                     | ●                       | ●                                | ●                                   | ●                              | ●  | !  | ✓                          |
|  | Dinant Corporation                           | ●                       | ●                                | ●                                   | ●                              | ●  | !  | ✓                          |
|  | Biopalma (subsidiary of Vale)                | ●                       | ●                                | ●                                   | ●                              | ●  | !  | ✓                          |
|  | Green Resources                              | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Lantmannen Agroetanol                        | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | Neoen  | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | Raizen (joint venture between Shell & Cosan) | ●                       | ●                                | ●                                   | ●                              | ●  | !  |                            |
|  | Drax   | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Novozymes                                    | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Cristal Union                                | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Pantaleon Sugar Holdings                     | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Biotherm Energy                              | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Alcogroup                                    | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Asia Biomass PCL                             | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | BDI Bioenergy International                  | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
| Green Fuel                                   | ●  | ●                       | ●                                | ●                                   | ●                              |  |  |                            |
| Sunbird Bioenergy (acquired Addax Bioenergy) | ●  | ●                       | ●                                | ●                                   | ●                              |  |  |                            |
| GEOHERMAL                                    | Marubeni                                     | ●                       | ●                                | ●                                   | ●                              | ●  | !  | ✓                          |
|  | Contact Energy                               | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | Mannvit                                      | ●                       | ●                                | ●                                   | ●                              | ●  |  | ✓                          |
|  | Ormat  | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Supreme Energy                               | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Reykjavik Geothermal                         | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | AP Renewables (subsidiary of Aboitiz Power)  | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | KenGen                                       | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Calpine                                      | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Geothermal Development Company               | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Polaris Infrastructure                       | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Sejahtera Alam Energy Company                | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
|  | Olsuswa Energy                               | ●                       | ●                                | ●                                   | ●                              | ●  |  |                            |
| Climeon                                      | ●  | ●                       | ●                                | ●                                   | ●                              |  |  |                            |
| Akiira Geothermal                            | ●  | ●                       | ●                                | ●                                   | ●                              |  |  |                            |

! = Proceedings against Marubeni refer to an OECD Natl. Contact Point complaint over human rights impacts of coal-fired power plant; proceedings are related to operations of parent company in the case of Biopalma (Vale), SunPower (Total), and Raizen (joint venture between Cosan and Shell)

! = Proceedings related to renewable energy projects

Some specific examples of good practices demonstrated by this group include:

- Human rights commitment: **SunPower's human rights policy** is a good practice example due to its reference to relevant international standards, ownership by executive management, oversight by the board, and application to suppliers. The company explicitly commits to relevant international human rights standards including the Universal Declaration of Human Rights, the Conventions of the ILO, and the UN Guiding Principles on Business and Human Rights. The company's Chief Operating Officer oversees the policy and reports to the Board on its implementation. The Board's Sustainability Council oversees concerns about human trafficking specifically.
- Community consultation:
  - **Contact Energy's** consultation over geothermal projects that threatened to affect the Maori's traditional way of life resulted in mutually-beneficial agreement through which Maori gained shares in the investment and continue to monitor company activities to ensure preservation of their traditional way of life.
  - **W Dusk Group** is an indigenous-owned company that designs, builds and develops projects along with communities. This community-driven approach helps ensure a strong social license for the project and helps avoid conflicts with while maximising benefits for the community and the company.
- Labour rights policies: **SunPower** commits to the core ILO Conventions and specifically prohibits discrimination, child labour, forced labour, and rejects limitations to freedom of association and collective bargaining. The company also commits to paying a living wage to its employees.
- Grievance mechanism: **Scatec Solar's** grievance mechanism is available to internal and external stakeholders online in multiple languages and at each local project site. The company also specifies a 30-day maximum response time for grievances and an immediate response to confirm receipt. The company reports annually on the number of grievances received.
- Supply chain monitoring: Both **Lantmännen Agroetanol** and **Scatec Solar** require their suppliers to sign a Supplier Code of Conduct as part of supplier contracts, which include human rights criteria. Both companies monitor compliance with the code and Scatec Solar notes that it has terminated contracts when corrective actions were not taken in due time.

This group is commendable for its leadership, however still has room for improvement in its policies and practices. For example, several companies have not formalised their commitment to human rights in a human rights policy approved by the board. **Scatec Solar** embeds human rights within their Health, Safety, Security and Environment Policy, and **Contact Energy** states its commitment in their response to our survey, but not in a public policy.

Commitment to indigenous peoples' rights could be strengthened through explicit recognition of rights under the UN Declaration on the Rights of Indigenous Peoples, and labour rights provisions can be strengthened through embedding respect for ILO core conventions through supply chains. Finally, all companies have an opportunity to strengthen their grievance mechanisms by designing and monitoring them with workers and communities.



It is important to note that **Green Resources**, one of the companies with the four basic commitments in place, also had human rights allegations levied against it over land rights. The company [has responded](#) to the allegation. Moreover, four companies - **Dinant Corporation**, **Biopalma (subsidiary of Vale)**, **Raizen (joint venture between Cosan & Shell)**, and **Marubeni** – had detailed human rights commitments in place, but also had international judicial or semi-judicial proceedings related to their human rights records or that of their parent company. In

**Dinant Corporation's** case the lawsuit is against the World Bank's investment arm, the International Finance Corporation, over aiding human rights abuses linked to the company's bioenergy operations. Proceedings against **Marubeni** refer to an OECD Natl. Contact Point complaint over human rights impacts of coal-fired power plant in Indonesia while in the case of **Biopalma (Vale)**, **SunPower (Total)**, and **Raizen (joint venture between Cosan and Shell)** proceedings are related to the human rights record of parent companies.

## Laggards

47% (28 out of 59) of companies surveyed had no public commitment to human rights, no commitment to consultations, and no external-facing grievance mechanism. These companies fall significantly behind their peers on human rights responsibilities and urgently need to take action to introduce human rights policies and practices to prevent harm to

people as a result of their operations.

The following examples from extractive and renewable energy companies illustrate some of the legal, financial and reputational costs if laggard companies do not adopt rigorous human rights commitments and due diligence practices:

- **Kinangop Wind Park (Kenya):** Investors and project developers cancelled the Kinangop Wind Park (KWP), a \$150M, 61MW wind farm in Kenya in February 2016 following land disputes, protests and a court case over the location of the project. The project consortium was led by Norfund and Africa Infrastructure Investment Fund II, in turn owned by Old Mutual Investment Group and Macquarie. Shareholders reportedly invested Sh6.7 billion (\$66 million) in the project. They sought to reclaim their loss through a lawsuit against the Kenyan Government, however the lawsuit was dismissed by the International Court of Arbitration.<sup>5</sup>
- **Odrebecht ethanol refinery (Angola):** A Brazilian construction company, **Odrebecht**, has been convicted in court of using forced labour at ethanol refinery construction project in Angola. Following a lawsuit, Odrebecht has been ordered to pay 50 million reais (\$13 million) in damages.<sup>6</sup>
- **Moroccan Agency for Solar Energy (Western Sahara/Morocco):** International investors including KfW Development Bank and the European Investment Bank have stated they will not fund solar energy projects in Western Sahara, a disputed territory controlled by Morocco.<sup>7</sup> Local advocates and NGOs have raised concerns about the location of upcoming solar projects by the Moroccan Agency for Solar Energy at Boujdour and El Aaiun in Western Sahara, citing the need to obtain consent of the Saharawi people for projects taking place on their lands. Moroccan investors continue to be involved.

<sup>5</sup> <https://www.business-humanrights.org/en/kinangop-wind-parks-suit-against-kenya-govt-for-alleged-failure-to-stop-local-communities-opposition-to-project-dismissed>

<sup>6</sup> <https://www.reuters.com/article/brazil-odebrecht-slavery/brazil-convicts-odebrecht-group-for-slavery-like-practices-in-angola-idUSL1N11802E20150902>

<sup>7</sup> <https://uk.reuters.com/article/morocco-solar-idUKL5N0L92J220140204>

- **Eólica del Sur/Mareña Renovables (Mexico):** After years of concerns regarding lack of meaningful community consultations as well as a complaint filed with the Inter-American Development Bank, the largest of several wind farm projects planned in the Mexican Isthmus of Oaxaca remains stalled. The initial level of investment was reported at 8,885.6 million Mexican pesos (\$477 million).<sup>8</sup>
- **Agua Zarca (Honduras):** Berta Cáceres's killing in 2016 was a grave reminder of the risks human rights activists are subject to in expressing concerns around energy projects. The indigenous community leader and human rights defender was protesting the Agua Zarca hydropower project, claiming the failure of the project developer, DESA, to obtain the free prior and informed consent (FPIC) of the Lenca people.<sup>9</sup> DESA, whose staff members are under investigation for Berta's murder, recently stated that all security forces hired by the company abide by human rights policies and that FPIC was secured for the project, indicating a disconnect between the company's alleged policies and events on the ground.<sup>10</sup> Dutch and Finnish development banks FMO and Finnfund have finalised their exit from the project following consultations with local communities.<sup>11</sup>
- **Esquel Gold Project (Argentina):** Meridian Gold planned to develop an open-pit gold mine called the Esquel Gold Project. However, the developer did not engage in meaningful community consultations and the project was rejected by a public referendum in 2003. The company reported write-offs up to \$379 million in assets and \$1.33 billion in projected reserves.<sup>12</sup>
- **Tambogrande copper project (Peru):** In 2003, Manhattan Minerals reported \$59.3 million in assets written down following a referendum rejecting the proposed copper mine project due to concerns about impacts on the local community, including relocation. The project's reserves were valued at \$253 million.<sup>13</sup>
- **Conga copper project (Peru):** In 2012, Newmont halted its Conga copper mining project following years of community conflict. Newmont reported \$1455 million of capital expenditure between 2010-2012.<sup>14</sup>

8 <https://www.businesswire.com/news/home/20120224005422/en/Macquarie-Mexican-Infrastructure-Fund-Announces-Completion-Financing>

9 <https://www.goldmanprize.org/recipient/berta-caceres/>

10 <https://www.business-humanrights.org/en/desarrollos-energéticos-desa-renewable-energy-human-rights>

11 <https://www.fmo.nl/agua-zarca>

12 [http://pdf.wri.org/development\\_without\\_conflict\\_fpic.pdf](http://pdf.wri.org/development_without_conflict_fpic.pdf)

13 [https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict\\_Davis%20%20Franks.pdf](https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict_Davis%20%20Franks.pdf)

14 [https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict\\_Davis%20%20Franks.pdf](https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict_Davis%20%20Franks.pdf)



### Spotlight: Leaders & laggards in biggest renewable energy markets

As investment into renewable energy is now shifting to major developing countries, including China, India and Brazil, it is especially important for companies headquartered and operating in these markets to adopt rigorous human rights due diligence commitments and practices. However, this research shows that most companies headquartered in these countries do not have basic human rights commitments in place. The Chinese Government is keenly aware of the importance of a benign public image for the country and for its overseas investments.<sup>15</sup> Renewables would be an urgent place to start turning this image into practice.

Even though China accounts for 45% of global investments in renewable energy and is experiencing a boom in solar energy production, it is alarming that only one out of five Chinese solar companies included in this research has a public commitment to human rights. This company is **Trina**. The other four do not have any public human rights commitments in place: **Harbin Electric Corporation**, **Hareon Solar**, **Jinko Solar**, and **ReneSola**. Interestingly, although these companies do not have public human rights commitments, three of them mention conflict minerals in their policies: **Jinko Solar**, **ReneSola** and **Trina**. This is likely a result of specific guidance on conflict minerals due diligence issued by a government-linked chamber for mineral trading, underlying the importance of official guidance in this context.

Companies headquartered in India, one of the other major destinations for renewable energy investment (accounting for 10% of global investments in 2017), also fall behind on human rights commitments. Only one out of four India-based companies in this research, **Adani Renewables**, has a public commitment to human rights. **Avaada Energy**, **ReNew Power Ventures**, and **Suzlon** do not have a commitment in place.

Brazil experienced an 8% growth in renewable energy investment in 2017 alone. Both of the two Brazilian companies included in this research, **Biopalma (owned by Vale)** and **Raizen (owned by Cosan Industria e Comercio)** have human rights commitments in place. However, both have had serious human rights allegations raised about their operations, highlighting the tension between policies and practices on the ground. Going forward, it will be important to monitor whether any human rights commitments they have adopted since these allegations were levied are effective in preventing and addressing further concerns.

While EU and US renewable energy markets are not growing as fast as some emerging economies, they each still constitute 15% of new global investments. Out of the six companies headquartered in the US in this research, four have a public human rights commitment in place: **First Solar**, **SunEdison**, **Ormat** and **SunPower**. However, two US companies do not have a human rights commitment: **Calpine** and **NextGen Solar**. Out of 17 companies headquartered in Europe analysed, eight do not have public human rights commitments in place: **Alco Group**, **BDI Bioenergy Intl.**, **Climeon**, **Enerparc**, **Gigawatt Global**, **Lightsource (BP)**, **NurEnergie**, and **Reykjavik Geothermal**. Seeing as most of these companies have operations both within their home regions as well as in emerging economies, it is just as important for them as for their peers in China, India and Brazil to adopt human rights commitments. Moreover, allegations of human rights abuses can and do occur in Europe and the US as well. Recent examples from the renewable energy include respect for the rights of indigenous reindeer herders by wind energy projects in Sweden and class action lawsuits against solar companies over working conditions in the US. Therefore, companies only operating in developed countries cannot be complacent about their impact on human rights.

<sup>15</sup> <https://www.economist.com/china/2017/03/23/china-is-spending-billions-to-make-the-world-love-it>

## 2. Public commitment to human rights

The [UN Guiding Principles on Business and Human Rights](#) sets out companies' responsibility to respect human rights and provide remedy when abuses occur. One of the first steps to fulfill companies' responsibility to respect human rights is to have a public commitment to human rights in place. Yet, only 42% of the solar, geothermal, and bioenergy companies surveyed have a publicly available human rights commitment and not all of these have been adopted as formal policies.

Examples of companies with formal human rights policies include **First Solar** and

**SunPower**. See the "Emerging leaders" section above for a description of **SunPower's** human rights policy.

Many companies included in this analysis highlight efforts to bring education, healthcare, job training, and other benefits as part of their corporate social responsibility programmes. It is important to emphasise that these corporate social responsibility efforts, while commendable, cannot be considered a substitute for engaging in human rights due diligence to prevent abuse as well as providing remedies when abuses occur.

## 3. Commitment to community consultations

Land is key for each of the three renewable energies examined in this briefing: bioenergy projects have the largest land footprint out of all energy sources impacting a significant territory. Solar projects can cover large areas depending on design and location, and geothermal development must be tied to a specific place, making siting crucial to its success.<sup>16</sup>

Considering the importance of land for these industries, it is alarming that less than 30% (17 out of 59) of companies included in this outreach have a public stated commitment to consulting with the communities that live on or use the land they plan on using for their projects. Out of these, only 8 companies (**Mannvit, Contact Energy, Dinant Corporation, W Dusk Group, First Solar, Scatec Solar, Sunpower, and Raizen**) have public statements that mention respecting indigenous rights. They comprise of a mere 14% of the companies in this outreach.

Companies cannot rely solely on government permits or concessions when they start renewable energy projects. It is estimated that 65% of the world's land area is held by local

communities and indigenous peoples under customary systems. However, only 18% of land is formally recognised by governments as such.<sup>16</sup> Therefore, continuous and meaningful community consultations and a recognition of indigenous peoples' rights are key to securing companies' social license to operate. Without this in place, companies risk involvement in human rights abuses and project delays, as well as legal and reputational costs.

The internationally-recognised principle of free, prior and informed consent (FPIC) under ILO Convention 169 provides a starting point for seeking consent from indigenous communities. Four companies in this outreach referenced this process specifically: **Mannvit, Contact Energy, Dinant Corporation, and Green Resources**. While commitments to FPIC are a positive step by companies, these commitments do not substitute actions taken by companies to effectively respect land rights and indigenous peoples' rights. Critics argue that an FPIC process can be flawed when it is implemented only on paper and does not guarantee the collective rights of indigenous peoples it is meant to protect. Initiatives such as the Right Energy

<sup>16</sup> [https://static1.squarespace.com/static/5694c48bd82d5e9597570999/t/593a4294b8a79b4be75f6078/1496990366441/Energy+and+Land+Use\\_\\_U\\_Fritsche.pdf](https://static1.squarespace.com/static/5694c48bd82d5e9597570999/t/593a4294b8a79b4be75f6078/1496990366441/Energy+and+Land+Use__U_Fritsche.pdf)





Photo credit: Accountability Counsel

Partnership with indigenous Peoples call for a more holistic approach to respecting indigenous peoples' rights in alignment with the [UN Declaration on Indigenous Peoples](#) and [ILO Convention 169](#).<sup>18</sup>

For community consultations to be meaningful, whether with indigenous peoples or with other affected communities, companies also have to be open to changing their plans based on consultation outcomes. Three companies in this outreach indicated that they have made specific changes following community consultations:

**Biopalma, First Solar and Contact Energy.**

Biopalma eliminated the practice of fertigation (adding fertilisers into the irrigation system) on plantations near communities, **First Solar** has modified projects to avoid sensitive areas, and **Contact Energy** pulled out of a plan to build a tourist venue on company-owned land due to perceived risks of an invasive fish species reaching community waterways.

Open and inclusive consultations benefit both companies and communities. Companies are rewarded through gaining their social license to operate and avoiding project delays and legal costs, while communities can ensure their rights are respected and they receive appropriate compensation and benefits.

**Contact Energy's consultations with Maori**

communities in New Zealand led to an agreement that provided access to geothermal sites for the company while enabling Maori to share in the investment and to monitor that the project does not impede traditional ways of life.<sup>19</sup> The company and community was invited to share their experience in Kenya to inform the company-community relationship around **KenGen's** Olkaria geothermal projects, which have faced delays and legal challenges over displacement and threats to Maasai's ancestral land.<sup>20</sup> Results from the exchange are yet to be seen as Maasai representatives continue to be engaged in negotiations.

Some companies put communities at the core of their business model by adopting a community-driven approach. **W Dusk Group** is an indigenous-owned Canadian solar installation company. They report that, "Community consultation is mandatory in all our endeavors... We view the empowerment of indigenous peoples is a vital step in the process or reconciliation for past injustices because it places the tool for cultural, economic and social growth where it belongs – with the people." Working with community-driven projects is an excellent way to help ensure respect for community consultation and rights.

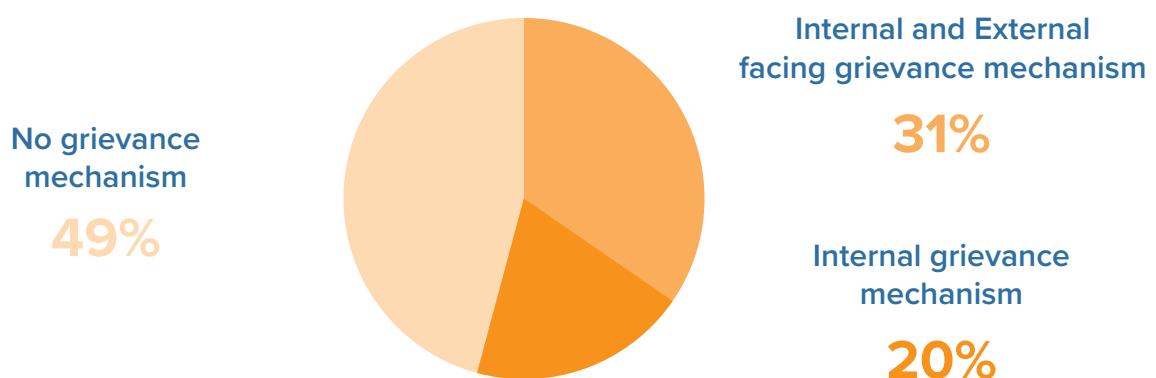
18 <https://www.indigenouspeoples-sdg.org/index.php/english/who-we-are/right-energy-partnership-members>  
19 See Contact Energy's response: <https://www.business-humanrights.org/en/renewable-energy-human-rights>  
20 <http://news.trust.org/item/20180319000031-1t8na/>

## 4. Access to remedy for individuals and communities

Under the UN Guiding Principles, companies have a responsibility to put in place an operational-level grievance mechanism for individuals or communities who may be adversely impacted by their operations. Although 30 of the solar, bioenergy and geothermal companies in this outreach have internal grievance mechanisms and/or whistleblower protection policies for

employees, **only 31% (18 out of 59) have a grievance mechanism that is also available to other stakeholders, such as affected communities. Almost half (29 out of 59) have neither.** Furthermore, none of the companies surveyed indicated that their grievance mechanisms were designed or monitored involving intended users, as set out by the UN Guiding Principles.

**FIGURE 1: COMPANIES BY TYPE OF GRIEVANCE MECHANISM**



Out of the companies included in this outreach, **Scatec Solar** has one of the most detailed descriptions of its grievance mechanism, which is available online in multiple languages and at each local project site. The company also specifies a 30-day maximum response time for grievances and an immediate response to confirm receipt. They report annually on the number of grievances received. In 2017, that was 118, out of which 103 were addressed and resolved. The number of grievances in 2017 rose dramatically from the 16 grievances received in 2016. Scatec Solar attributes this to the rapid expansion of its operations.

Besides providing affected people with a venue to raise concerns, grievance mechanisms can also give companies early warning about concerns that could otherwise develop into significant allegations.

However, just having any mechanism in place is not enough. For example, although

bioenergy companies' adoption of external grievance mechanisms is higher than the overall average (47%, or 7 out of 15), companies in this industry are also linked to some of the most severe human rights allegations, including violence against human rights defenders, suggesting that grievance mechanisms may be insufficient means of addressing human rights grievances if they lack community buy-in and effective remedy.

**Dinant Corporation**, a palm oil company operating in Honduras, is accused of hiring security forces who [murdered and assaulted farmers](#) defending their land in order to suppress opposition to the project. Dinant Corporation denies the allegations and states that it is taking positive steps to prevent further harm and that appropriate and accessible grievance mechanisms have been established: "Our regional Community Grievance Mechanisms – established in collaboration with local people - provide members of the public with simple, safe and



reliable ways of communicating with us. Anyone can access their local Community Grievance Mechanism on Dinant's website, or via a free dedicated telephone hotline, or by meeting our professional social liaison workers based at the heart of local communities." They report that no major grievances have been raised through these mechanisms.<sup>21</sup> At the same time, EarthRights International has filed a lawsuit against the World Bank and the International Finance Corporation over aiding and abetting gross human rights violations through their loan to Dinant Corporation.<sup>22</sup>

**Green Resources**, a Norwegian bioenergy company operating in Tanzania and

Mozambique, has been the subject of numerous allegations, including land grabbing and adverse impacts on food security.<sup>23</sup> The company states: "Whilst acknowledging that the company has made mistakes in the past... the company has gone through a number of third party audits which has enabled it to move in a positive direction...Green Resources would be happy to work with organisations to address any substantiated issues that have been noted in our operations, and will continue to strive to be one of the leading companies in responsible forestry management approaches." NGOs are continuously monitoring the company's operations and its commitments.

### Effectiveness criteria for grievance mechanisms

The UN Guiding Principles set out eight "effectiveness criteria" for non-judicial grievance mechanisms.

They should be:

- 1 **Legitimate**
- 2 **Accessible**
- 3 **Predictable**
- 4 **Equitable**
- 5 **Transparent**
- 6 **Rights-compatible**
- 7 **A source of continuous learning**
- 8 **Based on dialogue and engagement (including designed with affected individuals and communities)**

(See: [UN Guiding Principle 31](#) for details)

<sup>21</sup> See Dinant Corporation's response on Renewable Energy & Human Rights Platform: <https://www.business-humanrights.org/en/renewable-energy-human-rights>

<sup>22</sup> <https://earthrights.org/media/honduran-farmers-sue-world-bank-group-for-human-rights-violations/>

<sup>23</sup> <https://www.business-humanrights.org/en/mozambique-justi%C3%A7a-ambiental-world-rainforest-movement-ac%C3%A7%C3%A3o-acad%C3%A9mica-para-o-desenvolvimento-das-comunidades-rurais-accuse-portucel-mo%C3%A7ambique-of-land-grabbing-it-includes->

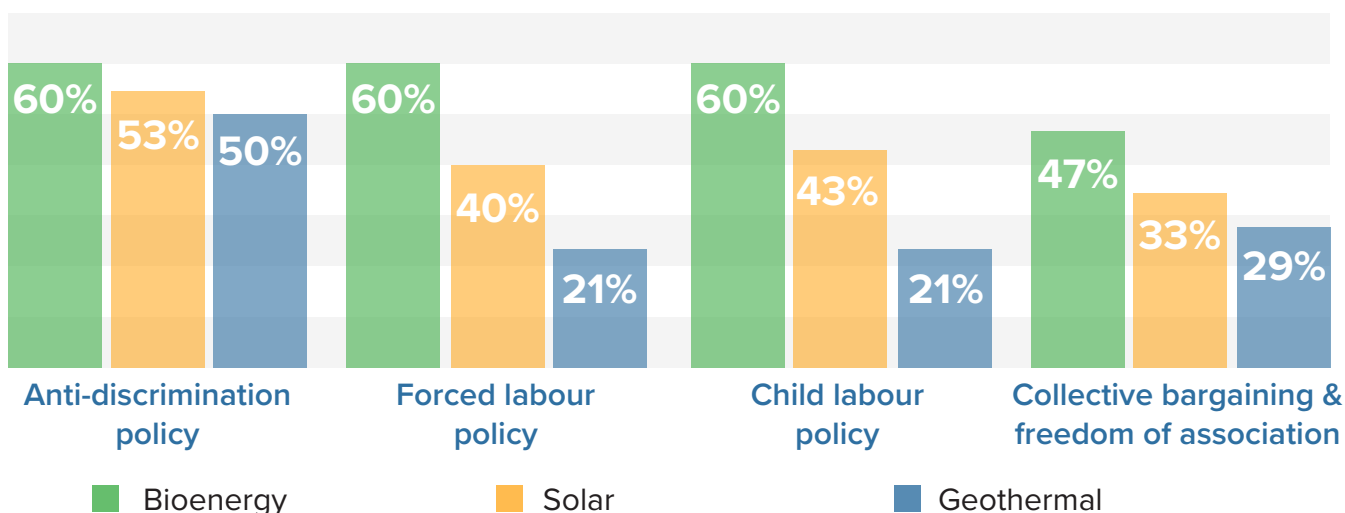
## 5. Labour rights policies

Labour rights policies are more common among the solar, bioenergy and geothermal companies surveyed than overall human rights policies. However, company commitments are uneven on core labour rights. The strongest labour rights protections by companies surveyed are on anti-discrimination, with policies in place at 54% of companies, followed by child labour (42%), and forced labour and modern slavery (41%). However, all three industries are weak on collective bargaining and freedom of

association, with public policies in place in only 36% of companies.

Figure 2 shows the breakdown of labour rights policies by renewable energy sector. Overall, bioenergy companies have the highest rate of adoption of public labour rights policies, followed by solar, and geothermal. Given bioenergy's relationship to agriculture and the labour rights concerns along with it, this is not surprising.

**FIGURE 2: PERCENTAGE OF SOLAR, BIOENERGY & GEOTHERMAL COMPANIES WITH LABOUR RIGHTS POLICIES**



The following list shows companies that have **no** public labour rights policies in place.

| Bioenergy                                    | Solar  | Geothermal                     |
|--|--|--------------------------------|
| Asia Biomass PCL                             | Avaada Energy  | Akiira Geothermal Ltd.         |
| BDI Bioenergy International                  | Enerparc   | Geothermal Development Company |
| Biotherm Energy                              | Genesis Eco-Energy Developments                            | KenGen                         |
| Green Fuel                                   | Gigawatt Global  | Olsuswa Energy                 |
| Sunbird Bioenergy (acquired Addax Bioenergy) | Harbin Electric Corporation                                | Sejahtera Alam Energy Company  |
|  | Hareon Solar   | Supreme Energy                 |
|  | Jinko Solar  |                                |
|  | Neoen (multi-sector)                                       |                                |
|  | NextGen Solar  |                                |
|  | NurEnergie   |                                |
|  | ReneSola   |                                |
|  | Suzlon   |                                |
|  | Vena Energy (formerly Equis Energy, but evaluated as Vena) |                                |



In the solar industry, some of the key places where labour rights allegations can occur are in supply chains at factories producing equipment and at mines supplying key minerals. The International Renewable Energy Agency estimates that solar employs the highest number of workers among all forms of renewable energy. The solar industry has more than 2 million jobs on record, more than half of which are located in China, where the majority of solar panel production takes place.<sup>24</sup> However, abuses can also occur among direct employees either at project sites or during installation. For example, a class action lawsuit against **SolarCity** by US employees hired to install rooftop solar panels claims failure to pay minimum wage and denial of overtime and breaks.<sup>25</sup>

Labour rights risks in the bioenergy industry are similar to those in agriculture, as sugarcane, oil palm, beets, and corn are some of the key materials harvested and converted into energy. Concerns range from worker

health and safety to forced and child labour. In Central America's sugarcane plantations, there is a high incidence of Chronic Kidney Disease of non-Traditional causes (CKDnT) among workers. **Pantaleon Sugar Holdings** is allegedly among the companies buying sugarcane for bioenergy from the plantations that are not providing workers with adequate health and safety protections.<sup>26</sup> The company states it "been active in understanding and finding ways to prevent Chronic Renal Insufficiency".<sup>27</sup> In Brazil, sugarcane production for bioenergy has been allegedly linked to forced labour and child labour as well as unhealthy working conditions.<sup>28</sup>

Concerns can also affect businesses linked to bioenergy, such as construction companies building refineries. A Brazilian construction company, **Odrebecht**, has been convicted in court of using forced labour at ethanol refinery construction project in Angola. Following a lawsuit, Odrebecht has been ordered to pay 50 million reais (\$13 million) in damages.<sup>29</sup>

## 6. Supply chain monitoring

Half of the 59 companies report monitoring their material supply chains. However, they do not specify whether supply chain monitoring includes the human rights policies and practices of their suppliers. Not only do companies have a responsibility to report on supply chain monitoring under the UN Guiding Principles, they also have a legal obligation for reporting on certain areas including forced labour under the UK Modern

Slavery Act<sup>30</sup> and California Transparency in Supply Chains Act<sup>31</sup> as well as conflict minerals under the corresponding US law<sup>32</sup> and eventually EU regulation.<sup>33</sup> In addition, companies falling under the French duty of vigilance law must develop plans on how they address social and environmental issues throughout their business relationships, including suppliers.<sup>34</sup>

24 [https://irena.org/-/media/Files/IRENA/Agency/Publication/2018/May/IRENA\\_RE\\_Jobs\\_Annual\\_Review\\_2018.pdf](https://irena.org/-/media/Files/IRENA/Agency/Publication/2018/May/IRENA_RE_Jobs_Annual_Review_2018.pdf)

25 [http://www.slate.com/articles/business/moneybox/2017/04/solar\\_panel\\_companies\\_explosive\\_growth\\_is\\_leaving\\_workers\\_behind.htm-?via=gdpr-consent](http://www.slate.com/articles/business/moneybox/2017/04/solar_panel_companies_explosive_growth_is_leaving_workers_behind.htm-?via=gdpr-consent)

26 [https://www.cnvinternationaal.nl/\\_Resources/Persistent/dc37494044d649e70aa77d9693610027f7e5e0c3/CNV-0035\\_Sugarcane-Rum-report\\_Mid\\_Am\\_ENG-1.0\\_20150714.pdf](https://www.cnvinternationaal.nl/_Resources/Persistent/dc37494044d649e70aa77d9693610027f7e5e0c3/CNV-0035_Sugarcane-Rum-report_Mid_Am_ENG-1.0_20150714.pdf)

27 <https://www.iic.org/en/projects/guatemala/qu3768a-01/pantaleon-sugar-holdings>

28 <https://www.ncbi.nlm.nih.gov/books/NBK196458/>

29 <https://www.reuters.com/article/brazil-odebrecht-slavery/brazil-convicts-odebrecht-group-for-slavery-like-practices-in-angola-idUSL1N11802E20150902>

30 <https://www.gov.uk/government/collections/modern-slavery-bill>

31 <https://oag.ca.gov/SB657>

32 <https://www.sec.gov/opa/Article/2012-2012-163htm---related-materials.html>

33 <http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/>

34 <https://www.business-humanrights.org/sites/default/files/documents/French%20Corporate%20Duty%20of%20Vigilance%20Law%20FAQ.pdf>

Considering that other forms of clean energy are already facing human rights allegations in their supply chains, such as allegations of child labour in cobalt supply chains used in electric vehicles, this is an area where the renewable energy sector has a strong incentive to act now to prevent potential abuses.<sup>35</sup> In addition to awareness of the direct human rights impacts of their own operations, renewable energy companies should be aware of human rights risks that exist through their entire supply chains. These include: labour, land, and livelihoods risks at the mining sites that provide source minerals for their products (such tin in solar panels, chromium in wind turbines, and cobalt in batteries); workers' rights at factories that produce renewable energy components; and the labour practices of contractors such as installers, maintenance providers, and security services.

One way in which companies can begin embedding human rights into the entirety of their business operations is through including a human rights clause in their supply chain contracts. An example of a company that

does this is **SunPower**. SunPower's Supplier Guidelines "require suppliers to acknowledge this human rights statement and their responsibility pursuant to it."<sup>36</sup> This type of clause is important to ensure human rights commitments by companies are also respected by their suppliers. It is especially effective when paired with monitoring, engagement and corrective action plans when commitments are not respected, with the option of cutting supplier relationships if these are not fulfilled.

The Natural Resource Governance Institute estimates that 44% of metal and mineral reserves needed for renewable energy are located in countries with weak or poor governance, suggesting a need for greater due diligence by companies sourcing these minerals.<sup>37</sup> The renewable energy sector can look to the OECD Guidelines on Responsible Supply Chains<sup>38</sup> as well as supply chain monitoring initiatives in other industries for examples of best practices, such as the Responsible Business Alliance<sup>39</sup> (formerly the Electronic Industry Citizenship Coalition).

35 <https://www.amnesty.org/en/latest/news/2017/11/industry-giants-fail-to-tackle-child-labour-allegations-in-cobalt-battery-supply-chains/>

36 <https://us.sunpower.com/human-rights/>

37 <https://resourcegovernance.org/blog/low-carbon-future-better-mineral-governance-could-power-development>

38 <http://www.oecd.org/corporate/mne/mining.htm>

39 <http://www.responsiblebusiness.org/>



# RECOMMENDATIONS

## TO RENEWABLE ENERGY COMPANIES:

- **General human rights policies and processes**
  - Adopt and promote human rights policies and due diligence practices in line with the UN Guiding Principles on Business and Human Rights. This should include a commitment to rigorous community consultation processes, training for managers, and extensive on-going dialogues with workers and communities.
  - Collaborate with peers within and across industries, as well as with workers and communities, to rapidly adopt and lift human rights standards across the renewable energy sector.
- **Consultations & indigenous peoples' rights**
  - Commit to respecting indigenous peoples' rights and undertake free, prior and informed consent in a way that respects all individual and collective rights of indigenous peoples.
  - Engage with affected individuals and communities beyond indigenous groups in order to gain and maintain a social license to operate.
- **Labour rights**
  - Adopt strong labour rights policies in line with ILO Core Conventions, including on discrimination, child and forced labour, collective bargaining, and freedom of association.
  - Commit to providing a living wage for all employees and incentivise suppliers to do the same.
- **Supply chain**
  - Develop systems to identify and monitor supply chains for human rights impacts and introduce human rights clauses in supplier contracts and business partner agreements.
  - Adopt strong protections for human rights defenders in operations and integrate human rights throughout security provisions as per Voluntary Principles on Security and Human Rights.
- **Access to remedy:** Introduce grievance mechanisms in line with the UN Guiding Principles on Business and Human Rights' effectiveness criteria, designed and monitored with communities and workers.

## TO INVESTORS IN RENEWABLE ENERGY PROJECTS:<sup>40</sup>

- **Prior to investment:** Ensure human rights policies and commitments are in place and human rights due diligence is undertaken as per the UN Guiding Principles on Business and Human Rights as a condition for investing, and structure investments to maximise the ability to influence respect for human rights.
- **During investment:** Monitor human rights performance of investments and engage with companies to encourage respect for workers, individuals and communities' rights as per the UN Guiding Principles, for example by monitoring allegations of abuse and their resolutions. If the company is not receptive, increase pressure e.g. through collaboration with peers, or divest.
- **Both prior to and during investment:** Engage with companies or asset managers with specific questions on human rights relevant to the sector and country-specific context and take steps to verify information; engage with governments, civil society, trade unions, communities, and others to encourage community-led best practices and renewable energy that respects human rights.

<sup>40</sup> For more recommendations see: <https://www.business-humanrights.org/en/renewable-energy-investor-briefing-managing-risks-responsibilities-for-impacts-on-local-communities>

## TO HOST & HOME GOVERNMENTS:

- Adopt and enforce human rights safeguards in national energy policies and other programmes that facilitate renewable energy projects.
- Introduce mandatory reporting and due diligence requirements for companies on human rights and strengthen national initiatives to monitor companies' human rights practices.
- Report on how climate actions are taking human rights impacts into considerations in Nationally Determined Contributions (INDCs).
- Recognise rights of indigenous peoples to customary land; ratify ILO Convention 169 on indigenous peoples and ensure respect for right to free, prior and informed consent.
- Allocate adequate resources and mandate to labour rights inspectorate bodies to identify and remedy labour rights violations related to renewable energy.
- Enhance access to both non-judicial and legal remedy when projects harm communities or workers.

## Acknowledgements & Contact

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# ANNEX 1

List of companies contacted with questionnaire

## Bioenergy

| Company   | Country        | Responded to questionnaire? |
|---|----------------|-----------------------------|
| Alco Group  | Belgium        | N                           |
| Asia Biomass PCL                                  | Thailand       | N                           |
| BDI Bioenergy International                       | Austria        | N                           |
| Biopalma (subsidiary of Vale)                     | Brazil         | Y                           |
| Cristal Union                                     | France         | N                           |
| Dinant Corporation                                | Honduras       | Y                           |
| Drax  | United Kingdom | N                           |
| Green Fuel  | Zimbabwe       | N                           |
| Green Resources                                   | Norway         | N                           |
| Lantmannen Agroetanol                             | Sweden         | Y                           |
| Novozymes   | Denmark        | N                           |
| Pantaleon Sugar Holdings                          | Guatemala      | N                           |
| Raizen (subsidiary of Cosan Industria e Comercio) | Brazil         | N                           |
| Sunbird Bioenergy                                 | Mauritius      | N                           |
| Biotherm Energy                                   | South Africa   | N                           |
| Neoen   | France         | Y                           |
| Marubeni  | Japan          | Y                           |

## Geothermal

|   |               |   |
|---|---------------|---|
| Akiira Geothermal Ltd.                      | Kenya         | N |
| AP Renewables (subsidiary of Aboitiz Power) | Philippines   | N |
| Calpine                                     | United States | N |
| Climeon                                     | Sweden        | N |
| Geothermal Development Company              | Kenya         | N |
| KenGen                                      | Kenya         | N |
| Mannvit                                     | Iceland       | Y |
| Olsuswa Energy                              | Kenya         | N |
| Ormat                                       | United States | N |
| Polaris Infrastructure                      | Canada        | N |
| Reykjavik Geothermal                        | Iceland       | N |
| Sejahtera Alam Energy Company               | Indonesia     | N |
| Supreme Energy                              | Indonesia     | N |
| Contact Energy                              | New Zealand   | Y |
| Marubeni                                    | Japan         | Y |



# ANNEX 1

## Solar

|                                 |                      |   |
|---------------------------------|----------------------|---|
| Access Power                    | United Arab Emirates | N |
| ACWA Power                      | Saudi Arabia         | N |
| Adani Renewables                | India                | N |
| Avaada Energy                   | India                | N |
| Canadian Solar                  | Canada               | N |
| Enerparc                        | Germany              | N |
| First Solar                     | United States        | Y |
| GCL                             | Hong Kong            | N |
| Genesis Eco-Energy Developments | South Africa         | N |
| Gigawatt Global                 | Netherlands          | N |
| Globeleq                        | United Kingdom       | N |
| Harbin Electric Corporation     | China                | N |
| Hareon Solar                    | China                | N |
| Jinko Solar                     | China                | N |
| Lightsource BP                  | United Kingdom       | N |
| NextGen Solar                   | United States        | N |
| NurEnergie                      | United Kingdom       | N |
| ReneSola                        | China                | N |
| ReNew Power Ventures            | India                | N |
| Scatec Solar                    | Norway               | Y |
| Shunfeng Clean Energy           | Hong Kong            | N |
| SolarEdge                       | Israel               | N |
| SunEdison                       | United States        | N |
| SunPower (subsidiary of Total)  | United States        | N |
| Suzlon                          | India                | N |
| Trina                           | China                | N |
| Vena Energy                     | Singapore            | N |
| W Dusk Energy Group Inc.        | Canada               | Y |
| Neoen                           | France               | Y |
| Marubeni                        | Japan                | Y |
| Biotherm Energy                 | South Africa         | N |
| Contact Energy                  | New Zealand          | Y |

# ANNEX 2

## Annex 2: Questionnaire & guidance material

### Responsible Renewable Energy: Questions on Human Rights

The [UN Guiding Principles on Business and Human Rights](#) make clear that all companies have a responsibility to respect human rights. This includes avoiding negative impacts on people affected by their operations and business relationships, including throughout their supply chains, and addressing negative impacts when they do occur.

The growth of renewable energy is making significant positive contributions to achieving some of the Sustainable Development Goals, such as access to affordable and clean energy, climate action, and ending poverty. At the same time, renewable energy companies also are responsible for ensuring that their operations do not negatively impact human rights. Human rights that can be, and have been, negatively affected by renewable energy projects include (among others):

- Right to land, access to clean water, and livelihoods for communities living in or near the planned project site
- Right of indigenous peoples to the lands, territories and resources which they have traditionally owned, occupied or used and right to free, prior and informed consent before a project is approved
- Labour rights of workers involved with project development, as well as in the supply chains of components and mining of materials needed for renewable energy projects (examples of rights that could be affected include forced labour, freedom of association, fair pay, and worker health and safety)

This survey aims to better understand the current approach of renewable energy companies to human rights issues, and to support the sector to integrate respect for human rights into their business operations in order to ensure the transition to renewable energy is fast, fair, and sustainable. Thank you for your time.

#### **Name of company:**

Are you involved with any projects registered under UN Clean Development Mechanism? If so, which?

Are you involved with any projects supported by the Green Climate Fund? If so, which?

#### **Human rights policy commitment**

##### [Examples & guidance](#)

1. Does your company have a publicly available commitment to respect human rights? If so, please include the link or provide it as an attachment.

#### **Human rights due diligence**

##### [Examples & guidance](#)

2. Does your company identify its salient human rights issues and does it have a due diligence process to manage them? If so, please list the issues you've identified and describe your due diligence process (key steps include: impact assessment, integrating & acting on findings, tracking responses & communicating how impacts are addressed).

3. Does your company take any additional steps in your human rights due diligence process when operating in conflict/post-conflict affected-settings?

4. What steps has your company taken to ensure that each of the [ILO Fundamental Rights and Principles at Work](#) are upheld in the company's operations?

- Freedom of association and the recognition of the right to collectively bargain
- Elimination of forced labour
- Elimination of child labour
- Elimination of discrimination

5. What steps does your company take to ensure that the rights to land, access to water, and decent work are respected in communities affected by your projects? Supply chains

#### [Examples & guidance](#)

6. Does your company monitor its supply chains, and if so, has your company identified any human rights risks associated with your supply chains?

7. How does your company monitor the compliance of subsidiaries, subcontractors, joint venture partners, and other business partners with your policies and standards? Please describe your approach. What steps has your company taken to ensure that these actors respect human rights in their operations (e.g. contractual clauses, reserving the right to audit and capacity building)?

### **Community engagement and consultation**

#### [Examples & guidance](#)

8. Does your company consult with communities affected by renewable energy projects to help shape the design of those projects and directly benefit? If so, please describe what form consultations take and when they are carried out in a project's cycle, including the criteria your company uses to identify the communities that may be affected by your project. Can you share any positive examples of benefit sharing with communities affected by your projects?

9. Does your company ensure its consultations include the perspectives and respect the rights of all affected community members (including those who may be marginalised for reasons of race, ethnicity, gender, sexual orientation, socio-economic status, age, religion, or other considerations)? How is this ensured?

### **Free, prior and informed consent (FPIC)**

#### [Examples & guidance](#)

10. Under what circumstances does your company commit to seeking an affected community's free, prior & informed consent to a project? Please provide examples of projects where free, prior & informed consent was sought (if applicable).

11. What is your company's process for obtaining and evaluating free, prior & informed consent? What steps does your company take to prevent corruption, manipulation and intimidation in obtaining FPIC?



12. Has your company ever decided not to do a project based on community input and lack of consent? If so, please provide examples.

### Security

#### [Examples & guidance](#)

13. What steps does your company take to ensure that its own personnel, private security companies it contracts with, and/or government forces providing security to its projects, respect the rights of workers and community members including those who may oppose its projects?

14. Has your company been in a situation where those providing security to its projects used force against anyone opposing the project? How did your company handle that situation?

### Remedy

#### [Examples & guidance](#)

15. Per the UN Guiding Principles on Business and Human Rights, does your company have an effective grievance mechanism in place at each project site for affected communities and workers to raise concerns about local impacts, including human rights abuses, in their own language, and in a way that ensures grievances can be reportedly safely, without intimidation? If so, were affected communities involved in the design of the grievance mechanism, including its set-up, procedures and the types of remedies it provides?

16. Have any grievances been reported? Can you describe them?

### Other information

17. What are some of the obstacles and challenges that your company encounters in implementing its human rights commitments and/or in relation to any of the areas mentioned above?

18. Please provide any further information regarding your company's policies and practices on human rights that you think is relevant.

### Further information and guidance:

[UN Guiding Principles on Business and Human Rights](#)

[OECD Guidelines for Multinational Enterprises](#)

[Mapping of Sustainable Development Goals to human rights instruments and issues](#)

[OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#)

[EU Regulation on Due Diligence in Mineral Supply Chains - Civil Society Guidance for Companies](#)