



European Union



BUSINESS AND HUMAN RIGHTS | ASIA



Asia in Focus

CORPORATE ACCOUNTABILITY AND CLIMATE CHANGE

WHITE PAPER

WRITTEN BY

ECONOMIST
IMPACT

UNDP is the leading United Nations organisation fighting to end the injustice of poverty, inequality, and climate change. Working with our broad network of experts and partners in 170 countries, we help nations to build integrated, lasting solutions for people and planet.

Learn more at undp.org or follow at @UNDP.

The findings, interpretations and views expressed in this publication are those of the author(s) and do not necessarily represent those of the United Nations, including UNDP, or the UN Member States.

Copyright © UNDP 2023
All rights reserved.

For more information on the Business and Human Rights in Asia programme visit the B+HR Asia website [here](#) or follow at:

 @BizHRAsia_UNDP

 /UNDPBHR



ACKNOWLEDGEMENTS

Asia in Focus: Corporate Accountability and Climate Change is a report written by Economist Impact in consultation with and supported by the United Nations Development Programme (UNDP) and the European Union (EU). The findings are based on an extensive literature review and an expert interview programme conducted by Economist Impact between August and December 2022.

Global efforts to limit the average temperature increase to 1.5° Celsius have fallen short. Despite earnest pledges made in Paris seven years ago during COP21, the world has only gotten hotter and weather patterns more unpredictable. Consequently, the human rights of millions, if not billions, of people in Asia are at grave risk. This report aims to highlight the links between climate change and human rights, and the critical role that business plays in addressing both.

This report is also intended to serve as a resource for policy makers and business leaders trying to mitigate contributions to climate change and its adverse impact on human rights. It includes policy recommendations for the public, private, and non-profit sectors that align with the UN Guiding Principles on Business and Human Rights (UNGPs) and other globally recognised frameworks.

The first report in this Asia in Focus series, entitled *Clean Air and the Business and Human Rights Agenda*, called for urgent action to address air pollution in order to safeguard human rights and address climate change.¹ The report demonstrated that air pollution has vast, negative implications for economies across the region. It also provided recommendations for mitigating air pollution's impacts.

Building on this whitepaper and the Clean Air report, UNDP will publish a supplementary action brief to provide further guidance on entry points for engagement.

The present report was written by Economist Impact. The authors are Bilge Arslan, Gillian Parker, Bhagya Raj Rathod and Divya Sharma Nag. The report was edited by Paul Kielstra. Cheryl Fuerte and Sachin Javale created the digital hub.

Expert insights

Thanks are due to the following people (in alphabetical order by surname) for their time and insights:

- + Rashyid Redza Anwarudin, chief sustainability officer, Sime Darby Plantation
- + Diane Archer, senior research fellow, Stockholm Environment Institute
- + Prarthana Borah, director, CDP India
- + Gregorio Rafael Bueta, adjunct faculty member, Ateneo de Manila University School of Law
- + Antony Crockett, public international law and cross-border dispute resolution specialist, Herbert Smith Freehills
- + Joseph D'Cruz, CEO, Roundtable on Sustainable Palm Oil (RSPO)
- + Dr Ian Fry, special rapporteur on human rights and climate change
- + Dr Sam Geall, CEO, China Dialogue Trust
- + Natalia Grillon, executive director, Open Apparel Registry
- + Kim Hellström, green investment project manager, H&M
- + Catherine Higham, policy fellow Climate Change Laws of the World, London School of Economics/ Grantham Research Institute on Climate Change and the Environment
- + Jason Judd, executive director, Global Labour Institute, Cornell University
- + Hanh Le, South-East Asia senior director, Rocky Mountain Institute (RMI)
- + Sarah Negro, global public affairs senior manager, H&M
- + Brynn O'Brien, executive director, Australasian Centre for Corporate Responsibility
- + Oy Cheng Phang, head of sustainability advisory services, KPMG Malaysia
- + Sara Phillips, associate researcher/consultant, Community Climate Resilience in Critical Mineral Supply Chains, Chulalongkorn University
- + Stefano Savi, director, Global Platform for Sustainable Natural Rubber (GPSNR)
- + Praveen Singhavi, president, APRIL Group
- + Paula Valencia, senior associate, Rocky Mountain Institute
- + Vanessa Zimmerman, founder and CEO, Pillar Two

¹ Economist Impact. 2022. "Clean Air and the Business and Human Rights Agenda." Asia in Focus. <https://bhr.cleanairinasia.org/>.

Thanks are also due to the following UNDP experts:

- + Sagita Adesywi, business and human rights specialist, UNDP Indonesia
- + Jehan Wan Aziz, business and human rights specialist, UNDP Malaysia
- + Mehruna Islam Chowdhury, business and human rights specialist, UNDP Bangladesh
- + Zoljargal Gantumur, business and human rights specialist, UNDP Mongolia
- + Bui Hien, business and human rights, project manager, UNDP Vietnam
- + Roos Ijsendijk, human rights and inclusive governance specialist, UNDP Vietnam
- + Nusrat Khan, business and human rights specialist, UNDP India
- + Swetha Kolluri, head of experimentation, UNDP India
- + Amit Kumar, head of poverty and inclusive growth, UNDP India
- + Huan V. Nguyen, business and human rights specialist, UNDP Vietnam
- + Jyotiraj Patra, climate change and adaptation specialist, UNDP India
- + Myanthy Peiris, business and human rights specialist, UNDP Sri Lanka
- + A. K. M. Azad Rahman, project coordinator, Local Government Initiative on Climate Change (LoGIC) & national coordinator, National Adaptation Plan, UNDP Bangladesh
- + Tomokazu Serizawa, programme specialist for climate and security risk, UNDP Bangkok Regional Hub (UNDP BRH)
- + Tarinee Suravoranon, business and human rights specialist, UNDP Thailand
- + Yusuke Taishi, senior technical advisor for climate change adaptation, UNDP Thailand
- + Bui Viet Hien, programme analyst on climate change and resilience, UNDP Vietnam
- + Christine Wellington-Moore, Asia-Pacific regional advisor on SDG Integration, UNDP BRH
- + Ramitha Wijethunga, national programme officer, UNDP Sri Lanka

For their technical support, we would also like to extend our gratitude to Sean Lees, business and human rights specialist, Belinda Hlatshwayo, monitoring and evaluation officer, and Jiahuan Yuan, communication officer, at the UNDP BRH.

While every effort has been taken to verify the accuracy of this information, Economist Impact cannot accept any responsibility or liability for reliance by any person on this report or any of the information, opinions or conclusions set out in this report. The findings and views expressed in the report do not necessarily reflect the views of the sponsor.

CONTENTS

ACKNOWLEDGEMENTS	3
EXECUTIVE SUMMARY	6
INTRODUCTION	8
THE ASIAN CLIMATE CHANGE CHALLENGE: A LEADER IN EMISSIONS AND RISKS	10
i. The region's explosion in greenhouse gases	10
ii. Climate-related physical and economic challenges that will require attention	11
iii. New legal risks	13
iv. Implications of treating a healthy environment as a human right	14
GOVERNANCE DEFICIENCIES AND PRACTICAL PROBLEMS HOLD BACK PROGRESS	15
i. Rules and action plans aplenty	15
ii. Shortcomings in governance	16
iii. Practical challenges facing governments	18
iv. Practical challenges facing small business	18
STEPS TOWARD ADDRESSING CLIMATE-CHANGE-RELATED HUMAN RIGHTS IMPACTS	20
i. Considerations for government officials	20
ii. Considerations for corporate executives	21
iii. Industry observations on climate change and supply chains	22
a. Spotlight on the garment industry	22
b. Spotlight on the palm oil and paper industries	23
c. Spotlight on critical minerals and the mining industry	24
THE PATH FORWARD	25

EXECUTIVE SUMMARY

Extreme weather events are unfolding in close succession throughout Asia, intensifying concerns over the impacts of climate change on both human rights and economic growth. More worrying still, experts believe that there is a 48% probability that, by 2026, the world will experience average temperatures of 1.5 degrees Celsius higher than the figure before the industrial revolution. More disruptive events will certainly accompany this change.

With its vast engines of economic growth, Asia is now the epicentre of concern. In the past two decades, the world has seen a 46% rise in carbon emissions, driven largely by the growth in Asian industry. In contrast, the net figure for emissions for the rest of the world has declined slightly over the same period. Asia is also considered the region most vulnerable to climate change's impacts. The continent's urban centres are highly exposed to the risks of sea level rise, extreme heat, typhoons and drought.

If Asia is central to efforts to address climate change at the global levels, then business across the region must step up to the challenge of climate change mitigation and adaptation. But they cannot do this alone. Climate financing and technology transfers will need to be provided by advanced economies from other regions, economies that on a historic basis, are responsible for the bulk of greenhouse gases (GHG) in our atmosphere today.

This report, *Asia in Focus: Corporate Accountability and Climate Change*, looks at the role and potential of Asian industry to lead on climate action, a topic that inevitably requires a review of government regulation and state commercial activity as well. Relying on in-depth interviews with over 40 experts from business, government, NGOs, academia, think tanks and international organisations, as well as extensive desk research, the report's key findings include:

Asia's continuing use of coal has driven its per capita carbon emissions to equal that of the global average.

In 2000, the region had 61% of the earth's population and accounted for just 37% of its carbon emissions. In 2021, these figures were 59% and 58%, respectively. Looking ahead, Asia's GHG output is likely to rise. Coal remains the dominant fuel for electricity generation, accounting for over 50% of power output in China, India, and Indonesia, and by 2031, this is projected to still be the case, except in China, where the figure will likely be reduced to 45%.² While blame cannot be cast on Asia for today's climate crisis, what business and government in the region do today, will impact on our planet for years to come.

Climate impacts are already creating significant public health risks, food security and economic costs on the continent.

The number of climate-change induced heatwaves has risen rapidly in recent decades across the globe, with some of the most extreme cases occurring in South Asia. A public health hazard, climate change also has important economic implications. The country most affected by heat stress is India, which lost 4.3% of working hours in 1995 and is projected to lose 5.8% of working hours in 2030.³ Agriculture will be among the most affected sectors by climate change, impacting economies and displacing people facing greater levels of food insecurity. The IPCC states in a 2022 report that the impact of climate-related extremes on food security, nutrition and livelihoods are "particularly acute and severe" for people living in Asia. The region is also home to 11 of the 15 cities most at risk from climate-change-induced flooding. According to a Greenpeace study, by 2050 the Asia-Pacific region may lose about US\$1.2trn each year in capital stock from flood events.

Companies and governments face increasing legal and compliance risks.

Worldwide, litigation related to climate change roughly tripled between 2018 and 2022. Meanwhile, EU regulations with extraterritorial reach are increasingly holding companies in Asia and elsewhere to higher human rights and environmental standards. Other legal and compliance risks relate to the environmental impacts of business operations on land, including deforestation, as stakeholders are increasingly turning to the courts where such activity threatens their rights. Since 2010, the Business & Human Rights Resource Centre has documented 200 allegations of business-related, land rights abuses and Indigenous Peoples' rights abuses.

Deficiencies in governance undercut the response to climate change in the region.

Asian governments have signed numerous climate pledges and plans, and passed a multitude of regulations governing corporate behaviour towards the environment. Yet enforcement can be undercut by cronyism, corruption, poor accountability and weak human rights protections. Progress on climate change is also constrained in many Asian states due to a lack of the civic space necessary to hold bad actors accountable. The region is seeing a growing number of attacks on environmental and human rights defenders, undercutting constructive conversations on climate action.

2 Economist Intelligence Unit. 2022. "Asia's energy transition: a tough balancing act" <https://www.eiu.com/n/asias-energy-transition-a-tough-balancing-act/>

3 Estrada, Botzen. 2019. "Working on a warmer planet: The impact of heat stress on labour productivity and decent work." ILO. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_711919.pdf.

A lack of political will – arising from a perceived tension between economic development and the costs of reducing carbon emissions – impedes progress in Asia.

A marked lack of political will to address GHG emissions exists across much of Asia, due in part to overriding economic growth priorities. Many governments have chosen to rely on cheap fossil fuels to get their economies back on track following two years of covid-19 lockdowns. High food and fuel prices have also made policy-makers more reluctant to impose further compliance mandates on business. In addition, taking on efforts to integrate green sources of energy would require large outlays of capital from countries with already constrained financial resources and any number of pressing needs. Even developing the capacity and technical expertise to monitor corporate emissions would place a heavy strain on limited state budgets.

Small and medium enterprises (SMEs) will struggle to comply with climate related regulations. Large companies are better placed to adjust to heightened compliance requirements. GHG mitigation and climate change adaptation are no exception. SMEs across Asia will need assistance to pay for and meet the requirements of government climate change strategies.

The UN Guiding Principles on Business and Human Rights (UNGPs) and other globally recognised frameworks can help governments and businesses address the challenges of climate change within a human rights context.

- + *Governments:* Three areas are of particular relevance for states in this field, the first of which involves law and policy formation. In addition to translating the newly recognised right to a clean, healthy and sustainable environment into domestic law, governments must ensure that corporate regulatory policies are made, and enacted, in a way that is consistent with human rights principles. This includes ensuring public participation in decision-making on infrastructure and mining projects, an approach that is not considered common to Asia. Second, states should leverage their own economic activity in ways that promote carbon mitigation and adaptation. This includes both the government's own spending in the economy and the operation of the many substantial state-owned enterprises (SOE) in Asia. Third, governments need to establish and enforce environmental regulations while also supporting programmes to build capacities of SMEs to comply.
- + *Companies:* Every firm should conduct ongoing assessments of the impact of their operations on the environment, including but not limited to the guidance provided by the UNGPs on human rights due diligence. These assessments can help enterprises to reduce their carbon footprints and assess ways to lessen their impact on water, forests and biodiversity and air quality, and any implications these impacts may have on human rights. These analyses also need to take a broad view and include the behaviour of

suppliers and customers to ensure there is a genuine enhancement of human rights and environmental rights performance. Finally, companies must be prepared to provide for remedies, if they find that they have fallen short of human rights or environmental standards.

Three business sectors have lessons for the rest

It is difficult to make detailed statements about what companies should do to address the human rights related impacts of climate change without looking at the context in which business operates. Accordingly, this study examines three industries in more detail:

- + *Garments and fashion:* Asia is the global centre of garment production, including footwear. The industry's challenges include: the high levels of energy consumption within its lengthy supply chains; the large number of factories likely to be flooded in the next decade; and the impact of heat stress on workers. Smaller companies in major label supply chains seem to be doing little to reduce emissions or to adapt to climate change – this according to our expert interviewees. SMEs in the garment industry will thus need to “sharpen their game” as large labels focus increasingly on their overall GHG footprints. Leading players in the retail sector are also trying to source more green energy, which is proving difficult in Asia.
- + *Palm oil and paper:* These sectors are often associated with high levels of deforestation. As with the garment sector, resistance or inability to comply with responsible business practice standards may be more likely among the many small producers who sell to larger companies. Larger companies, driven by reputational considerations – rather than by the relatively small regulatory fines for causing environmental damage – are mostly taking two approaches to improve standards across the supply chain. One is simply to reduce the number of suppliers and cut out those that do not meet industry standards. The other approach involves working with smaller companies over a long period of time to help them improve.
- + *Mining of rare-earth minerals:* The technology behind green energy generation will require a growing volume of rare-earth elements. Yet, civil society groups make frequent allegations of human rights and environmental wrongdoing by the mining sector. Mining companies involved in “transitional minerals” will be under intense pressure to conduct human rights and environmental due diligence (HREDD), and other processes. Failure to conduct meaningful HREDD and reduce adverse impacts on human rights may delay the energy transition.

INTRODUCTION

In August 2022, three 600-year-old Buddhist figures gazed out from a rock perch along the Yangtze River in China. Their serene faces belied the troubling omen which they represented. The statues were visible only because the river was at its lowest level in living memory.

An unprecedented heatwave in China, compounded by drought conditions lay behind a dramatic plunge in the Yangtze's flow. As such, the emergence of the Buddhist statues serve as a portent of the kind of dire challenges which climate change will bring. China is not alone in facing these circumstances. Hulking wrecks once submerged now stick out of the bed of the Danube River. In Nevada, human remains are now emerging in the drying bed of Lake Mead. Exceptional droughts in Europe and North America are also to blame. Ominous discoveries like these are more likely in the years to come as climate change processes take hold and temperatures rise.

Earnest governmental pledges and stirring declarations at international conferences have focused on limiting the average global temperature rise to 1.5 degrees Celsius by 2100. Unfortunately, this already looks out of reach. The UK Meteorological Office says that the chance of global near-surface temperature exceeding 1.5°C above pre-industrial levels at least one year between 2022 and 2026 is about as likely as not (48%).⁴ Humanity may be entering into the 1.5°C warmer world – or at least a glimpse of it – as early as 2026. Countries, and companies, thus need to act to minimise the extent of the disruption and prepare for a more uncertain physical environment.

Recently, there have been important developments addressing environmental issues at the international level. In July 2022, the UN General Assembly (UNGA) passed a resolution nearly unanimously that recognised a clean, healthy and sustainable environment as a universal human right.⁵ Although the resolution is non-binding, and the meaning of “clean”, “healthy” and “sustainable” lack internationally agreed legal definitions,⁶ the wide adoption of the resolution by UN Member States will likely mean more focus on state duties to address the human rights impacts of climate change.

Gregorio Rafael Bueta, adjunct faculty member at Ateneo de Manila University School of Law explains that the UNGA resolution “adds a layer of responsibility for businesses across Asia and the world. It's through adding this layer that we start talking about a clean and healthy

environment, which is now part and parcel of basic human rights—for everyone”. Climate change is a major factor that undermines the functioning of clean, healthy, and sustainable environments. By this measure then, the right to a healthy environment includes climate considerations.

Yet, even before the UNGA resolution, international agreements on the environment were adopting human rights language. The overarching declaration of the COP27 climate talks in 2022 states that, when taking action to address climate change, businesses and governments should “respect, promote and consider their respective obligations on human rights, the right to health, the rights of Indigenous Peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations, and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.⁷

Accordingly, policy makers and business leaders must consider heightened climate and compliance risks where their decisions and operations exacerbate, or create new, climate vulnerabilities for communities or ecosystems. This goes beyond the traditional fields associated with environmental protection. For companies, this will affect any number of choices on where and how they do business. For states, this means reviewing legislation, developing enforcement capacities and ensuring that corporate regulatory policies, and trade and investment policies are fully informed by pre-existing and legally binding commitments to human rights.

Stakeholders in Asia are no exception to these pressures and circumstances.⁸ Given its size and vulnerabilities of the region, Asian business leaders and policy makers must play a leading role in the battle against climate change.

Globally, countries are falling short in reducing GHG emissions and in efforts to adapt to the changing climate. Insufficient measures and inadequate support to developing nations persist, while climate risks escalate, putting at risk the lives and livelihoods of millions, if not billions of people. The latest Intergovernmental Panel on Climate Change (IPCC) report warns that physical climate risks – including dangerously high heat and humidity levels, along with rising seas and flooding – will beset the entire continent of Asia.⁹ The IPCC also states that even if effective actions to limit global temperature increase to 1.5°C were put in place, losses and damages stemming

4 https://hadleyserver.metoffice.gov.uk/wmolc/WMO_GADCU_2022-2026.pdf

5 Tartes, T., 2022, “UN General Assembly declares access to a clean and healthy environment a universal human right.” *UN News*, 28 July 2022. <https://news.un.org/en/story/2022/07/1123482>. Accessed 12 December 2022.

6 “UN General Assembly adopts landmark resolution on right to a healthy environment,” Clifford Chance blog, 2 August 2022, <https://www.cliffordchance.com/insights/resources/blogs/business-and-human-rights-insights/2022/08/un-general-assembly-adopts-landmark-resolution-on-right-to-a-healthy-environment.html>

7 UNFCCC, 2022, “Draft text on COP27 overarching decision”, <https://bit.ly/3tHcXDc>

8 “How Asia is crucial in the battle against climate change.” *The Economist*, 27 October 2021., <https://www.economist.com/special-report/2021/10/27/how-asia-is-crucial-in-the-battle-against-climate-change>. Accessed 15 November 2022.

9 IPCC, 2022. “Fact sheet – Asia”. https://www.ipcc.ch/report/ar6/wg2/downloads/outreach/IPCC_AR6_WGII_FactSheet_Asia.pdf.

from climate change are not preventable, as there is a “locked-in” level of warming that is already causing unavoidable consequences. With warming temperatures, losses and damages will be increasingly difficult to avoid, and they will be concentrated among the poorest and most vulnerable populations. Currently, losses and damages are not comprehensively addressed by current financial, governance and institutional arrangements.

In Asia, the proportion of global GHG emissions that the region produces are now, for the first time, equal to its percentage share of the world population. Asia’s economic centres can no longer wait for other regions to reduce emissions. They too must now focus on how to prevent, or at least prepare for, climate events which will cause massive damage to Asian infrastructure, supply chains, natural capital and labour capacity, with dire costs to human life and well-being.¹⁰

To understand the current state of government and corporate efforts to address evolving climate-related challenges in Asia, Economist Impact conducted wide-ranging research, including over 40 in-depth interviews supplemented by extensive desk research. The findings are in this study and the recommendations that follow, align with the UN Guiding Principles (UNGPs), which are considered as one of the world’s most authoritative normative frameworks guiding responsible business practices. Based on three pillars of ‘Protect, Respect and Remedy’, the UNGPs help states and businesses prevent, and address, human rights abuses committed in the context of business operations.

For a brief review of the UNGPs see accompanying box and annex.

UN GUIDING PRINCIPLES

Pillar 1: The state’s duty to protect human rights

The first pillar of the UNGPs focuses on the state’s obligation to respect, protect and fulfil human rights and fundamental freedoms. To implement this duty, the guiding principles recommend the setting of clear expectations, such as relevant legal guidelines that must be followed by both domestic and foreign businesses within the state’s jurisdiction. Setting clear expectations ensures predictability for businesses by signalling a consistent message applicable to all enterprises. In the context of the state’s responsibility...

Foundational Principles 4 and 5 state that:

“4. States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.”

“5. States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.”

Pillar 2: The corporate responsibility to respect human rights

The second pillar of the UNGPs focuses on the corporate obligation to respect human rights. To carry out this responsibility, business enterprises are required to comply with all applicable local and international laws, but also go further and address any human rights risks or adverse human rights impacts of their operations. The UNGPs provide the necessary context for businesses to understand their responsibilities in taking steps to mitigate air pollution resulting directly from their operations.

Guiding Principle 14 states, “the responsibility to respect human rights requires that business enterprises:

“(a) avoid causing or contributing to adverse human rights impacts through their own activities and address such impacts when they occur;

(b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”

Pillar 3: Access to remedy

The final UNGP pillar outlines state and corporate responsibilities with regard to ensuring the appropriate legislative, judicial and non-judicial mechanisms are set up to address and remediate grievances.

Guiding Principle 25 states that: “as part of their duty to protect against business-related human rights abuse, states must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.”

However, the onus does not rest solely with the state.

Guiding Principle 29 provides that: “to make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.”

THE ASIAN CLIMATE CHANGE CHALLENGE: A LEADER IN EMISSIONS AND RISKS

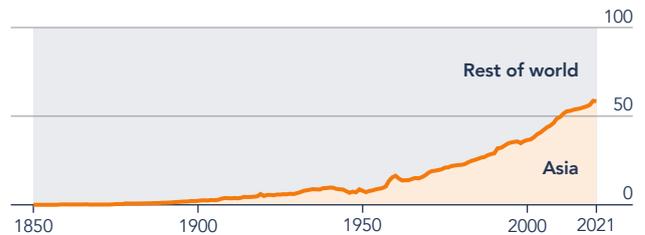
i. The region's explosion in greenhouse gases

While once Asian officials could credibly argue that GHG emissions of other regions dwarfed theirs, the world has changed. In 2000, Asia was home to 61% of the earth's population and accounted for just 37% of its carbon emissions. In 2021, the figures were 59% and 58%, respectively. Put another way, while the rest of the world in aggregate cut emissions by 700m tonnes of carbon over that period, Asia saw a rise of 12.4bn. From low-value manufacturing to high-tech factories, fossil fuels remain the energy driving the region's bustling economies.

The higher emissions in Asia stems from its reliance on oil and, especially, coal in its effort to create jobs, reduce poverty and reach new levels of prosperity.

Figure 1: Asia is responsible for more than half of all CO2 emissions

Annual emissions from fossil fuels and industry emissions (% of world total)



Source: Our World in Data, 2023¹¹

Figure 2: Asia's per capita CO2 emissions are roughly equivalent to the global average

Annual emissions from fossil fuels and industry emissions (tonnes)

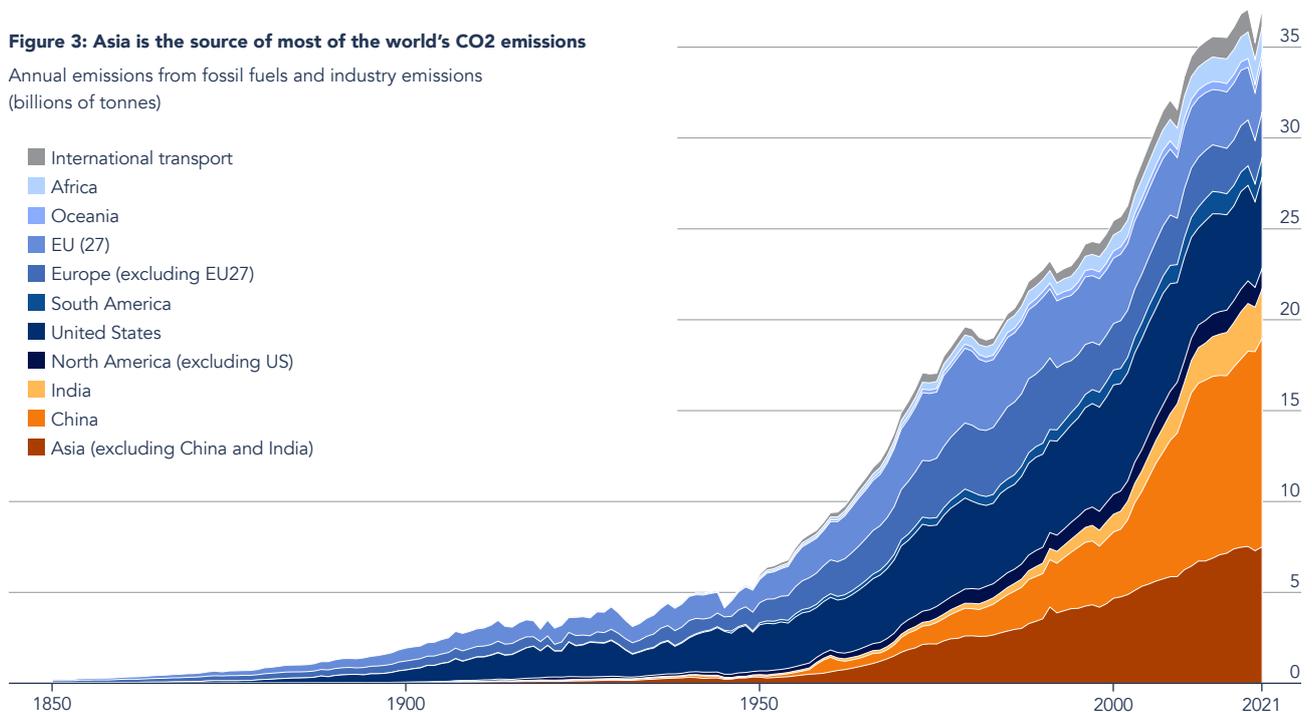


Source: Our World in Data, 2023¹²

Figure 3: Asia is the source of most of the world's CO2 emissions

Annual emissions from fossil fuels and industry emissions (billions of tonnes)

- International transport
- Africa
- Oceania
- EU (27)
- Europe (excluding EU27)
- South America
- United States
- North America (excluding US)
- India
- China
- Asia (excluding China and India)



Source: Our World in Data, 2023¹³

11 Ritchie, H, Roser, M. & Rosado, P., 2021 "Annual CO2 emissions", *Our World in Data* <https://ourworldindata.org/co2-emissions>.
 12 Ritchie, Hannah, and Max Roser. 2021 "Per capita CO2 emissions." *Our World in Data*. <https://ourworldindata.org/co2-emissions>.
 13 Ritchie, H, Roser, M & Rosado, P., 2020, "Per capita CO2 emissions", *Our World in Data* <https://ourworldindata.org/co2-emissions>.

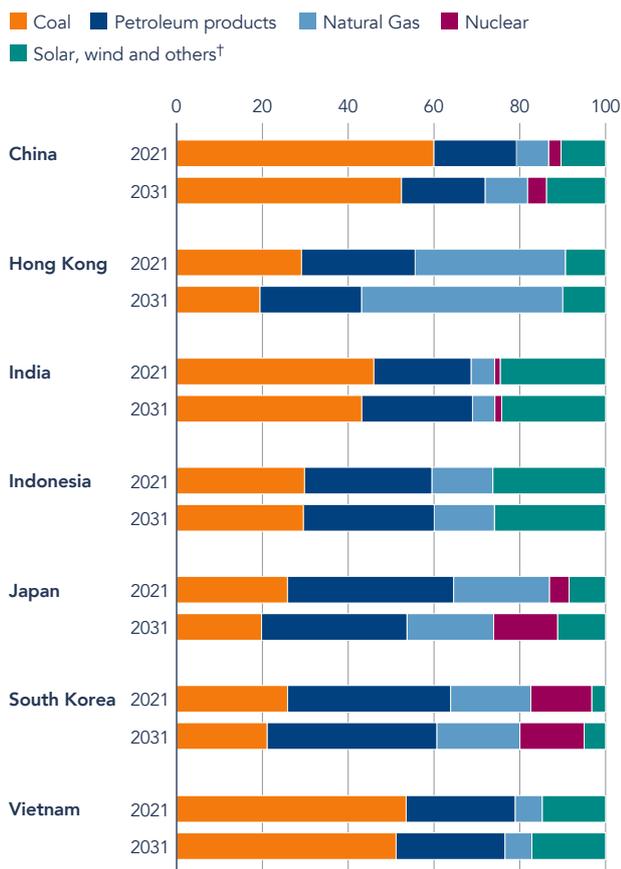
This contrasts sharply with other regions. In developed G20 states, coal power's share of electricity generation halved between 2000 and 2020, from 39% to 19%. In developing G20 members – including China, India and Indonesia – it grew from 48% to 53%.¹⁴ During that period, China opened new coal power plants capable of producing nearly 1,000 gigawatts (GW) in total.¹⁵ India was responsible for only around 180 GW of new coal-fuelled

capacity, but this too still exceeded all other countries in Asia. Moreover, India gets three-quarters of its electricity from coal, and this is soon to be supplemented by 39 new plants.¹⁶ Thus, looking ahead to 2031, despite a shift toward gas and renewables in some economies, coal will remain a major component of Asia's energy mix.

ii. Climate-related physical and economic challenges that will require attention

Figure 4: Coal will remain a major component in Asia's electricity mix despite losing share to gas and renewables by 2031*

Domestic power generation by source (% of total)



*2031 values are forecasts.

†Includes: hydro, geothermal, combustible renewables and waste, and net imports of electricity.

Source: The Economist Intelligence Unit, 2022¹⁷

Even while Asia is now contributing to carbon emissions at the same per capita rate as the global average, climate change exposes the region to unique public health and economic risks. Fossil fuels bring air pollution in addition to excess carbon. According to a 2019 study, in India, airborne impurities kill more than 1.5m people each year, accounting for nearly a fifth of all fatalities¹⁸ while the WHO reports that a similar number of Chinese nationals die annually from ambient air pollution.¹⁹

Deadly levels of heat have also tripled worldwide since the 1980s, and now affect nearly a quarter of the world's population.²⁰ The issue is at its most extreme heat in South Asia.²¹ Though affluent populations can shield themselves from the problem, in a heatwave "the economically insecure are pushed to the front lines",²² according to the International Federation of Red Cross and Red Crescent Societies (IFRC). And with around 600m people in Asia living in informal settlements,²³ not to mention hundreds of millions more in low-income formal settings, the toll from heatwave-induced public health crises may be significant.

Asian economies equate to two-thirds of global GDP vulnerable to productivity losses from excess heat and humidity.²⁴ Agricultural workers are expected to account for 60% of working hours lost globally to heat stress.²⁵ Those in the least developed countries – including many in Asia – are among the most impacted by exposure to extreme temperatures, already bearing almost half of the estimated 295bn work hours lost due to heat in 2020.²⁶

14 Global Energy Monitor, 2022, "Global Coal Plant Tracker".

15 Global Energy Monitor. "New Coal-fired Power Capacity by Country (MW)." Global Coal Plant Tracker. <https://docs.google.com/spreadsheets/d/1j35F0WrRj9dbJhtrK88fvPw0Vsf-JV6G95u7gT-DDw/edit#gid=647531100>.

16 Global Energy Monitor, 2022, "Global Coal Plant Tracker".

17 Economist Intelligence Unit. 2022. "Asia's energy transition: a tough balancing act" <https://www.eiu.com/n/asias-energy-transition-a-tough-balancing-act/>.

18 Ravikumar, S. & Das, K. N., 2020. "Pollution deaths in India rose to 1.67 million in 2019 -Lancet" Reuters, <https://www.reuters.com/article/us-india-pollution-idUSKBN28W158>.

19 "Air pollution in China", accessed 24 January 2023, <https://www.who.int/china/health-topics/air-pollution>

20 Tuholske, C et al. 2021, "Global urban population exposure to extreme heat" <https://doi.org/10.1073/pnas.2024792118>

21 Costley, D & Forster, N., 2021, "AP Analysis: Exposure to extreme heat has tripled since 1983", AP Projects, <https://projects.apnews.com/features/2021/global-extreme-heat/index.html>. Accessed 12 November 2022.

22 IFRC, 2022, "Extreme heat: Preparing for the heat waves of the future", <https://www.ifrc.org/document/extreme-heat-preparing-heat-waves-future>.

23 United Nations. n.d. "— SDG Indicators." — SDG Indicators. Accessed April 21, 2023. <https://unstats.un.org/sdgs/report/2019/goal-11/>.

24 McKinsey, 2020, "Climate change risk and response in Asia" McKinsey, 24 November 2020, <https://www.mckinsey.com/capabilities/sustainability/our-insights/climate-risk-and-response-in-asia>.

25 Estrada, B. N.D., "Working on a warmer planet: The impact of heat stress on labour productivity and decent work", ILO. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_711919.pdf.

26 Romanello, M. et al. 2021, "The 2021 report of the Lancet Countdown on health and climate change: code red for a healthy future", *The Lancet*, 398(10311):1619-1662. <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2821%2901787-6>.

Figure 5: Working hours lost to heat stress, by sub-region, 1995, with projections for 2030 (%)²⁷



Source: International Labour Organisation (ILO), 2019

Flooding will take its toll on the region as well. Nearly 600m people in Asia live in low-lying coastal regions, with Asia home to 11 of the 15 most endangered cities worldwide.²⁸ According to Greenpeace²⁹ rising sea levels could inflict US\$724bn in economic damage on seven of Asia’s major cities this decade. By 2050, the Asia-Pacific region may lose about US\$1.2trn each year in capital stock (factory plants, equipment, and other assets) due to climate-change-induced flooding alone. Some industries will be disrupted more than others. For example, by 2030, many of Asia’s current apparel and footwear factories – including over half of those in Ho Chi Minh City, Vietnam – are expected to be underwater due to their position near sea level in low-lying areas.³⁰

The map below is but one of many scenarios available depicting how sea level rise might impact the apparel industry in both Vietnam and Bangladesh.

Figure 6: Projected sea level rise in Ho Chi Minh, Vietnam by 2030

Smaller-scale suppliers sitting in the flood risk area will be most impacted by rapid increases in sea-level rise

Source: *Cornell Global Labor Institute, 2021*

Note: Blue circles represent clusters of factories with darker blue circles indicating greater factory density.

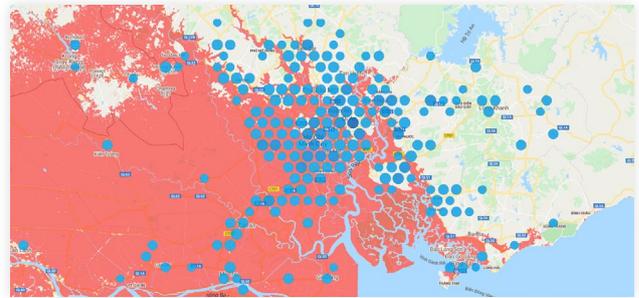
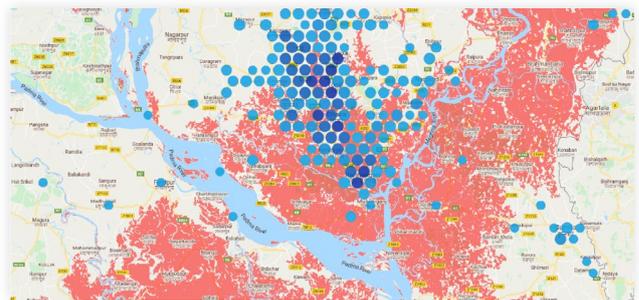


Figure 7: Projected sea level rise in Dhaka, Bangladesh by 2030

Smaller-scale suppliers sitting in the flood risk area will be most impacted by rapid increases in sea-level rise

Source: *Cornell Global Labor Institute, 2021*

Note: Blue circles represent clusters of factories with darker blue circles indicating greater factory density.



27 Estrada, B., 2019, “Working on a warmer planet: The impact of heat stress on labour productivity and decent work”. https://www.ilo.org/wcmsp5/groups/public/-/dgreports/-/dcomm/-/publ/documents/publication/wcms_711919.pdf

28 Nichols, W., 2021, “Asian Cities in Eye of Environmental Storm – Global Ranking”, Maplecroft, https://www.maplecroft.com/insights/analysis/asian-cities-in-eye-of-environmental-storm-global-ranking/#report_form_container.

29 Greenpeace, 2021, “The Projected Economic Impact of Extreme Sea-Level Rise in Seven Asian Cities in 2030”, <https://www.greenpeace.org/static/planet4-eastasia-stateless/2021/06/966e1865-gpea-asian-cites-sea-level-rise-report-200621-f-3.pdf>.

30 Judd, J. & Jackson, L., 2021, “DP 43: Repeat, Repair or Renegotiate? The Post-COVID Future of the Apparel Industry”. Better Work. <https://betterwork.org/portfolio/dp-43-repeat-repair-or-renegotiate-the-post-covid-future-of-the-apparel-industry/>.

iii. New legal risks

The increasing recognition of the links between climate and human rights is also changing the risk profile in Asia for companies and for governments. In a May 2022 report, the Philippines Commission on Human Rights argued that the world's most polluting companies have an obligation to address the harms of climate change. It found that 47 of the world's biggest coal, oil, mining and cement firms engaged in "wilful obfuscation" of climate science and that, by blocking a global transition to clean energy, such actions were "at the very least immoral." It added that these companies had arguably breached existing laws in the Philippines and might serve as the basis for legal liability in other countries.

While the report only represents a potential legal argument rather than a binding decision, it does point to the growing volume of climate litigation. Catherine Higham, policy fellow for Climate Change Laws of the World at the LSE also writes that those at the nexus of climate change and biodiversity are increasingly focussing on legal recourse to compensate for loss and damage resulting from climate change.³¹

Over 2,000 climate litigation cases have been recorded by Climate Change Laws of the World, a database operated by the Grantham Research Institute on Climate Change and the Environment and the Sabin Center for Climate Change Law. In Asia, climate litigation has been less well documented, however, although this could result from a lack of data collection on actual cases rather than a dearth of cases. "It may also be due to differences in approach, whereby cases are less explicitly focused on climate change but nonetheless may have significant impacts for climate action," adds Ms Higham.

The climate litigation that has occurred in Asia has focused on both state failures to implement policy and on companies that have committed environmentally-linked, human rights torts.³² These efforts appear to be having an effect: in 2022, IPCC recognised its impacts on "the outcome and ambition of climate governance." Ms Higham and her colleagues agree, adding that "climate litigation has been successfully used as a tool to influence governance in the absence of political action."

These lawsuits are not a silver bullet, however. It may be difficult to prove beyond reasonable doubt that these firms are liable for climate impacts, notes Mr Bueta. "Most of these groups are civil society organisations, grassroots organisations. They do not have enough resources to show initial evidence of the harm or danger they are alleging from a certain activity or project."

Ms Higham further finds that any success of climate litigation to date "doesn't mean that political action couldn't be a more effective and more efficient way of dealing with some of these issues."

Figure 8: Number of climate litigation cases (global, 1993-2021)



Source: Climate Change Laws of the World, LSE, Grantham Research Institute on Climate Change and the Environment, 2022

Even while they face a rising number of climate-related lawsuits, companies operating in Asia also need to be aware of the growth in relevant extraterritorial rules that may apply to their activities. "More states, or supranational bodies, like the EU, are thinking about how we turn what has been a set of voluntary standards and principles into mandatory regulations that apply across the board," says Ms Higham.

Two examples demonstrate this. First, the European Commission has proposed a corporate sustainability due diligence directive (CSDDD), which will require businesses to prevent, and where necessary remedy, adverse human rights impacts for which they are responsible. An ostensible exemption for suppliers with fewer than 250 employees is unlikely to leave smaller firms unaffected by the directive as larger companies will insist on having relationships only with smaller firms that prioritise sustainability. More importantly, the directive would also require companies to be more transparent about their human rights and environmental due diligence processes, and to engage with stakeholders, including employees, customers and investors, to build a more sustainable and responsible business.

The European parliament, meanwhile, approved a landmark deforestation law on 20 April 2023 to ban imports into the EU of coffee, beef, soy and other commodities if they are linked to the destruction of the world's forests, an issue that strongly overlaps with climate change. Deforestation is responsible for about 10% of global GHG emissions that drive climate change. The law will require companies that sell goods into the EU to produce a due diligence statement and "verifiable" information proving their goods were not grown on land deforested after 2020, or risk hefty fines.³³

31 See also Setzer, J. & Higham, C., 2022, "Global trends in climate change litigation", London School of Economics, <https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2022/08/Global-trends-in-climate-change-litigation-2022-snapshot.pdf>.

32 Asian Development Bank, 2020, "Climate Change, Coming Soon to a Court Near You", <https://www.adb.org/sites/default/files/publication/659631/climate-litigation-asia-pacific.pdf>

33 "Parliament adopts new law to fight global deforestation | News | European Parliament." 2023. European Parliament. <https://www.europarl.europa.eu/news/en/press-room/20230414IPR80129/parliament-adopts-new-law-to-fight-global-deforestation>.

iv. Implications of treating a healthy environment as a human right

The UN General Assembly's recognition of a clean, healthy and sustainable environment as a universal human right has strong symbolic and political value. But indeed, international jurisprudence had already been moving in this direction, even before the UNGA resolution. In October 2022, a case brought by Torres Strait Islanders claimed that the Australian government had failed to take mitigation and adaptation measures to combat the effects of climate change and had therefore failed in its duty to protect human rights. The UN Human Rights Committee agreed, finding that the Australian Government had violated islanders' rights by failing to implement adaptation measures to protect homes, private lives and families.³⁴

Complicating matters for states, efforts to mitigate climate change may also be accompanied by human rights abuses.

The Business & Human Rights Resource Centre has recorded a rise in human rights abuses in the context of renewable energy projects worldwide. Its 2021 analysis of the human rights policies and practices of 15 of the largest global renewable energy companies found "profoundly concerning" results with poor scores overall. About 200 allegations of abuse of land rights and Indigenous Peoples' rights, including displacement, violence and intimidation, have been recorded by the centre since 2010.³⁵ In Asia, the livelihoods of river and riverside communities continue to be threatened by the construction of hydroelectric projects. In the Mekong River, which runs through East and South-East Asia, some 11 dams on the main river and 120 tributary dams are planned for hydropower generation, which scientists have warned will imperil the already fragile river system and hurt communities dependent on fishing and farming.³⁶

Affected communities argue that the dams will flood their ancestral lands, threatening their livelihoods, culture and identity.³⁷ In India, large solar projects, among others, are exempt from environmental assessment and public hearings. Farmers in some regions allege that renewable energy companies are seizing agricultural lands for solar plants.³⁸ "In environmental circles, it is accepted that green projects might actually be used for green grabs of land, displacing vulnerable communities and taking advantage of marginalised sections of populations.

And, unfortunately, there hasn't been much progress in developing a good framework around it," says one climate expert in India.

34 Bouro, K., 2022, "Australia: Groundbreaking decision creates pathway for climate justice on Torres Strait Islands." *UN News*. <https://news.un.org/en/story/2022/09/1127761>.

35 Business & Human Rights Resource Centre, 2020, "Renewable Energy & Human Rights Benchmark" <https://www.business-humanrights.org/en/from-us/briefings/renewable-energy-human-rights-benchmark/>.

36 Hiebert, M., 2021, "Upstream Dams Threaten the Economy and the Security of the Mekong Region", ISEAS-Yusof Ishak Institute, <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/2021-34-upstream-dams-threaten-the-economy-and-the-security-of-the-mekong-region-by-murray-hiebert/>.

37 Vera, S. De., 2022, "Dam projects to swallow sacred grounds of Cordillera's river people", *Rappler*.

38 Business & Human Rights Resource Centre, 2021, "The Anatomy of A Solar Land Grab", https://media.business-humanrights.org/media/documents/azure-power_mikir-bamuni-grant_ffc_report_compressed.pdf.

GOVERNANCE DEFICIENCIES AND PRACTICAL PROBLEMS HOLD BACK PROGRESS

Climate change presents compelling challenges to Asia, raising concerns among all stakeholders, including the general public. Yet environmental experts and business specialists interviewed for this study believe that the urgency of the climate problem is not translating to action, with governments still slow to respond. In light of these circumstances, business leaders must play a more substantial role in driving solutions. “It is time that businesses took responsibility for the emissions they are causing and the human rights impacts they are

having on populations that are not necessarily where their businesses are located,” noted Ian Fry, Special Rapporteur on human rights and climate change.

i. Rules and action plans aplenty

Many countries in Asia have their own climate targets and strategies.

Table 1: A snapshot of climate pledges in Asia

The following list is not inclusive. In some countries a wide range of plans have been issued at national and provincial levels.

Country	Climate target	Climate strategy
Bangladesh	Conditional reduction of emissions by 2030. ³⁹ In its Nationally Determined Contributions submitted in 2021, Bangladesh committed 6.7% emissions reduction to business-as-usual (BAU) scenarios by 2030 and 15.12% conditional to receiving international support	Bangladesh’s Climate Fiscal Framework (CFF); National Adaptation Plan of Bangladesh (2023-2050); Nationally Determined Contributions 2021; Bangladesh Climate Change Strategy and Action Plan 2008; Bangladesh National Action Plan on Short-Lived Climate Pollutants (SLCPs) to identify and implement actions from 2010 to 2040.
China	Peak carbon emissions before 2030 and net zero before 2060 ⁴⁰	Long-term Low Greenhouse Gas Emission Development Strategy (2021), ⁴¹ 14th Five-Year Plan on Renewable Energy Development. ⁴²
India	Net zero by 2070	National Action Plan for Climate Change launched in 2008; the Lifestyle for Environment (LiFE) initiative launched in 2021; National Green Hydrogen Mission approved in 2022.
Indonesia	Net zero by 2060	National Action Plan for Reducing Greenhouse Gas Emissions (RAN-GRK), 2011. Indonesia is working on introducing a National Grand Energy Strategy that will integrate the targets set out in its Nationally Determined Contribution (NDC).
Malaysia	Carbon neutral as early as 2050	The National Energy Policy 2022-2040 lays out action plans for a low carbon nation. Malaysia has yet to develop a national adaptation policy or roadmap for NDC.
Mongolia	No net zero target by 2050, pledged to reduce emissions by 22.7% by 2030	Nationally Determined Contributions (NDC) 2022. National Action Plan for Climate Change 2011-2021. National Green Development Policy 2014- 2030. Sustainable Development Vision 2030.
Sri Lanka	Carbon neutral by 2050	Climate Prosperity Plan 2022
Thailand	Net zero by 2065. Under its National Determined Contributions 2022, Thailand aims to reduce GHG emissions by 20-25% below the BAU level by 2030	Climate Change Master Plan 2015-2050; Nationally Determined Contributions 2022.
Vietnam	Net zero by 2050	Vietnam’s National Adaptation Plan was approved by the Prime Minister in 2020 and is currently being reviewed to advance the process of transformative adaptation programmes in key priority areas.

39 Rahman, A., 2022, “Bangladesh didn’t promise net zero Emissions by 2050”, *The Daily Star*. <https://www.thedailystar.net/environment/natural-resources/energy/news/bangladesh-didnt-promise-net-zero-emissions-2050-3062886>.

40 Frangoul, A., 2020, “President Xi tells UN that China will be ‘carbon neutral’ within four decades”, *CNBC*, <https://www.cnbc.com/2020/09/23/china-claims-it-will-be-carbon-neutral-by-the-year-2060.html>.

41 “China” n.d., *Climate Action Tracker*, Accessed January 5, 2023, <https://climateactiontracker.org/countries/china/>.

42 <https://www.efchina.org/Blog-en/blog-20220905-en>

A growing body of securities regulations and listing requirements by privately-owned stock exchanges is also forcing greater corporate openness on environmental performance, including activities that relate to climate change. India's Securities Exchange Board, for example, has created a Business Sustainability and Responsibility Framework⁴³ for the top 1,000 listed companies. It compels transparency on, among other things, environmental and social impacts of business operations, due diligence and responsible consumption. Similarly, the Corporate Governance Code of Thailand's Securities Exchange Commission requires company boards to conduct sustainability reporting. Meanwhile, the private Singapore Exchange (SGX) now demands climate-related reporting from businesses in industries with the biggest impacts, including financial services, agriculture, forestry and energy.⁴⁴ The table below lists similar regulations and guidelines across the region.

Table 2: Key frameworks in Asia

China	Corporate social responsibility (CSR) guidelines (Shenzhen SE 2006, Shanghai SE 2008); state-owned enterprises to publish annual CSR report (2012); guidelines for Establishing a Green Financial System (2016); environmental disclosure for key emission enterprises (2017); code of corporate governance for listed companies (2018).
Hong Kong	Code of Corporate Government Practices (2005); implementation of ESG guide (2012); new Code of Corporate Governance (2013); Listed companies to follow general disclosure provision (2016); listed companies to report environmental key performance indicators (KPIs) (2017).
India	Voluntary CSR guidelines (2009); National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Businesses (2011); Securities and Exchange Board of India Circular on Business Responsibility Report (2012); The Companies Act of 2013, Companies CSR rules (2014); Listing obligations and disclosure requirements (2015), Business Responsibility and Sustainability Report (2022).
Japan	Environmental Reporting Guidelines (2003); The Tokyo Stock Exchange (TSE) Principles of Corporate Governance for Listed Companies (2004); Corporate Governance Code (2015); Enhancing Corporate Governance Code (2018).
Singapore	Code of Corporate Governance (2001); SGX Sustainability Reporting Guide (2016); Listed companies to provide sustainability report (2018).
Thailand	Guidelines for Sustainability Reporting (2010); Principles of Good Corporate Governance (2012), Corporate Governance Code (2017).

Certain states in Asia have invested in green energy, although coal power still dwarfs it. A decade or more ago, China's solar industry began to expand rapidly.

China went from 44 GW of capacity to 300 GW in six years.⁴⁵ India is also investing heavily in clean tech and its solar generation capacity has increased 50-fold since 2012, to nearly 50 GW at the end of 2021.⁴⁶

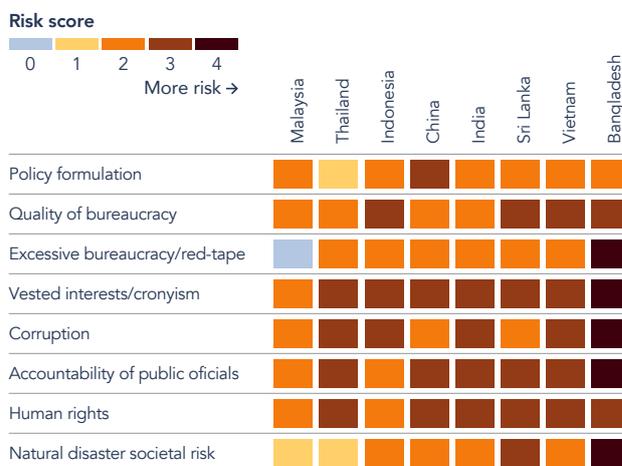
Many believe that the region can make great strides in the transition to clean, green energy, although doing so will require conscious policy choices. Sam Geall, CEO of China Dialogue Trust, noted that "many economies in South-East Asia are at a critical crossroads, where they can avoid locking in new coal infrastructure. But they need to move fast to direct finance toward new forms of electricity and energy production."

ii. Shortcomings in governance

Despite a growing number of policies and clean power projects, Asian regulators and companies still lag behind other regions in environmental metrics. According to some experts interviewed for this report, policy objectives can be complicated by cronyism, corruption and poor accountability. Weaknesses in human rights protections may also undercut the ability of civil society to call attention to gaps and abuses by business actors.

Figure 9: The factors hampering climate change efforts are manifold

Governance effectiveness risk



Source: Risk Tracker, The Economist Intelligence Unit, October 2022

In certain states, these governance deficiencies have allowed a culture of leniency towards businesses that are contravening formal human rights and environmental agreements. In some countries in Asia, Environmental Impact Assessments (EIAs) lack credibility as firms which conduct EIAs are easily influenced by powerful clients seeking to clear projects.

43 SEBI. n.d. "Business Responsibility & Sustainability Reporting Format". https://www.sebi.gov.in/sebi_data/commndocs/may-2021/Business%20responsibility%20and%20sustainability%20reporting%20by%20listed%20entitiesAnnexure1_p.PDF.

44 Allen & Gledhill, 2022. "SGX mandates climate and board diversity disclosures". <https://www.allenandgledhill.com/sg/perspectives/articles/19997/sgkh-sgx-mandates-climate-and-board-diversity-disclosures>

45 "Will India become a green superpower?" *The Economist*, 20 October 2022. <https://www.economist.com/briefing/2022/10/20/will-india-become-a-green-superpower>.

46 Ibid.

Remedying these conditions is still difficult because of the lack of civic space for dialogue. One climate and human rights expert that asked not to be named, says that his government “actively discourages” discussions on the links between human rights and climate change. This reflects a gap between the country’s international acknowledgement of the concepts and how they translate domestically. “We do not have pressure from the ground up. It is a top-down structure in every way, shape and form,” according to the respondent, adding “big corporations do not have the motivation to challenge the status quo.” The lack of support for discussions around human rights and climate change is found in many contexts in Asia but with especially worrying implications for civil society organisations (see inset box).

Still, other observers counter that gaps in climate financing and a lack of global governance mechanisms provide a stronger explanation for any shortcomings in progress. Developing countries in Asia and elsewhere face significant obstacles in attracting climate investments and higher costs of finance compared to developed economies. At the same time, advanced economies are not taking full responsibility for their historical contributions of higher per capita GHG emissions. If viewed through the lens of history and equity, the metrics may in fact demonstrate far greater shortcomings in responses to the climate crisis from advanced economies, than developing countries in Asia.

Table 3: Workers’ rights violations, Asia-Pacific

Source: *Global Rights Index, 2022, ITUC CSI IGB*⁴⁹

Right	Violation	Percentage of countries committing this violation
Right to register trade union activities	registration of unions impeded	91%
Right to strike	prosecution of union leaders for participating in strikes, dismissals for participating in strike action	87%
Right to establish and join a trade union	workers excluded from labour protections, union busting, excluded workers from the right to establish and join a trade union	87%
Right to collective bargaining	violated the right to collective bargaining	83%
Right to civil liberties	countries arrested and detained workers	83%
Right to justice	countries deny workers access to justice	70%
Right to free speech and assembly	countries restricting free speech and assembly	61%
Freedom from violent attacks on workers	workers experienced violence	43%

The Dangers of Advocacy

In many countries, poor human rights protections create an environment that “freezes” open political discussion, including around climate change and the factors driving it. In such conditions, generating public support for climate sensitive policies or remedies for climate related human rights abuses, for example, becomes nearly impossible. Marginalised communities in particular are often excluded from conversations and decision-making processes related to climate change, so the policies that do arise are unlikely to address their needs adequately.

In some Asian countries, the issue goes well beyond censorship and exclusion from policy making processes. Those opposed to land and environmental abuses by businesses, and their state patrons, face significant levels of violence. In 2021, the Business & Human Rights Resource Centre recorded approximately 400 attacks against climate, land and environmental rights activists. The Asia-Pacific and Latin American regions have consistently recorded the highest number of attacks since 2015.⁴⁷ South-East Asia has seen a notable increase in attacks against defenders. In 2021, three out of the four most dangerous Asia-Pacific countries for human rights defenders were found in that region.⁴⁸

Countries in Asia-Pacific also rank poorly on workers’ rights (see Table 3). The right to organise is largely stifled and discouraged, which is compounded by the curtailment of free speech rights across the region. Weak worker protections hamper climate action in two important ways: first they prevent advocacy for stronger environmental policies, such as clean air in the workplace; second, they can impede progress on climate action by exacerbating social and economic inequalities, as low-income communities, Indigenous Peoples and ethnic minorities are often disproportionately affected by climate change.

47 Business & Human Rights Resource Centre, 2022, “Human rights defenders under sustained attack in fight to protect our planet, new data reveals” <https://www.business-humanrights.org/en/from-us/media-centre/human-rights-defenders-under-sustained-attack-in-fight-to-protect-our-planet-new-data-reveals/>.

48 Observatory for the Protection of Human Rights Defenders (an FIDH-OMCT partnership), Protection International (PI), and the Asia Pacific Forum on Women, Law and Development (APWLD), 2021, “IN HARM’S WAY Women human rights defenders in Thailand”, https://www.fidh.org/IMG/pdf/thailand_report_-_in_harm_s_way_-_women_human_rights_defenders_in_thailand.pdf

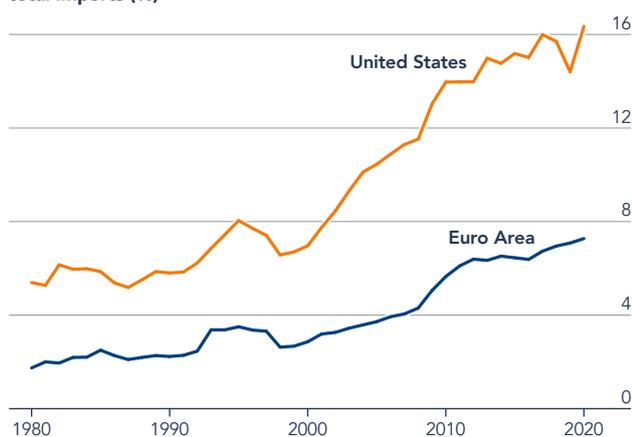
49 ITUC GRI – Asia-Pacific. 2022. Global Rights Index. <https://www.globalrightsindex.org/en/2022/regions/asia-pacific>.

iii. Practical challenges facing governments

Another fundamental barrier to more effective government efforts against climate change is shifting political will and competing policy priorities. Some leaders across the region have resisted calls to overhaul their energy and industry sectors to protect vested interests, but others have insisted that a transition to clean energy cannot come at the expense of poverty eradication, access to energy, and other development imperatives. These arguments have been made most compellingly by countries with lower per capita incomes and historically lower energy consumption and emissions rates than industrialised nations. They note that advanced economies have cumulatively produced and benefited from emissions that created climate change and therefore bear a disproportionate burden to rectify the problem. Indeed, the idea of “common but differentiated responsibilities” between advanced and developing countries, has been a principle at the heart of climate negotiations since the first Conference of the Parties (COP1) in Berlin in 1995. Developing countries also point to “climate hypocrisy”, where the developed, industrialised “West” continues to benefit from cheap Asian goods despite the use of coal in their production.

Furthermore, climate finance and access to new technologies, critical factors in reducing GHG emissions, remains out of reach for many governments in Asia despite pledges by advanced economies to do more. Until this circumstance changes, progress on climate mitigation efforts by governments in Asia can only be expected to go so far.

Figure 10: Imports from developing Asian countries, as a share of total imports (%)



Source: International Monetary Fund DOTS ⁵⁰

Thus, efforts to “decarbonise” power production over the next decade will need to occur in the context of providing energy security amid the world’s greatest forecast growth in electricity consumption.⁵¹ One driver of this growth is the collective aspirations of over a billion people to achieve a better standard of living. Currently, about 1.5bn people in Asia do not have access to electricity⁵² and nearly as many also rely on unclean fuel for cooking – such as wood – a practice that harms both the broader environment and shortens the life expectancy of the families who rely on it.⁵³

Changing the region’s reliance on fossil fuels will therefore be expensive, with costs going well beyond those of new facilities to produce renewables. An Economist Impact survey of businesses found that integrating intermittent renewable energy into traditional, incompatible grid structures is a major bottleneck in the transition to clean energy.⁵⁴ Vietnam, for example, has had some success in increasing renewable energy generation, but its National Load Dispatch Centre reported in 2021 that it had insufficient input facilities to transfer this green energy to the grid.

Governments genuinely interested in addressing climate change and enacting good regulation also frequently face a shortage of resources, capacity and technical expertise to guide businesses and monitor their activities. “There’s the issue of laws not being stringent enough to deter companies from not complying,” says Mr Bueta. “There’s also the challenge of enforcement that requires technical and resource capacity of the government to actually carry out the inspections, review the data and make sense of all the company reports [either] to understand whether they are properly complying [or] to be able to shape new policies,” he adds. Joseph D’Cruz, CEO at the Roundtable on Sustainable Palm Oil (RSPO), nevertheless identifies government action as a key driver of change: “Government sets the minimum standards with which all companies need to comply. If governments progressively introduce stronger regulations and stronger enforcement on these issues, businesses will adapt as they do to any government regulation that comes in.”

iv. Practical challenges facing small business

Large transnational companies are familiar with environmental, social and governance (ESG) performance requirements including those related to carbon emissions and climate change. Even big businesses, however,

50 IMF, N.D., “Data Home Page”, <https://data.imf.org>

51 Economist Intelligence Unit, 2022, “Asia’s energy transition: a tough balancing act”, <https://www.eiu.com/n/asia-energy-transition-a-tough-balancing-act/>.

52 Tracking SDG 7 | The Energy Progress Report, <https://trackingsdg7.esmap.org/>, Accessed 15 November 2022.

53 International Energy Agency (IEA), n.d., “SDG7: Data and Projections – Access to clean cooking”, <https://www.iea.org/reports/sdg7-data-and-projections/access-to-clean-cooking>.

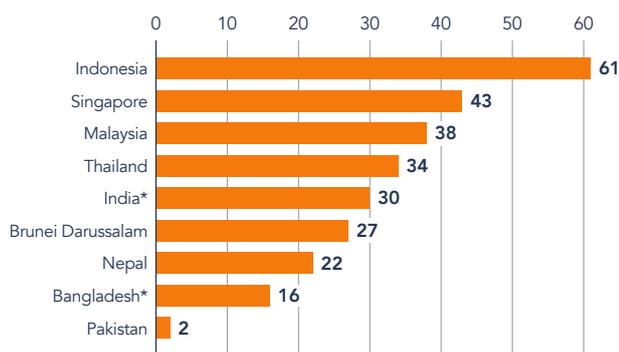
54 Economist Impact, 2022, “Accelerating the energy transition.” <https://impact.economist.com/sustainability/net-zero-and-energy/accelerating-the-energy-transition-apac>.

find the task challenging, with the quality of disclosures often lower than desirable.⁵⁵ In much of Asia, gathering and analysing data for this reporting remains difficult, particularly for small and medium-sized enterprises.

“When you take the full stack of principles and criteria, the requirements in terms of process, the cost involved in going through certification and annual audits, this is quite a high bar for many small companies,” says Mr D’Cruz. “It is a lot harder for [the ones] in less-developed countries with less-developed infrastructure to meet these standards, even if they want to.”

But it is also not impossible: 259 Asian SMEs are participating in the Science-based Targets Initiative (SBTi), a voluntary framework that provides a clear path to reduce emissions in line with the Paris agreement. Still, there is a long way to go. The region is home to 186m SMEs, all of which may find it harder to access the financing necessary for climate monitoring investments.⁵⁶ Bringing SMEs into efforts to mitigate climate change remains a huge task.⁵⁷

Figure 11: Micro, small and medium enterprises’ (MSMEs) contribution to GDP (%) in Asia, latest available year⁵⁸



Notes: End-of-year data except * fiscal year data (ended 30 June in Bangladesh and 31 March in India). For Malaysia, real GDP data. For Singapore, nominal value added of SMEs. For Bangladesh, contribution of cottage and small enterprises to manufacturing gross value added. For Nepal, data cited from the 2019 NRB Report. For Pakistan, small manufacturing contribution to GDP.

Source: 2021 ADB Asia Small and Medium-Sized Enterprise Monitor Volume 1 Country and Regional Reviews.⁵⁹

55 CFA Institute, 2019, “ESG Disclosures in Asia Pacific”, <https://www.cfainstitute.org/-/media/documents/article/position-paper/esg-disclosures-apac.pdf>

56 IMF, 2019, “Financial Inclusion of Small and Medium-Sized Enterprises in the Middle East and Central Asia” <https://www.imf.org/-/media/Files/Publications/DP/2019/English/FISFMECAEA.ashx>

57 ISEAS-Yusof Ishak Institute, 2020, “The Missing (Small) Businesses of Southeast Asia” https://www.iseas.edu.sg/wp-content/uploads/2020/06/ISEAS_Perspective_2020_79.pdf.

58 Asian Development Bank, 2021, “Small and Medium-Sized Enterprise Monitor Volume 1: Country and Regional Reviews”, <https://data.adb.org/dataset/asia-small-and-medium-sized-enterprise-monitor-2021-volume-1-country-and-regional-reviews>

59 Asian Development Bank, 2021, “Small and Medium-Sized Enterprise Monitor Volume 1: Country and Regional Reviews”. <https://data.adb.org/dataset/asia-small-and-medium-sized-enterprise-monitor-2021-volume-1-country-and-regional-reviews>

STEPS TOWARD ADDRESSING CLIMATE-CHANGE-RELATED HUMAN RIGHTS IMPACTS

The world urgently needs to both reduce GHG emissions to prevent the impacts of climate change from worsening, and to adapt to climate change impacts including sea-level rise and extreme weather. Yet, effective responses to mitigate and adapt must be anchored in international human rights and environmental standards so as not to adversely affect vulnerable individuals and communities. Without a rights and justice-based approach, efforts may fail from a lack of support from the actual communities on the ground who will be affected. Both the public and private sectors have an essential role to play, as articulated by the UNGPs. The following recommendations draw on both those principles and the research for this study.

i. Considerations for government officials

Where should governments with the requisite political will to act begin?

First are policy considerations. Officials need to review policies, procedures and laws – both national and sub-national – regularly to ensure that they are aligned with relevant human rights and climate treaties or any higher standards set by national constitutional law. Of particular relevance here, governments should also consider translating the UNGA Resolution recognising the right to a clean, healthy and sustainable environment into their legislative frameworks and national policy instruments.

Furthermore, states should include references to the right to a healthy environment into national action plans (NAPs) on Business and Human Rights. Embedding these rights into NAPs would help ensure that they are entrenched in policy decisions at the domestic and transnational levels. States might also leverage NAPs to ensure greater coordination between government ministries to act on climate change and climate change-related human rights impacts. When negotiating trade and investment agreements, states should also ensure adequate policy space to take climate action, including phasing out of fossil fuels, promoting environmentally friendly procurement policies, and increasing efficiency standards on machinery and other goods.

The ways that policy decisions are made and enacted also need attention so that they are consistent with a human-rights-based approach. For example, mitigation and adaptation decisions and efforts must, where relevant, incorporate the knowledge of Indigenous Peoples and obtain their consent. In 2009, the United Nations Human Rights Council recognised self-determination as one of the human rights most affected by climate change. The rights of Indigenous Peoples to participate in decision-making and to be consulted on matters that may affect them are the cornerstones of Convention No. 169 and are also central to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In Asia, recognition and enforcement lead by example. SOEs currently produce a significant share of energy-related carbon emissions. In China, SOEs contribute about half of all carbon emissions. There is another compelling reason to encourage and prioritise SOEs in decarbonisation plans. As the UNGPs make clear, an abuse by a firm affiliated with the state could manifest as a violation of the state's own obligations under international law.

Beyond SOEs, states act as important economic actors through government procurement. This activity on its own typically represents 13% of GDP in countries, whatever their level of development.⁶⁰ Governments should thus align their own purchases of goods and services with sustainability net zero goals. This could involve, for example, awarding contracts to companies that reduce carbon emissions consistent with national plans and targets. Such a strategy is not necessarily straightforward, however, and effective results require suppliers who can gather the relevant data and use specific approaches.⁶¹ Nevertheless, Green Public Procurement programmes in Europe provide useful templates.⁶² Moreover, in Asia, Bangladesh, Indonesia, Japan, Malaysia, the Philippines, Singapore and Sri Lanka are already committed, through signing of the Helsinki Principles, to “take climate change into account in... procurement processes”.⁶³

States may also wish to consider financial levers to advance the goal of climate change mitigation and adaptation, such as providing financing to accelerate the retirement of coal plants or grants for communities and workers financially hurt by the energy transition. Such spending could even be funded by profits from carbon pricing.

60 Bosio, E & Djankov, S., 2020, “How large is public procurement?” World Bank Blogs. <https://blogs.worldbank.org/developmenttalk/how-large-public-procurement>.

61 Halonen, K. M., 2021, “Is public procurement fit for reaching sustainability goals? A law and economics approach to green public procurement”, *Maastricht Journal of European and Comparative Law*, 28(4), 535–555. <https://doi.org/10.1177/1023263X211016756>; NYU Stern. 2019. “Sustainable Procurement Barometer 2019.” <https://www.stern.nyu.edu/sites/default/files/assets/documents/2019-sustainable-procurement-barometer-from-compliance-to-performance.pdf>.

62 Sapir, A., Schraepen, T., & Tagliapietra, S., 2022, “Green Public Procurement: A Neglected Tool in the European Green Deal Toolbox?” *Intereconomics*, <https://www.intereconomics.eu/contents/year/2022/number/3/article/green-public-procurement-a-neglected-tool-in-the-european-green-deal-toolbox.html>.

63 “Helsinki Principles | Coalition of Finance Ministers.” n.d. Coalition of Finance Ministers for Climate Action. <https://www.financeministersforclimate.org/helsinki-principles>.

But however funded, governments still need to find ways to “upskill” or “re-skill” stakeholders affected by the transition including youths as well as highly impacted blue-collar or low-skilled workers.

States will also need to consider the best ways to use business regulation and policy to encourage the corporate sector’s role. Important points that all governments should keep in mind in this area:

- + States have an obligation to hold businesses accountable for climate change-related human rights abuses. Furthermore, they should ensure that environmental and human rights defenders face no threats, harassment or reprisals for their work.
- + States should regulate with an overarching goal in mind, such as insisting that corporate strategies are compatible with limiting global warming to 1.5 degrees Celsius. Energy intensity benchmarks for some industries can help achieve this.
- + States should provide effective guidance to business enterprises on how to respect human rights throughout their operations. A commitment to climate action must be reflected in business policies, processes and governance structures to better prevent, mitigate and account for adverse human rights impacts.
- + States should consider the place of mandatory human rights and environmental due diligence (HREDD) laws in their corporate legal frameworks. HREDD would require businesses to conduct assessments, develop mitigation strategies, and disclose practices and findings, taking into consideration both their operations and those of their supply chain partners.
- + Securities regulators might tighten non-financial reporting requirements to ensure listed companies publish the results of their HREDD efforts, and any progress toward science-based greenhouse gas reduction plans.
- + Directors are key to shaping corporate strategy and behaviour. States might consider reforming corporate laws to ensure one or more directors are given the tools and made responsible for leading on climate and human rights decision-making processes.
- + States can reduce barriers to compliance by providing support to SMEs with the goal of preventing and addressing human rights abuses in their operations and learning how best to benefit from a new era of green energy.
- + Where a supplier fails to comply with climate change and human rights-related expectations, governments might establish rules to ensure buyer companies employ responsible exit practices from non-compliant companies. Ideally, the rules would include mandatory disclosures of sustainability information from business partners, and an early warning system for those not in compliance with expectations. Some policy experts

suggest that a contracted grace period could be implemented where non-compliance is discovered among suppliers to encourage them to act upon findings, track responses and mitigate adverse human rights impacts.

- + Governments need to ensure integrity in auditing practices and benchmarking indices, and otherwise hold self-regulating efforts up to greater scrutiny. The current profusion of auditing practices and imprecise ratings benchmarks is causing confusion⁶⁴ and contributing to transparency gaps, according to business leaders and industry experts. Auditors also need to be able to act independently, including being equipped with the expertise and skills to ensure the data collected is accurate and verifiable. Auditors should be held liable in criminal and civil courts for falsified or misleading reports.

Yet, simply enacting more rules and policies will not be enough. Governments should build up their enforcement and monitoring capacities. A more diligent approach serves not only as a helpful deterrent for any potential future abuses, but to further ensure that businesses remedy any abuses committed.

ii. Considerations for corporate executives

Where should leaders focus company efforts, especially in weak, or weakly-enforced, regulatory environments?

- + To begin with, businesses should ensure corporate policy documents commit to mitigate their GHG emissions, and address climate-related human rights risks and impacts. These statements should also be made publicly available, and be informed by inputs from a variety of stakeholders.
- + Businesses should conduct HREDD to help identify, prevent and mitigate potential adverse impacts on human rights related to their operations and supply chains, including those risks that may arise from the effects of climate change. Assessments should include a mapping of human rights risks in supply chains, complemented by the disclosure of scope 1, 2 and 3 emissions. Companies should also integrate climate change and human rights considerations into their procurement policies and practices. Impact assessments and due diligence processes should be conducted regularly and policies should be reviewed and updated periodically.
- + Executives should also be prepared to communicate where adverse human rights and environmental abuses have been identified and their firms be ready to remedy them. This information should be easily understood,

64 Kuruvilla, S., et al, 2020, “Field opacity and practice-outcome decoupling: private regulation of labour standards in global supply chains”, *Industrial and Labour Relations Review*, 73(4):841-872.

accessible and shared with the government, affected stakeholders and internal, company stakeholders. Any communication on these efforts should detail the effectiveness of the responses taken.

- + Business should further enhance or establish operational level grievance mechanisms to provide effective remedy for adverse climate change-related human rights impacts. This should include a willingness not to fall back on defamation laws to silence rights defenders.

Efforts to reduce GHG emissions and address climate-related human rights impacts, as listed above, should also include support to suppliers with the technical skills and financial support that they need to adapt.

“There needs to be additional incentives for smaller players to comply. How can we share the burden of producing palm oil in a responsible manner across the entire value chain? How can more of the fast-moving consumer goods brands, the retailers, get involved and share the resources needed to implement sustainable practices?” offers Rashid Anwarudin, chief sustainability officer of Sime Darby Plantation Berhad (SPD).

Due diligence and compliance measures do come with a significant price tag and compliance will take time to gain a toehold in value chains. “If you’re a small producer who’s selling to an independent mill, your costs of complying are going to be huge. Because somehow, somebody has to build a supply chain traceability mechanism that allows your sustainably produced oil palm to be tracked and traced and documented all the way through the supply chain,” says Mr D’Cruz.

Larger, better resourced businesses should therefore assist smaller suppliers with compliance matters to ensure that a second-tier market does not emerge, one made up of companies willing to ignore standards and under-price competitors that act responsibly. “The real dilemma is that the industry is producing more sustainable palm oil than buyers are willing to pay for,” argues Mr D’Cruz.

iii. Industry observations on climate change and supply chains

Going into further detail is difficult as the challenges facing companies, and the ideal responses, very much depend on the specific conditions in which these companies find themselves. Accordingly, we now take a closer look at several industries – apparel and garments, palm oil and paper, as well as mining – to look for the lessons which they might provide.

a. Spotlight on the garment industry

Asia is the centre of global garment production, an industry which epitomises the variety of climate change challenges facing companies in the region and the range of responses that might be employed. The textile and clothing industry is one of the world’s biggest polluters and is a major source of global emissions due to energy-intensive production methods and lengthy supply chains.⁶⁵

Climate change also creates various risks for the sector. Heat stress, for example, will affect the quality of working conditions across the region, in particular for the 75% of workers who are female, according to the ILO.⁶⁶ Also, as noted earlier, many of the factories on which the industry currently relies are susceptible to flooding in the near future.⁶⁷

Corporate mitigation and adaptation efforts in the face of such challenges are mixed. The clearest divide is between small manufacturers and large apparel retailers. The former are largely failing to act, according to research by Cornell University’s Global Labour Institute. Most firms sit outside the scope of scrutiny, an issue exacerbated by the growth of online retail, says Jason Judd, the institute’s executive director. “There is a sub-industry producing for brands that gets no scrutiny and which we have never heard of. There is a whole world of production out there totally untouched by private regulation,” he says.

Even large retail brands are failing to act on some issues. There is no evidence, for example, of plans to mitigate possible large-scale employment and income losses from sea-level changes. There is also scant evidence of efforts to reduce climate-related, pastureland degradation or to improve climate adaptation capacities of upstream suppliers of products like cashmere.

Nevertheless, for the many large apparel companies which buy products from, or produce in, Asia, driving

65 Filho, W. L., et al, 2022, “An overview of the contribution of the textiles sector to climate change” <https://doi.org/10.3389/fenvs.2022.973102>

66 International Labour Organisation, 2021, “Moving the needle: Gender equality and decent work in Asia’s garment sector Regional Road Map”, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_793065.pdf

67 Judd, J. & Jackson, L., 2021, “DP 43: Repeat, Repair or Renegotiate? The Post-COVID Future of the Apparel Industry”. Better Work. <https://betterwork.org/portfolio/dp-43-repeat-repair-or-renegotiate-the-post-covid-future-of-the-apparel-industry/>.

down carbon emissions within supply chains is often near the top of the agenda. For them priorities include increasing the proportion of recycled materials in their garments, reducing plastic packaging and finding manufacturing efficiencies to drive down energy demands.

For instance, “fast-fashion” retailer H&M maintains that the substantial attention that it pays to climate change reflects consumer demand that clothing producers “green” their operations.

This requires attention to the entire supply chain. “We have an energy problem in our industry—energy efficiency is top of every list in order to achieve the emissions reductions needed,” says Kim Hellström, green investment project manager at H&M. “That is where we have the biggest impact from the climate perspective,” he says.

Energy reduction is ultimately within the control of individual companies, although, as alluded to earlier, broader decarbonisation of the garment sector will be difficult, as government monopolies over power production rely heavily on fossil fuels. Secure power purchasing agreements (PPAs) from green energy producers would be a way out, but are unavailable in most markets where clothing manufacturers operate.

b. Spotlight on the palm oil and paper industries

Practices in some agribusiness sub-sectors pose major climate change challenges, given the scale and the inaccessibility of plantations across Asia. Indonesia and Malaysia are the world’s top two producers of palm oil.⁶⁸ Palm oil is found in nearly half of all supermarket products. The EU plans to phase out palm-oil based fuels by 2030 because of perceived links to deforestation.⁶⁹ The pulp and paper industry has also reportedly had significant adverse impacts on high-conservation-value forests and species, notably in Indonesia.

But European and US consumer markets are increasingly scrutinising value chains for environmental and human rights abuses, and smaller suppliers face the risk of being cut off if they fail to comply. In the pulp and paper industry, the APRIL Group is one of the world’s largest producers of fibre, pulp and paper. Its president, Praveen Singhavi, says that all fibre supplied to mills is subjected to a rigorous due diligence process before and during the supplier’s contract term to ensure compliance with the firm’s sustainability policy as well as with international and national regulations.

“We view our suppliers and contractors as our growth partners, and actively support them by providing the

necessary assistance to help them meet our sustainability standards. This includes cooperating closely with them to ensure that responsible sourcing is practised systematically throughout our supply chain”, he says. This can involve actively supporting suppliers to reach higher levels of compliance, he adds.

The company also uses satellite and drone technology, and conducts direct observation, to monitor land cover change to detect cases of deforestation.

Looking at palm oil, some larger firms have taken a blunt approach, removing suppliers from value chains for violations in production. Confectioner, Mars, announced in 2020⁷⁰ that it would slash the number of palm mills in its supply chain from 1,500 to less than 100, and halved its supply base again in 2022. The aim has been to weed out unsustainable practices, dropping mills that do not meet its standards. While some green groups welcomed the move, they also recognised the risk of smallholders being left behind, continuing with unsustainable and harmful practices and selling to global buyers with fewer scruples on forest protection and human rights.

Sime Darby Plantation Berhad (SDP) has gone a different route. “Our approach is inclusive,” explains Mr Anwarudin, the company’s chief sustainability officer. “We need to constantly engage with suppliers and give them every chance to comply with requirements.”

The Roundtable on Sustainable Palm Oil (RSPO), the industry watchdog for palm oil growers, buyers, investors and non-governmental organisations (NGOs), has adopted stricter guidelines for palm oil production, including a ban on cutting down forests and using carbon-rich peatlands for plantations. SDP, a member since 2004, is the world’s largest producer of RSPO certified sustainable palm oil.⁷¹ However, goods produced by SDP were blocked by US Customs and Border Protection in December 2020, over suspected abusive labour practices. In February 2023, US customs authorities lifted the two-year import ban on palm oil products made by the firm after determining the goods were no longer produced with forced labour. SDP, and its subsidiaries and joint ventures, is among six entities that have been subjected to import bans by the US in the past four years over forced labour allegations.

Other firms have publicly said that they are struggling to bring the practices of smallholders and suppliers into line with ILO requirements as well, arguing that there is pushback due to the cost of compliance.⁷² Industry leaders and governance specialists are divided in how to approach this, but they generally agree that unless suppliers can comply and still make a profit, attempts to make compliance easier will fail.

68 deLaHamaide, Sybille, and Krishna C. Eluri. 2022. “EU palm oil use and imports seen plummeting by 2032.” Reuters. <https://www.reuters.com/markets/commodities/eu-palm-oil-use-imports-seen-plummeting-by-2032-2022-12-08/>.

69 Ibid.

70 Mars, Inc., 2020, “Mars Palm Positive Plan Delivers Deforestation-Free Palm Oil Supply Chain” <https://www.mars.com/news-and-stories/press-releases/mars-palm-positive-plan>.

71 “Sime Darby Plantation.” Sustainable Palm Oil Choice. <https://www.sustainablepalmoilchoice.eu/participant/sime-darby-plantation/>.

“The system is struggling [to get suppliers to comply] because it’s a system that, at the end of the day, is based on profits, which don’t account for the full, real value of commodities,” argues Stefano Savi, director at Global Platform for Sustainable Natural Rubber. “The most effective lever [for change] is businesses working to monetise negative externalities and realising that this has an impact on the bottom line.”

c. Spotlight on critical minerals and the mining industry

With the growth in battery technology, global demand for rare-earth minerals is expected to quadruple by 2040, according to the International Energy Agency (IEA).⁷² China produces 85% of these, which are used extensively in renewable-energy applications such as wind turbines. It is also the main producer of minerals used for solar power, and graphite used in fuel cells and batteries.

Mining companies have long faced accusations of human rights abuses and environmental degradation. According to the Business & Human Rights Resource Centre, allegations of abuses in this sector over the past 15 years include: displacement of communities; adverse impacts on land, water and housing; chemical pollution leading to the loss of important biological species in ecologically important areas, depletion of ground water resources; poor reclamation; denial of freedom of expression and association; child labour; and physical attacks on human rights defenders, including killings. Nearly 500 allegations are related to the extraction of “transition minerals” (2010-2020),⁷⁴ with a third of those involving alleged attacks on human rights defenders.

While vital for the energy transition, the mining of these key metals is a significant contributor to climate change. Mining transitional minerals has a higher GHG emission intensity than bulk metals and can impact land cover, harm biodiversity, and displace communities. Mining and mineral processing is also water intensive and poses contamination risks through acid mine drainage, wastewater discharge and tailing disposal, with the potential to cause large-scale environmental hazards.

The mining industry needs to transition to clean energy and to implement measures to reduce their impact on the environment. Within mining, scope 1 and 2 emissions

in a firm’s immediate operations account for 4% to 7% of global GHG emissions, which can rise as high as 28% when taking scope 3 emissions into account.⁷⁵

When developing mining projects, extractive industries must also ensure free, prior and informed consent in their negotiations with Indigenous Peoples and local communities. Extensive studies have documented the ongoing struggles local groups and communities face in participating effectively in decision-making.^{76,77,78} Some Asian markets have adopted legal provisions that recognise indigenous lands, territories and resources, and traditional tenure systems, but their implementation tends to be hampered by “complex administrative procedures, uncoordinated and understaffed authorities, corruption and contradictory sectoral legislation on land use,” according to a report by OHCHR.⁷⁹ For example, the Indigenous Peoples’ Rights Act of 1997 in the Philippines is considered one of the most advanced pieces of legislation in the region. However, OHCHR cites “serious concerns” over land titling processes for Indigenous Peoples and incidents of “manipulation of free, prior and informed consent processes” related to mining and dam construction projects, in indigenous territories.

72 Ho, S., 2022, “RSPO chief on why it pushed oil palm giant Sime Darby to submit ‘action plan’ on alleged labour violations,” Eco-Business.com. <https://www.eco-business.com/news/rsपो-chief-on-why-it-pushed-oil-palm-giant-sime-darby-to-submit-action-plan-on-alleged-labour-violations/>.

73 IEA, 2021, “Critical minerals – Topics”, <https://www.iea.org/topics/critical-minerals>.

74 Business & Human Rights Resource Centre, n.d., “Transition Minerals Tracker”, <https://www.business-humanrights.org/en/from-us/transition-minerals-tracker/>.

75 Skidmore, Z., 2021, “How scope 3 emissions pose the biggest threat to net-zero ambitions”, *Mining Technology*, 27 September 2021, <https://www.mining-technology.com/features/cop26-scope3-net-zero/>.

76 Fernandez, H., and Albay, R., 2022, “New mines, old problems – Special report on mining energy transition metals in Southeast Asia I News”, Eco-Business.com. <https://www.eco-business.com/news/new-mines-old-problems-special-report-on-mining-energy-transition-metals-in-southeast-asia/>.

77 Walsh, B., Van der Plank, S., Behrens, P., 2017, “The effect of community consultation on perceptions of a proposed mine: A case study from southeast Australia” <https://www.sciencedirect.com/science/article/pii/S0301420716301660>.

78 White & Case LLP, 2022, “Supreme Court of Justice withdraws mining concessions for lack of community consultations.” <https://www.whitecase.com/insight-alert/supreme-court-justice-withdraws-mining-concessions-lack-community-consultations>.

79 United Nations General Assembly Human Rights Council, 2022, “Regional consultation on the rights of indigenous peoples in Asia.” <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/193/69/PDF/G2019369.pdf?OpenElement>.

THE PATH FORWARD

Asia is now the epicentre of concern over climate change and its impacts. As both the world's largest contributor to GHGs and as the region most vulnerable to climate impacts, Asian governments and business leaders must take action as both a human rights and economic imperative.

Nevertheless, as this study has found:

- + Asia's GHG emissions are almost certain to increase. Many countries across the region continue to rely on coal for power. This will likely still be the case for the next 10 years. The lack of political will to fully embrace clean energy and responsible business practices is informed, in part, by the high costs of the green transition. Financing this transition will be required from multiple sources and regions.
- + The continent will continue to incur a steep price in human and economic costs from climate change, as well as environmental pollution. The increase in the frequency and severity of climate-related hazards poses significant and, without adaptation, persistent, risks to life's essentials: the right to food, water and sanitation, health and housing. The impacts on workers, their families, vulnerable groups and economies will grow increasingly severe. These facts need to be reflected in government policies and budgets. Businesses need also to consider more deliberately, the risks climate change poses to people and the bottom line.
- + Third, despite the urgency to address climate impacts, weak governance continues to undercut meaningful climate action in many countries within the region. Corruption, poor accountability and weak human rights protections will hamper better oversight of environmental rights abuses. Governments must address these shortcomings, and work toward translating the right to a clean, healthy and sustainable environment into national policy instruments and domestic law. Further, states should mandate new compliance measures, while also using the public purse to promote carbon mitigation and adaptation.

- + As outlined in this report, commercial endeavours have directly or indirectly resulted in climate degradation, the loss of biodiversity, the erosion of workers' rights, instances of forced and child labour, as well as the tragic targeting and harm of environmental and human rights advocates. The region of South-East Asia has witnessed a particularly alarming surge in attacks against these defenders. Businesses would do well to respect the work of rights defenders and put human rights considerations at the centre of their risk mitigation strategies.
- + Businesses are looking to policymakers to provide effective guidance on how to respect human rights throughout their operations. States should consider the place of mandatory HREDD laws in their corporate legal frameworks to provide protective guardrails for human rights and the environment. Governments could help to ensure that the integrity of auditing practices and benchmarking indices is not compromised, including the verification of third-party auditors. While businesses should adopt HREDD, regardless of the rules in place where they and their commercial partners operate. The process would allow companies to efficiently identify, prevent, mitigate and account for the negative impacts of their activities or those of their subsidiaries, subcontractors, and suppliers.

The UNGPs and other globally recognised frameworks can help governments and businesses, both jointly and severally, address the challenges posed by climate change. Experts interviewed in the course of our research stressed the utility of the role that businesses are currently playing in climate change mitigation and adaptation actions, including within the garment, palm oil, paper, and mining sectors. Each of these industries illustrates how corporate sustainability practices are evolving and addressing barriers in different ways. In time, a critical mass of actors will rethink and reengineer their operations to reduce their GHG footprints. As a result, we may just be able to overcome the global climate change challenge, and enjoy a world where economic growth and the full range of our human rights are enjoyed in equal measure.

