

# LAWYERS RESPONDING TO CLIMATE CHANGE

# **Just Transition Explainer**

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## What is "just transition"?

This concept appears in the preamble of the Paris Agreement, which refers to the need to take into account "the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities". Despite this inclusion, and the fact that the term increasingly appears in decisions of the parties under the international climate change regime, it does not have an agreed definition within the regime.

Still within this context, the concept is often accompanied by language that ties it to states' internal priorities. For some, this situates just transition as something happening at the national level. Others argue for it to include the cross-border effects of climate measures and the need for developed countries to support developing countries in respect of their just transition measures. Further detail of its potential links to equity and the principle of common but differentiated responsibilities and respective capabilities is provided in Vilja Johansson's article "Just Transition as an Evolving Concept in International Climate Law".[1]

# **Existing definitions**

For the International Labour Organisation (ILO) the 'just transition' means greening the economy in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities for all, social inclusion and eradicating poverty.[2]

Following a request by the UNFCCC subsidiary bodies (the SBSTA for scientific and technological advice and the SBI for implementation; together, the SBs), the UNFCCC secretariat published a <u>technical paper</u> on a just transition of the workforce, and the creation of decent work and quality jobs in October 2016. Its objective was to 'assist Parties in the process of just transition of their national workforces'. The paper builds on the ILO understanding and highlights the positive and negative impacts on employment that a global transition towards a low-carbon and sustainable economy will have. It states that the transition towards an inclusive green economy must be "just and fair, maximizing opportunities for economic prosperity, social justice, rights and social protection for all, leaving no one behind".

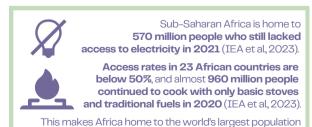
The European Bank for Reconstruction and Development (EBRD), the Organisation for Economic Co-operation and Development (OECD), many trade unions and employers' organisations use broadly the same narratives: while shifts away from carbon-intensive production and consumption towards renewable energy sources are expected to generate net gains in employment, there are people who will lose their jobs and livelihoods.

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As the above examples show, the perception of a 'just transition' is heavily influenced by the political discourse and economic priorities of the Global North, which focus on the reduction of greenhouse gases through low carbon sources of energy and deployment of technology. As a result, just transition is often referred to in the context of energy needs in industrialised countries, their labour market structures and the capacity for activities and skills required in a future, greener economy.

These priorities do not always correspond to the demands and realities of developing countries. For many low- or middle-income developing countries, basic access to energy and other vital services is still a development priority and their source and origin a secondary concern. As part of their just transition to a greener economy, many will have to use conventional sources of energy before they can switch to renewables.

For instance, a joint report by the International Energy Agency and others identifies that Sub-Saharan Africa is highly energy intensive (meaning the cost of converting energy into GDP is high), and access to electricity remains a major barrier to socioeconomic development in the region, where more than 80% of the global population lacking access to electricity lived in 2021.[3]



without universal access to modern energy.

[1] Vilja Johansson, Just Transition as an Evolving Concept in International Climate Law, Journal of Environmental Law, Volume 35, Issue 2, July 2023, Pages 229-249, https://doi.org/10.1093/jel/eqad017

[2] The ILO's seven principles for just transitions, adopted at the Tripartite Meeting on Sustainable Development, Decent Work, and Green Jobs in Geneva, are documented in ILO GB.325/POL/3 (Oct 2015). https://t.ly/mURpy

[3] IEA, IRENA, UNSD, World Bank, WHO. 2023. Tracking SDG 7: The Energy Progress Report. World Bank, Washington DC.

In this context, some argue that a just transition may be better described as socio-economic changes that are implemented in a way that addresses existing disparities and avoids creating new ones.[4]

Others go further. While some industrialised countries promote progressive climate policies and a greener national economy, they remain importers of cheap fossil fuels from developing countries where the local population suffers from the related social and environmental impacts. As a result, some campaigning and advocacy organisations hold that a just transition needs to remedy current and past harm through reparation or other tools to create different industrial - or in general power - relationships for the future.

Finally, some fundamentally question the current market-based economic system, promote new approaches to organise production and consumption cycles, and focus on just transition as a process that represents a host of <u>strategies to enable communities to build thriving economies</u> which create dignified, productive and ecologically sustainable livelihoods, and democratic decision-making processes as well as ecological resilience.[5]

# Just transition in the climate negotiations

Just transition has been addressed in the UNFCCC process, and subsequently since the adoption of the Paris Agreement, including:

COP decision 1/CP.16 recognised that "addressing climate change requires a paradigm shift towards building a low-carbon society... while ensuring a just transition of the workforce that creates decent work and quality jobs"; and recognised "the importance of... promoting a just transition of the workforce, the creation of decent work and quality jobs in accordance with nationally defined development priorities and strategies..."

A work programme on the impact of the implementation of response measures was adopted (Decision 8/CP.17). One of its focus areas was the "just transition of the workforce, and the creation of decent work and quality jobs".

In June, the Subsidiary Bodies held a workshop on this area of the work programme (see report FCCC/SB/2013/INF.10).

# 2015 | Adoption of the Paris Agreement

Decision 11/CP.21: Parties agreed to improve the existing forum on the impact of the implementation of response measures and adopted a new work programme comprising two areas of:

- (i) economic diversification and transformation and; (ii) just transition of the workforce, and the creation
- of decent work and quality jobs.

Decision 7/CMA.1: Parties adopted the forum's revised 6-year work programme which includes the existing two areas of the work programme and two new ones.

A political declaration titled the "Solidarity and Just Transition Silesia Declaration" was adopted by some countries. The declaration stresses the importance of a just transition of the workforce and creation of quality jobs to ensure an inclusive transition.

The UN and the ILO launched their Climate Action for Jobs Initiative - designed to support countries in implementing their national climate action commitments, while ensuring that jobs, well-being and a just transition remain at the heart of climate responses.[6]

Decisions 1/CMA.3, 1/CMP.16, 1/CP.26: Parties recognised "the need to ensure just transitions that promote sustainable development and eradication of poverty, and the creation of decent work and quality jobs... including through deployment and transfer of technology, and provision of support to developing country Parties".

Decision 20/CP.26: Countries invited the ILO to prepare a technical paper on the linkages between gender-responsive climate action and just transition for promoting inclusive opportunities for all in a low-emission economy.

A number of industrialised countries signed a political declaration titled "<u>Supporting the conditions for a just transition internationally</u>" on the margins of COP 26.

The declaration included an intention to "support developing countries and emerging economies, social partners, and communities to diversify their economies away from dependence on carbon-intensive industries, and to transition to ambitious, clean, resilient growth and development pathways, while supporting increased ambition in their national sustainable development priorities."

In addition, signatories recognise that "all countries must benefit from the opportunities offered by sustainable and just transitions", which should include "access to modern technologies, capacity building and finance, as well as policy solutions to manage transitions in a just and inclusive way".

Decision 1/CMA.4: Parties to the Paris Agreement established a new work programme on just transition for discussion of pathways to achieving the goals of the Paris Agreement. The SBI and SBSTA were requested to recommend a draft decision on this matter to the next CMA session.

<sup>[4]</sup> Adriana Abdenur, What does Just Transition mean for Middle Income Countries? <a href="https://www.un.org/en/climatechange/what-does-just-transition-mean-middle-income-countries">https://www.un.org/en/climatechange/what-does-just-transition-mean-middle-income-countries</a>

<sup>[5]</sup> See for example: https://climatejusticealliance.org/just-transition/

<sup>[6]</sup> For further information, see the initiative's website at: <a href="https://www.climateaction4jobs.org/">https://www.climateaction4jobs.org/</a>

# **Just Transition Work Programme (JTWP)**

The JTWP was established at CMA 4 (COP 27, 2022) under Decision 1/CMA.4 with the objective of promoting pathways to achieving the goals of the Paris Agreement. The same decision established an annual high-level ministerial roundtable, to begin at CMA 5.

At CMA 5, in Dubai, the work programme started to be more fleshed out (hence it has become known as the United Arab Emirates Just Transition Work Programme) (<u>Decision 3/CMA.5</u>):

- It is implemented under the guidance of the SBs through a joint contact group, convened at each session of the SBs which then recommend draft decision(s) to the CMA.
- At least two dialogues are to be held each year, in hybrid format.

The same decision decided that the JTWP consists of seven elements:

- **1.** Just transition pathways to achieving the goals of the Paris Agreement outlined in Article 2.1, in the context of Article 2.2.
- **2.** Just transition pathways that **include various dimensions** such as energy, socioeconomic, workforce, and others, all of which must be **based on nationally defined development priorities and include social protection** so as to mitigate potential impacts associated with the transition.
- **3.** Opportunities, barriers and challenges in relation to poverty eradication and sustainable development faced during the just transition process, taking into account nationally defined development priorities.

- **4.** Approaches to enhancing adaptation and climate resilience at the national and international level.
- **5.** Just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities. This can be achieved through, among others, social dialogue, social protection, and the recognition of labour rights.
- **6. Inclusive and participatory approaches** to just transitions that leave no one behind.
- **7. International cooperation** as an enabler of just transition pathways towards achieving the goals of the Paris Agreement.

# How does just transition relate to other UNFCCC negotiation workstreams?

#### **MITIGATION**

To meet the Paris Agreement's long term temperature goal, States need to rapidly decarbonise their economies. Article 4(1) of the Paris Agreement puts this into effect, providing that "Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognising that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter".

States are increasingly incorporating just transition approaches into their climate plans, known as nationally determined contributions (NDCs), and long-term low-emission development strategies (LT-LEDS) to advance inclusive climate action. As at December 2023, 45 Parties to the UNFCCC representing 71 countries have mentioned just transition in their NDCs.[9] For LT-LEDS, just transition and related elements are included in 81% of them, as at September 2023 (see LT-LEDS synthesis report FCCC/PA/CMA/2023/10).

#### **FINANCE**

At CMA 5 (COP 28, 2023), the UNFCCC Forum of the Standing Committee of Finance focused on financing just transitions. It noted that the integration of just transitions in national frameworks is essential and highlighted the need for improved grant allocation mechanisms, debt swaps and other innovative forms of finance to be made available to developing countries so as to avoid increasing their national debt burdens.

Much of the focus of negotiations at CMA 6 (COP 29) will be on the New Collective Quantified Goal (NCQG) on climate finance,[8] and it is likely to involve questions concerning the financing of just transition. In particular, Parties may consider how just transition priorities can be incorporated in the NCQG and if there will be dedicated finance which supports the social dialogue surrounding the transition.

#### **ADAPTATION**

Despite efforts to mitigate anthropogenic (human-created) climate change, some negative impacts of climate change are already being felt, making adaptation measures necessary. Similarly to mitigation, countries periodically prepare an adaptation communication including priorities for adaptation, support needs and plans. It can be argued that just as action to decarbonise should be equitable, adaptation must be too. In practice, a just transition for climate adaptation will involve national, local and private sector adaptation plans, which prioritise livelihoods and climate resilient jobs.

Adaptation to climate change is often context specific; as such, local communities and ecosystems have a key role to play to ensure appropriate resilience schemes are put in place, backed up by adequate means of implementation, to avoid maladaptation and to drive a just and sustainable adaptation transformation.

For climate vulnerable countries, the alignment of just transition (and the JTWP) to adaptation and resilience priorities is key as they may have the least means to adapt, but the greatest need.

[3] LRI, 'Explainer: New Collective Quantified Goal on Climate Finance (2024). <a href="https://legalresponse.org/legaladvice/new-collective-quantified-goal-on-climate-finance/">https://legalresponse.org/legaladvice/new-collective-quantified-goal-on-climate-finance/</a>

#### **GLOBAL STOCKTAKE**

Decision 1/CMA.5 on the outcomes of the first global stocktake, taken at CMA 5 (COP 28, 2023), underlined the role that just transition can play in supporting more robust and equitable mitigation outcomes. Specifically, it called on countries to transition away from fossil fuels in energy systems in a just, orderly and equitable manner and to phase out inefficient fossil fuel subsidies that do not address just transition.

#### **TECHNOLOGY TRANSFER**

Technology transfer is a core enabler of the energy transition and seen by many developing countries as a key driver to build a just and sustainable transition. It also has a fundamental role to play in facilitating adaptation action. In Decision 1/CMA.3, parties recognised "the need to ensure just transitions that promote sustainable development and eradication of poverty, and the creation of decent work and quality jobs... including through deployment and transfer of technology... to developing country Parties".

More recently, the link between technology transfer and just transition was made again in Decision 3/CMA.5 on the JTWP which highlighted "the importance of urgent delivery of means of implementation (capacity-building, climate finance, and technology development and transfer) to facilitate just transition pathways... especially for developing country Parties".

In October 2024, the topic of "accelerating technology transfer for effective just transition" was explored in a breakout discussion at the Second Dialogue under the JTWP.[10]

#### **REPORTING**

The Enhanced Transparency Framework potentially provides a further opportunity for Parties to highlight the just transition dimension of action and support in their Biennial Transparency Reports (BTR), the first of which they are required to submit by 31 December 2024. In addition, Parties are encouraged to report on both social and economic impacts of mitigation and adaptation plans,[11] which is likely to increase the amount of available data for countries to implement just transition approaches. By including just transition measures in their reporting, countries will enhance transparency, accountability and fairness in the transition.

#### **RESPONSE MEASURES**

Just transition has been linked with commitments under the UNFCCC and the Paris Agreement to recognise and minimise the adverse impacts of 'response measures' (actions, policies, and programmes that countries undertake in response to climate change).

The negotiations on the impacts of response measures were initially led by oil-exporting countries interested to secure compensation for financial losses due to reduced fossil fuel use. The emphasis, however, has broadened over the years to encompass other aspects such as trade restrictions, the effects of response measures on tourism and just transition of the workforce. Whether and how negotiations on just transition within this workstream will continue, given the establishment of the JTWP, remains to be seen.

# **Recent developments**

At the time of publication, the JTWP has had two dialogues. The First Dialogue took place in Bonn in June 2024 and discussed pathways to achieving the goals of the Paris Agreement through NDCs, NAPs and LT-LEDS. An informal summary is available <a href="here">here</a>. [11] The Second Dialogue took place in Sharm el-Sheikh in October 2024 and discussed people-centric and equitable just transition pathways with a focus on a whole-of-society approach and the workforce. At the SBs' meetings in Bonn in June 2024 (SB 60), Parties met in a joint contact group and discussed a draft decision text on the implementation of the JTWP, but failed to reach agreement.\* Parties agreed to continue consideration of the matter at SB 61 (COP 29), taking into account the <a href="informal note">informal note</a> developed by the Co-chairs, submissions from Parties and non-Party stakeholders and the annual summary report on the dialogues.

COP 29 will also hold the second annual high-level ministerial roundtable on just transition, on 18 November 2024. The concept note for this roundtable can be found <u>here</u>.

# \*In Bonn, countries had disagreements on both the substance and the process to implement the JTWP. These included:

Whether to establish a detailed work plan - proposal by G77+China, supported by the African Group and the Like-Minded Developing Countries, opposed by some developed countries (in particular, Australia, Canada, the EU, Japan and the US) who argued the work plan was premature. The latter group emphasised the need for more time to build consensus on the overarching goals and to assess capacity before committing to specific steps for implementation.

On the programme's scope and implementation:

- Timing of future dialogues whether they should be held intersessionally or in conjunction with the SBs' meetings; and
- Nature of future dialogues what the most effective and inclusive format would be.



[9] UNFCCC, Reference Manual for the Enabled Transparency Framework under the Paris Agreement (2022) <a href="https://unfccc.int/sites/default/files/resource/v2\_ETFreferencemanual.pdf">https://unfccc.int/sites/default/files/resource/v2\_ETFreferencemanual.pdf</a>. See also: Decision 5/CMA.3

[10] https://unfccc.int/sites/default/files/resource/Concept Note Second Dialogue under the UAE JTWP.pdf

[11] For further information on the outcomes of the First Dialogue, see <a href="https://unfccc.int/sites/default/files/resource/JTWP%20Informal%20s">https://unfccc.int/sites/default/files/resource/JTWP%20Informal%20s</a> ummary first%20dialogue UAE %20JTWP.pdf

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