Submission to the Special Rapporteur on Climate Change

[Call for Inputs: Corporate Accountability in the Context of Human Rights and Climate Change]

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Q2: Corporations are increasingly giving consideration to climate change risks associated with investments in the fossil fuel industry or greenhouse gas intensive industries. This is due to a number of factors, including: the growing scientific consensus on the reality and severity of climate change, the increasing frequency and severity of extreme weather events caused by climate change and the growing public awareness of and concern about climate change. Some corporations are taking steps to reduce their exposure to climate change risks by divesting from fossil fuels, investing in renewable energy, and improving their energy efficiency. Others are developing climate change adaptation plans to mitigate the impacts of climate change on their businesses. However, many corporations are still not doing enough to address climate change risks. This is particularly true of corporations in the fossil fuel industry and other greenhouse gas intensive industries. These corporations have a vested interest in maintaining the status quo and are often reluctant to take action to reduce their greenhouse gas emissions.

Investors and asset managers have a legal duty to act in the best interests of their clients. This includes considering climate change risks when making investment decisions. In recent years, there has been a growing trend of investors and asset managers demanding that corporations disclose their climate change risks and take steps to reduce their emissions. Some investors and asset managers are also divesting from fossil fuels and other greenhouse gas intensive industries. This is known as "divestment" and it is a way for investors to express their opposition to climate change and to reduce their exposure to climate change risks. The insurance sector plays an important role in helping address climate change risks. Insurance companies can help to raise awareness of climate change risks, provide financial protection against the impacts of climate change and encourage corporations to reduce their greenhouse gas emissions. Insurance companies are increasingly taking steps to address climate change risks. For example, some insurance companies are refusing to insure new fossil fuel projects or are charging higher premiums for such projects. Other insurance companies are developing new products and services to help corporations adapt to the impacts of climate change.

Corporations, including the insurance sector, are disclosing and addressing climate change risks in a variety of ways. Some corporations are disclosing their climate change risks in their annual reports and other public documents. Others are publishing climate change reports that provide detailed information about their climate change risks and mitigation strategies. Some corporations are also taking steps to address climate change risks by setting emissions reduction targets, investing in renewable energy, and improving their energy efficiency. Other corporations are developing climate change adaptation plans to mitigate the impacts of climate change on their businesses.

Board member liabilities for climate change risks vary from jurisdiction to jurisdiction. In some jurisdictions, board members have a fiduciary duty to act in the best interests of the corporation and its shareholders. This means that they have a duty to consider climate change risks when making decisions about the corporation's business. In other jurisdictions,

board members have a duty to exercise due diligence when making decisions about the corporation's business. This means that they have a duty to inform themselves about climate change risks and to take steps to mitigate those risks. There have been a number of cases of litigation against corporations or their directors or board members for failure to report on climate change risks or failure to disclose investments in the fossil fuel industry or greenhouse gas intensive industries when legally required to do so. For example, in February 2023, Environmental law firm ClientEarth, in its capacity as a shareholder, filed a lawsuit against the Shell's board at the high court of England and Wales. The firm filed that 11 members of Shell's board are mismanaging climate risk, breaching company law by failing to implement an energy transition strategy that aligns with the landmark 2015 Paris Agreement.

Q3: There are a number of laws, regulations, and other standards in place for net zero accounting by companies and other market players, such as the Greenhouse Gas Protocol (GHG Protocol), the Science Based Targets initiative (SBTi), and the Net Zero Asset Owner Alliance (NZOA). A number of institutions are overseeing and/or certifying net zero claims, such as the Climate Bonds Initiative (CBI), the Gold Standard, and the Verified Carbon Standard (VCS). However, there is a growing body of evidence that companies are greenwashing their climate change mitigation claims and/or human rights obligations. Net zero pledges by companies and other market players are not aligned with the latest climate science and companies are not disclosing the full scope of their greenhouse gas emissions, including emissions from their supply chains. The carbon market can also play a role in greenwashing. For example, some companies may buy carbon offsets to offset their emissions without actually reducing their own emissions. This can create a false impression that the company is taking action on climate change. In addition, some companies may sell carbon offsets that are not high quality or that do not actually reduce emissions. This can also mislead consumers into thinking that they are supporting climate action when they are not. To address the issue of net zero accountability and greenwashing, governments should strengthen laws and regulations on net zero accounting and reporting, and develop standards for net zero targets and ensure that companies are meeting these standards. Investors should require portfolio companies to set and achieve ambitious net zero targets, and monitor the progress of portfolio companies towards their net zero targets and engage with companies that are not making sufficient progress. Companies should be transparent about their emissions and their plans to achieve net zero, and should only purchase high-quality carbon offsets.

Q4: The UN Guiding Principles on Business and Human Rights (UNGPs) are being applied to climate change to a growing extent, but there is still much room for improvement. Businesses are applying the UNGPs by conducting human rights due diligence and developing climate change action plans. Governments are also playing a role by promoting the application of the UNGPs and developing regulations that require businesses to conduct human rights due diligence and address the human rights impacts of their activities, including those related to climate change. The UNGPs can be an effective tool for addressing the human rights impacts of climate change, but they are only effective if they are implemented properly. One challenge is that the UNGPs are voluntary, but there is growing pressure on businesses to apply them. Another challenge is that the UNGPs are complex and can be difficult to implement. Despite these challenges, there is evidence that the UNGPs are having a positive impact.

If the UNGPs are not effective in addressing the human rights impacts of climate change, then other measures should be applied, such as making the UNGPs mandatory, providing more support to businesses to implement the UNGPs, and developing new regulations that specifically address the human rights impacts of climate change. It is also important to hold businesses accountable for their human rights impacts, including those related to climate change. There is no one-size-fits-all solution to the problem of addressing the human rights impacts of climate change. The best approach will vary depending on the specific circumstances of each country and each business. However, the UNGPs can provide a useful framework for developing and implementing effective strategies to address this problem.

Q5: The finance and banking sector plays a major role in underwriting the fossil fuel industry. In the seven years since the Paris Agreement was adopted, the world's 60 largest private banks have financed fossil fuels with USD $5.5 trillion. This financing has a number of negative human rights implications, including contributing to climate change, air pollution, and human rights abuses. The finance and banking sector can hide investment in the fossil fuel industry through offshore or difficult to trace accounting systems. This can be done through a variety of methods, such as using complex financial structures, investing in fossil fuel companies through offshore vehicles, and using shell companies to disguise ownership of fossil fuel assets. These methods can be used to avoid public scrutiny and accountability for investments in the fossil fuel industry.

A variety of financial institutions have been accused of using hidden banking systems to invest in the fossil fuel industry. These include major banks, such as JPMorgan Chase, Citi, and HSBC, as well as asset managers and hedge funds.It is important to note that not all financial institutions are engaged in these practices. There is a growing movement of banks and other financial institutions that are committed to divesting from fossil fuels and investing in renewable energy. However, more needs to be done to hold the financial sector accountable for its role in underwriting the fossil fuel industry.

Q6: Green bonds and other climate change finance instruments play an important role in mobilizing private capital for climate change and sustainable development projects, raising awareness of these issues, reducing the cost of capital for green projects, and improving corporate and government transparency and accountability. A number of policies and institutions are in place to oversee and ensure that these instruments deliver credible results. In recent years, there has been a growing recognition of the link between climate change and human rights. Climate change can have a negative impact on human rights, including the right to life, health, food, water, and shelter. Conversely, human rights abuses can exacerbate climate change, such as when deforestation is carried out to create new agricultural land. It is important to ensure that climate change finance instruments are designed and implemented in a way that respects and promotes human rights. This means that issuers of these instruments should conduct human rights impact assessments to identify and mitigate any potential negative impacts on human rights. Additionally, investors should consider human rights factors when making investment decisions. There are a number of ways to incorporate human rights considerations into climate change finance instruments. For example, issuers could commit to using the proceeds from green bonds to finance projects that respect and promote human rights. Additionally, investors could screen

potential investments for human rights risks and engage with issuers on these issues. By incorporating human rights considerations into climate change finance instruments, we can help to ensure that these instruments are used to promote a more just and sustainable future.

Q7: Fossil fuel subsidies are government financial support that reduces the cost of fossil fuels for producers and consumers. Fossil fuel subsidies can be direct, such as tax breaks and cash payments to fossil fuel companies, or indirect, such as underpricing fossil fuels on public markets. The extent to which governments subsidize the fossil fuel industry varies widely from country to country. The International Monetary Fund (IMF) estimates that global fossil fuel subsidies amounted to $7 trillion in 2022. This is equivalent to 7.1% of global GDP. The largest fossil fuel subsidizers in the world are the United States, China, Russia, and the European Union. These four countries accounted for over half of global fossil fuel subsidies in 2022. Fossil fuel subsidies have a number of negative human rights implications. First, fossil fuel subsidies disproportionately benefit the wealthy. This is because wealthier people tend to consume more fossil fuels than poorer people. For example, in the United States, the top 10% of income earners consume more than twice as much fossil fuel energy as the bottom 10% of income earners. Second, fossil fuel subsidies contribute to climate change. Climate change is a major threat to human rights, as it can lead to sea level rise, extreme weather events, and food insecurity. Third, fossil fuel subsidies can lead to air pollution. Air pollution is a major cause of death and disease, and it disproportionately affects poor and marginalized communities. Fourth, fossil fuel subsidies can displace Indigenous communities from their traditional lands. This is because fossil fuel extraction often takes place on Indigenous land.

There are a number of actions that can be taken to eliminate fossil fuel subsidies. One important action is to raise awareness of the negative impacts of fossil fuel subsidies. This can be done through public education campaigns, research, and advocacy. Another important action is to reform government policies and regulations that support fossil fuel subsidies. This includes removing tax breaks and other financial support for the fossil fuel industry. Governments should also invest in renewable energy and energy efficiency. This will help to reduce the demand for fossil fuels and make it easier to eliminate fossil fuel subsidies. Finally, governments should support the transition to a low-carbon economy. This includes investing in public transportation, clean energy infrastructure, and sustainable agriculture. By taking these actions, governments can eliminate fossil fuel subsidies and protect human rights.

The elimination of fossil fuel subsidies is an essential step in addressing the climate crisis and protecting human rights. Fossil fuel subsidies are a waste of public resources and they undermine efforts to reduce greenhouse gas emissions. By eliminating fossil fuel subsidies, governments can raise revenue that can be used to fund social programs, invest in renewable energy, and support the transition to a low-carbon economy. The elimination of fossil fuel subsidies may be challenging, but it is possible. A number of countries have already taken steps to eliminate fossil fuel subsidies, including Indonesia, India, and Mexico. Other countries are considering doing the same. It is important to note that the elimination of fossil fuel subsidies should be done in a way that protects the poor and vulnerable. Governments should provide support to these groups to help them transition to cleaner energy sources.