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**NATURAL JUSTICE COMMENTS ON THE PRESIDENTIAL CLIMATE  
COMMISSION'S DRAFT REPORT ON THE FRAMEWORK FOR A JUST  
TRANSITION IN SOUTH AFRICA (APRIL 2022)**

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## **INTRODUCTION**

At the heart of the just transition's discourse(s) is the debate on whether addressing human-created environmental challenges, including climate change, inevitably requires choosing between protecting the planet or precarious jobs and the economies that sustain (and simultaneously exploit) people and nature. The recent economic and social impacts of the Covid-19 pandemic, including massive job losses, have provided an illuminating example of the devastating effects of a global systemic shock. It is imperative for people to recognize that climate change has the potential to introduce or exacerbate similar systemic shocks. This is why attention to climate change and fundamental change at the global and local scales are of the utmost urgency and importance. Despite the increasing availability of cheaper and less polluting alternatives, both locally and internationally, South Africa has continued to rely on an aging fleet of coal-fired power stations and has continued to invest in fossil fuels to provide over 80 percent of its electricity. The impacts of climate change on biodiversity and water resources have already negatively affected economic growth, job security, and livelihoods in South Africa. We would also like to take a moment to thank the Chairperson, and Deputy Chairperson, for the opportunity to comment on the JET Framework as published by the Presidential Climate Commission (PCC). The Commentary has been chronologically set out, firstly introducing Natural Justice, followed by general comments, then the specific comments on the JET Framework, finally the recommendations, and the conclusion.

### **1. NATURAL JUSTICE**

Natural Justice (hereafter “**NJ**”) is a Non-Profit Organization, registered in South Africa. Our vision and mission are for indigenous peoples and local communities to have self-determination in the conservation and sustainable use of natural resources. NJ has experience representing and working with communities in South Africa. Therefore, we feel it is important to comment on the JET Draft Framework. It is also of vital importance to represent these vulnerable communities in South Africa, who will be affected by this JET Framework. We equally advocate for clean and environmentally friendly projects such as solar and wind energy in Africa.

### **2. FIRST SECTION – GENERAL COMMENTARY**

#### **2.1. “JUST” ENERGY TRANSITION (JET)**

- 2.1.1. The focus on a just energy transition in South Africa requires further integration of human rights into the energy sector and the transition to renewable energy resources. The shift to renewable energy resources is beneficial for the entire population in the long-term, especially in light of South Africa's heightened vulnerability to the impacts of climate change.
- 2.1.2. The JET Framework must recognise section 24, under Chapter 2, of the Bill of Rights within the Constitution of the Republic of South Africa:

Everyone [all South Africans] has the right:

*a. to an environment that is not harmful to their health or well-being; and*

*b. to have the environment protected, for the benefit of present and future generations, through reasonable legislation and other measures that:*

*i. prevents pollution and ecological degradation;*

*ii. promote conservation; and*

*iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development<sup>1</sup>.*

- 2.1.3. The Framework opens up space for an important conversation regarding the role of livelihoods within the transition to the green economy. It is important to note that job loss in the coal sector does not provide the government with a licence to perpetuate continued reliance on the coal industry. Transitioning away from coal swiftly is not only an environmental necessity, but also a human rights mandate. The coal industry in South Africa has a longstanding history of violating workers' rights to a healthy and safe working conditions, displacing communities, and polluting the air, food, and water supplies of the communities proximate to mines and coal-fired powerplants.
- 2.1.4. South Africa's reliance on coal for electricity has enormous environmental ramifications. In addition to CO<sub>2</sub> emissions, Eskom is under pressure to reduce sulphur dioxide (SO<sub>2</sub>), nitrogen oxide (NO), and particulate matter emissions. In 2017, a study by economist Dr Mike Hollard found that 2,239 people die per year from illnesses caused by pollution from Eskom's coal fleet, at a cost of about 2 billion USD to the economy. Water pollution, particularly from mines, and water scarcity, exacerbated by the high-water demands associated with coal fired power stations, are also major issues.

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<sup>1</sup> The Constitution of the Republic of South Africa, 1996, Section 24 of Chapter 2.

It is projected that South Africa will have a water deficit of 17 percent by 2030, which will be amplified by periodic droughts caused by climate change. This is likely to put pressure on water intensive power production. Water pollution, particularly from mines, and water scarcity, exacerbated by the high-water demands associated with coal fired power stations, are also major issues. Modelling by the Center for Energy Research (CER) indicates that employment in the coal mining and coal power generation sectors will decline as power plants reach the end of their lives. Employment in these sectors will halve by 2045.<sup>2</sup>

According to a Co-benefits study (2019), jobs in the coal sector will decrease by 35–40 percent between 2020 and 2050. However, a shift to renewables, as outlined in the Integrated Resources Plan (IRP) of 2019, will create a net increase (i.e., including job losses in the coal sector) of 150,000 new jobs in the power sector. Moreover, up to 1.6 million additional jobs can be created economy-wide through the power sector transformation by 2050. The challenge is that these jobs are not necessarily accessible to workers and communities currently dependent on the coal sector. This potential (mis)match highlights the importance of supporting just transitions at both the local and national levels<sup>3</sup>.

Though the comments above highlight the shortcomings of the Framework, it must be emphasised that— even independent of climate change — a swift and permanent end to South Africa’s dependence on coal is crucial to protecting human rights.

- 2.1.5. Even though the just transition of livelihoods from carbon-intensive industries to more sustainable industries is the central focus of the just transition, the Framework does not deal with key aspects such as reskilling workers, finding alternative employment opportunities or adequate compensation.
- 2.1.6. Furthermore, the creation of the Framework did not involve meaningful procedural justice - which refers to empowering workers, communities, and small businesses to articulate their own desires and goals with respect to sustainable development and livelihoods.
- 2.1.7. Since this JET Framework will impact many communities, there was a need for many of these communities to be consulted and voice their opinions before the writing of the JET Framework since it will affect all provinces. However, NJ understands that public consultation and participation is currently taking place across South Africa, we welcome this development. NJ hopes that this process of public consultation and participation continues with the involvement of all communities, since this is a legislative process recognised by the Constitution.

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<sup>2</sup> IASS/CSIR. “Future Skills and Job Creation through Renewable Energy in South Africa.” Cobenefits Study, 2019.

<sup>3</sup> IASS/CSIR. “Future Skills and Job Creation through Renewable Energy in South Africa.” Cobenefits Study, 2019.

### **3. SECOND SECTION – SPECIFIC COMMENTARY**

#### **3.1. ENERGY DEMOCRATISATION**

- *3.1.1.* The Framework continues to focus on grid supply with a vision that categorises renewable energy as a commodity for profitable sale in the market without acknowledging its capabilities as a non-commercial right and means of subsistence. This will only further entrench the privatization of the energy sector during the energy transition, resulting in the raising of the cost of electricity thus reducing access and undermining affordability for poor and marginalized communities and municipalities. While the climate crisis necessitates a swift transition to utility-scale renewable energy projects, the Framework must also move South Africa toward greater energy democracy through the development of decentralized energy production and distribution grids which are connected and widely accessible to resource-poor communities.
- *3.1.2.* The Framework does not adequately call for all communities to benefit from the transition to renewable energy sources, including by way of community benefit agreements for those [communities] that will be adjacent to or impacted by large-scale renewable energy developments.
- *3.1.3.* Within the Framework, there exists greater opportunity for discourse around electricity prices for individual households and ensuring that household consumers do not bear the financial burden of this transition. Currently, electricity prices are higher than that which many South Africans are able to afford, with energy poverty and inequality persisting.

It is also important for this JET Framework to recognise the Section 24 (b)(iii), Chapter 2, of the Constitution of South Africa. Since this framework's purpose is to achieve a just – and equitable – transition, an opportunity is then presented to ensure the recognition of socio-economic rights in South Africa in pursuit of social inclusion through improved access to affordable and environmentally sustainable energy. South Africa is recognised as an unequal society; thus, this framework must do more to bridge these gaps of inequality. NJ recommends that the JET Framework and the IPCC recognise section 27 of the Constitution and empower more communities.

- *3.1.4.* There is a genuine environmental, political, and economic case for community ownership of energy resources, that is not explored in the current draft of the Framework; it fails to appreciate the manner through which decentralised energy systems powered by clean energy hold the potential to act as mediums for economic and social empowerment in poor and rural communities, for

residents of informal settlements, and women. NJ calls for the further revision of the Framework so that it may reflect the above-mentioned capabilities for community empowerment.

- 3.1.5. Renewable energy production will make electricity cheaper and more reliable, in addition to the creation of new manufacturing and maintenance jobs. The democratisation of energy production also provides for both distributive and restorative justice in communities that have not had equitable access to electricity in the past by imparting ownership over the means of electricity production.

### 3.2. CLIMATE CHANGE

- 3.2.1. The Framework must specify which energy sources will be part of the transition, and must analyse the climate impact of those energy sources. There is no place for gas in a just transition. Not only does gas emit a comparable or higher level of greenhouse gas emissions to coal over the lifecycle of a project, but gas also has potentially lethal impacts on human health and the environment, as some communities in Kwa-Zulu Natal have already experienced. Any inclusion of gas in the transition away from coal will inhibit South Africa from meeting its international climate commitments, resulting in further environmental and human harm, and locking South Africa in a costly multi-decade scenario of fiscal liability. The least-cost investment plan for South Africa calls for energy demands to be met from renewable energy sources—not gas—and studies have found that gas is not required for South Africa to meet its energy needs. There are at least two reasons why the carbon curse on high income and fossil fuel rich countries matters for developing countries such as South Africa and most of Sub-Saharan Africa. Firstly, the carbon debt means higher energy costs. Carbon debt economies expend more energy for the sake of GDP prosperity; resulting in less efficient energy use and expensive energy lock-ins to gas infrastructure that combined with non-acknowledgement of the opportunity costs of consuming versus exporting energy, and subsidizing energy consumption might dramatically increase energy costs in the future. Secondly, the carbon curse may alienate South Africa from markets with carbon taxes. The EU's carbon border adjustment mechanism will tax imported goods based on the greenhouse gases emitted in their manufacture. To be competitive within the world's largest single market, South Africa will have to clean up its supply chains. Other jurisdictions may also follow the EU example. This will place economies, like South Africa that relying on more fossil intensive production for their exports, at a disadvantage.

- 3.2.2. The Framework must better situate the just transition within the broader context of climate change, including other greenhouse gas mitigation measures and climate adaptation and resilience efforts. The Framework must analyse the climate impact of ancillary operations associated with the transition to renewable energy sources, including the emissions associated with building new infrastructure and increased mining of certain mineral resources. The Framework should indicate the other emissions reductions required, including those from large companies and government departments, for South Africa to carry out the transition to renewable energy while also meeting its emissions reduction commitments. The Framework should analyse and recommend measures for climate resiliency and adaptation beyond those of the agricultural sector.

### 3.3. RENEWABLE ENERGY

- 3.3.1. Newly built clean energy modes of electricity generation contribute to a lower full life-cycle cost, with far less environmental impact, lower net-emissions, all while providing better jobs and living conditions. Therefore, across multiple metrics there is an urgent need for a shift from fossil fuel to renewable based electricity generation. The total planned contribution of renewable energy to the national grid has, however, is currently limited in the IRPs of 2010 and 2019; in part to protect the coal sector. Within the current IRPs, broader consideration of storage options is needed, particularly low-cost and long-term electricity storage to help facilitate a growing share of variable renewable energy. This would facilitate the increased, and potentially accelerated, phase out of coal and gas power generation. The Framework should expand its programmes to all sectors and provide an analysis on how its plans will be implemented.
- 3.3.2. The Innovation Section, on page 20 of the JET Framework, makes note of the sectoral room for growth in the development of low-carbon and climate resilient technologies. While such carbon capturing and climate mitigation technologies do hold promise, they cannot and must not stand in place of emissions reduction climate action (adherence to the proclaimed NDCs, etc); South Africa must stay on the course towards net-zero emissions efforts.
- 3.3.2. Natural Justice welcomes the Framework’s call for “clear political support for and implementation of an accelerated renewable energy build at a scale that allows for local manufacturing chains to develop.” Where the Framework calls on the national government to provide funding to “public goods, notably infrastructure”, we recommend an amendment to state the following: “renewable energy infrastructure” and should specifically demand funding for community climate resilience and subsidies for equitable access to electricity.

- 3.3.3. Natural Justice also welcomes the call for regulatory frameworks that promote the use of renewable energy technologies. However, the Framework must go further to provide clear timelines for the transition towards renewable energy power generations and to call for legally-mandated minimum thresholds of clean energy sourced electricity generation. The framework must commit to a transition and adaptation of clean-energy power generation and not simply one of renewable energy sources, in order to meet the goals of the NDCs to which South Africa has committed.
- 3.3.4. Furthermore, the Framework must shorten the projected timeline for transitioning away from coal. As the Framework correctly asserts, “even before the climate crisis, South Africa faced deep-seated structural challenges in the economy, centred on unusually profound inequality, dependency on mining-based exports, and the obsolescence of coal-fuelled electricity.” The current plan to extend the phasing out of coal mining and coal-fired powerplants to 2050 will only continue to exacerbate these issues. As the withdrawal of funding for a coal-fired powerplant in the Musina-Makhado Special Economic Zone proposal illustrated, South Africa’s continued reliance on coal will deter investors and eventually encounter export restrictions. If the Framework and the policies that flow from it do not provide for a swift shift away from coal and toward renewable energy, South Africa will stand at a disadvantaged position as the global market economy continues towards decarbonisation.
- 3.3.5. Community ownership needs to factor into a JET both as a goal and a process. We should aspire to a future energy system with better social equity, which alternative community ownership structures can help address. In reaching this goal, communities must have ownership in the transition process so they can contribute to decision making and planning. Research should be undertaken to identify Renewable Energy Independent Power Producer Procurement Programme (REI4P) projects where community members are actively involved in the running of projects and in the selection of developmental initiatives.

#### 3.4. FAR-SIGHTED DECISION-MAKING

- 3.4.1. Natural Justice welcomes the Framework’s call for far-sighted thinking, and in particular, the Framework’s statement that:
 

“Any decision with a substantial long-range economic impact, especially around energy, infrastructure, and support for new economic activities, must describe in detail the implications for the just transition”.



However, this statement is quite broad, and may hinder meaningful change. The Framework should call for the explicit consideration—not just description—of the impact(s) of activities on the just transition in making regulatory and administrative decisions. The just transition must be central to all related legislation and regulation moving forward, as well as the issuance process for any environmental authorisation.

- 3.4.2. Considering the existing concerns of water security and water scarcity across the country, the inclusion and legitimisation of hydroelectric power generation in the transition towards clean energy poses a particular risk for South Africa and South Africans. The nature of water procurement for hydroelectric generation, compounded with residential and other existing uses, may well lead to widespread shortage.

### 3.5. PROTECTION FOR AGRICULTURAL LAND AND LIVELIHOODS (pg. 11)

- 3.5.1. The Framework rightly identifies the impacts of climate change on the agricultural sector, including the threats posed to livelihoods. However, unlike the energy and manufacturing sectors, there is no alternative available for the prevailing practices of the agricultural industry. Agriculture not only provides hundreds of thousands of jobs, but is crucial to the realisation of the constitutionally protected right to food.
- 3.5.2. Given the aforementioned concerns of water security the PCC should focus on moving the larger, more resource intensive economic sectors, such as the agricultural sector, to cleaner and environmentally friendly sources of energy.
- 3.5.3. The Framework recognises the disproportionately adverse impact that climate change places on small-scale and subsistence farmers. It is crucial that the just transition include financial support, potentially in the form of subsidies in accordance with the pledge to support the most vulnerable through “social protection measures”, for small-scale and subsistence farmers to adapt to climate change impacts and continue producing food for their families and communities.
- 3.5.4. The Framework fails to discuss the importance of protecting agricultural land from industrial development in maintaining farmers’ livelihoods and securing the right to food for all South Africans. The Framework must call for legal protection for agricultural land so that farmland is not expropriated in the name of economic development or for the construction of large-scale renewable energy projects. Actions such as the rezoning of drought-resilient farmland in the Philippi Horticultural Area in the Western Cape and the authorisation to raze productive agricultural land

for the establishment of the Musina-Makhado Special Economic Zone in Limpopo threaten jobs and livelihoods, as well as the constitutional right to food. The Framework's suggested measures to support local and subsistence food production are futile if land continues to be expropriated from small-scale and subsistence farmers in the name of economic development. Therefore, legal protection for agricultural land—including land used for small-scale and subsistence farming—is a crucial component of the just transition.

### 3.6. ADDITIONAL PROTECTION FOR MINING-IMPACTED COMMUNITIES

- 3.6.2. As the Framework recognises, the clean energy transitional will open new markets for the supply of the mineral resources necessary for renewable energy generation and storage, including platinum, vanadium, cobalt, copper, manganese, and lithium. As South Africa is home to many of these minerals, the mining industry will likely continue to provide employment for South Africans. However, the expansion of the mining sector cannot be undertaken in a manner that violates human rights.
- 3.6.3. The Minister of Forestry, Fisheries and Environment recently repealed a 2021 amendment to regulation 39 (2) of the environmental impact assessment regulations which aligned the EIA Regulations with the Interim Protection of Informal Land Rights Act—requiring the consent of landowners in order for a non-landowner developer to obtain an environmental authorisation. The ministerial repeal of this regulation undermines the goals of distributive, restorative, and procedural justice underlying the Just Transition Framework. Procedural justice refers to the recognition of marginalized groups by including them in discussions and decision-making processes; enabling broad stakeholder participation such as the ability to shape the outcomes of change processes as well as taking into consideration the interrelationships among cultural, environmental and social elements. The notion of procedural justice encapsulates in this regard the incorporation within the JET legislative and policy mechanisms, provisions which give effect to the notion of meaningful participation which is derived from the international principle of FPIC that is free, prior and informed consent. Where provisions require state institutions to take into account the traditional knowledge, innovations and practices of indigenous and local communities and fully consult with impacted indigenous peoples and local communities (IPLCs), this consultation must be undertaken in good faith, in a form or process that is appropriate and cognisant of their customary laws and traditional knowledge and with the objective of achieving consent. This will ensure that IPLCs rights are secured in respect of effective participation thereby ensuring that no decisions directly

related to their environmental and socio-economic rights and interests, are taken without their knowledge and informed consent prior to the implementation of JET outcomes.

Distributive justice includes the fair allocation of the benefits and harms associated with the transitions including addressing issues of access, historical injustices (restorative justice), the current allocation of transition outcomes, and the consideration of future impacts of these transition processes. Put into context, in order for distributive justice to make meaning to all persons, nature's resources, benefits and burdens ought to be available in a way that is equitable and fair to everyone, and which takes into consideration the conditions of the least advantaged communities. Distributive justice put into context, ought to identify and implement appropriate measures to prevent or mitigate any negative impacts of proposed mining developments

The relationship between procedural justice and distributive justice therefore provides a sufficient conceptual basis for understanding and deepening the potential of just transitions in different contexts. It is therefore imperative that the government adopt legislative and policy measures which institutionalise and foster procedural and distributive justice within the JET frameworks, thereby securing the respect, promotion and protection of environmental and socio-economic rights for mining and fossil fuel impacted communities.

- *3.6.4. Concerns for the distributive dimension of environmental justice begin with the observation that people of colour, the poor, and the underrepresented groups such as IPLCs, are faced with a disproportionate number of environmental burdens. It is therefore crucial that the Just Transition Framework recognise the adverse human rights impacts that currently result from the mining industry and provide a clear indication of how these human rights will be better respected and protected in the face of increased demand for mineral resources.*

### 3.7. JOBS AND CRITICAL SKILLS (pg. 17)

- *3.7.1. The Framework lacks a detailed analysis of jobs to be created through the skills development plans that it proposes. While the Framework indicates that the just transition will entail skill development for the poor, youth, and women demographics in job-seeking; the industries to which the re-skilling and skills development initiatives are connected to is not made evident. Government-led retraining efforts should align with the job requirements of emerging regional employment opportunities in sectors ranging from clean energy to tourism and manufacturing. One mechanism to tackle these imperatives could be the creation of worker transition centres in towns and villages*

vulnerable to decarbonization. This specificity is crucial for the Framework to secure the buy-in needed from workers and unions.

- 3.7.2. Furthermore, the Framework does not articulate a sustainable jobs plan or process to re-skill workers to take advantage of opportunities in the renewable energy sector. There must be a detailed analysis of the number, nature, and location of jobs that the development of the renewable energy sector will provide accompanied with skill development policies which ensure responsive support training, capacity building and curricula. Furthermore, the framework should identify high policy priorities in the allocation of resources towards the identification and anticipation of evolving skills needs through skill needs assessments, labour market information and core skills development, in order to review and align occupational skill profiles and training programmes in collaboration with industry and training institutions. This is crucial information for garnering political and public support for the transition to renewable energy sources, and it will also be crucial information for establishing the need and desirability of renewable energy projects as the projects' proponents seek regulatory approvals in the future.
- 3.7.3. The Framework should have operated within the programmes and ambits of the National Economic Development and Labour Council (NEDLAC) in order to ensure cohesive job creation policy, and should provide economic and labour scenarios based on NEDLAC's prior work.
- 3.7.4. The Framework should set out timeframes with clear guidelines for the Departments of Transport, Agriculture, and Mineral Resources detailing phases involved in the transition ahead. These guidelines should also consider the role of the innovation, and youth entrepreneurship goals outlined.

### 3.8. FINANCE (pg. 23)

- 3.8.1. The Framework does not propose a plan nor outline the sources of funding that will serve to facilitate the transition to renewable energy and ensure job retraining and skill development. The Framework should articulate how international funding, including US\$8.5 billion from the European Union, Germany, and the United States and \$2.8 billion over the next five years from the African Development Bank, will be utilised, along with their role in the broader funding structure. The funding will serve to support both public and private sectors, with a special focus on agricultural investments, renewable energy, transport, youth empowerment, health, vaccines manufacturing [in reference to the ongoing pandemic]<sup>4</sup>. However, this funding alone is insufficient

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<sup>4</sup> <https://www.esi-africa.com/industry-sectors/finance-and-policy/afdb-pledges-2-8bn-towards-south-africa-for-energy-transition/>

to fulfil the goals of the just transition. Moreover, it is not a sustainable position to rely on foreign loans and donations.

- 3.8.2. While the Department of Energy states that the Independent Power Producers (IPPs) bear all financial risks associated with the programme, the National Treasury stands as a guarantor in the event that the winning companies do not receive rates stipulated in the Power Purchase Agreements (PPAs).<sup>5</sup> The Framework should make clear that the public is not shielded from the risks associated with the programme, and the government must ensure that the costs associated with these risks and the green transition more broadly are not passed on to members of the public through higher electricity costs.
- 3.8.3. Ultimately, South Africa's transition to renewables will depend on its ability to attract sustained renewable energy investments. In order to attract these investments, South Africa must show that all government departments are unified and aligned in delivering the objectives of the just energy transition partnership. Fiscal constraints generate obstacles for both new investment opportunities, and fiscal support measures, placing South Africa at a disadvantage in the manufacturing of renewable energy technologies; which will undoubtedly grow to become an incredibly competitive sector over the next several years. South Africa's dependence on heavy emitting sectors will over the next decade be the source of great detriment in global trade relations, as the wider global market moves away from fossil-fuel energy; resulting in the imposition of substantial export tariffs, such as the EU's Carbon Border Adjustment Mechanism (CBAM).

### 3.9. ECONOMIC MODEL (pg. 19)

- 3.9.1. The Framework does not have an economic analysis of the costs and benefits of the renewable energy bid (REBID) model; detailing costs and benefits which will be incurred/enjoyed by project developers; project operators; local suppliers of engineering and design services; manufacturers of equipment to be installed and operated; local workers at all relevant skill levels; financiers and Eskom as a designated buyer. There is scant information on the thinking behind the

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<sup>5</sup> World Bank, "Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPAs)", See website on <https://ppp.worldbank.org/public-private-partnership/sector/energy/energy-power-agreements/power-purchase-agreements>. Also see, Bhengu N, "Navigating power purchase agreements for the African continent", See website on <https://www.werksmans.com/legal-updates-and-opinions/navigating-power-purchase-agreements-for-the-african-continent/>. Accessed on 25 March 2022.

design of the REBID model, details of how it will work, its soundness, practicality, alignment with national development priorities and especially how it will serve different interests.

### 3.10. COOPERATION (pg. 19)

- *3.10.1.* The current dialogue surrounding the Renewable Energy (RE) Independent Power Producer (IPPs), suggests that equal participation from all sectors, including civil society and impacted communities, ought to be had in national energy planning to ensure a more socially equitable and environmentally sustainable energy sector. In order to remedy the current issues in energy governance, the Framework should have provided a clear path forward detailing how different government sectors and ministries should and will engage with one another, and with civil society, unions, and the public, moving forward.
- *3.10.2.* In addition, the scope and responsibilities of the National Treasury must be adjusted in such a manner that will permit the institution to more effectively regulate and facilitate the implementation of just transition policies within concerned governmental, and agricultural agencies.<sup>6</sup> The Framework must identify the funding sources which will ensure the fiscal feasibility of its proposed initiatives; in addition, we call on the framework to more clearly articulate the particular responsibilities to be allocated to each government department involved in managing the associated funding and responsibilities.

### 3.11. CLARIFICATION (pg. 23)

- *3.11.1.* The message needs to be clear on the ground that South Africa is now transitioning to renewable energy. Within the framework there should be clear delineation between the following entities: Renewable Energy (RE), Independent Power Producers (IPPs), and Renewable Energy Independent Power Producers (REIPPs). Currently, conflation of these entities has brought about

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<sup>6</sup> Neva Makgetla, "Working paper for the presidential climate commission: Governance and the just transition", October 2021. See website on

[https://www.tips.org.za/images/Working\\_paper\\_PCC\\_Governance\\_and\\_the\\_Just\\_Transition\\_2021.pdf](https://www.tips.org.za/images/Working_paper_PCC_Governance_and_the_Just_Transition_2021.pdf). Accessed on 25 March 2022. Also see, ActionAid, "Principles for a Just Transition in Agriculture", December 2019. See website

[https://actionaid.org/sites/default/files/publications/Principles%20for%20a%20just%20transition%20in%20agriculture\\_0.pdf](https://actionaid.org/sites/default/files/publications/Principles%20for%20a%20just%20transition%20in%20agriculture_0.pdf).

a certain level of dispute, especially regarding the interchangeable use of RE, IPPs and REIPPs – not to be confused with REIPPPPs (Renewable Energy Independent Power Producers Procurement Programme) – three independent entities.

### 3.12. TIME-FRAMES (pg. 13)

- *5.12.1.* The Framework must provide more clearer timelines for the road ahead. In light of the pressing need for climate action, and the international greenhouse gas mitigation commitments South Africa has made, it was of paramount importance for this Framework to provide timeframes and ambits through which its stated objectives will be achieved. The Framework currently lacks the requisite specificity with respect to timeframes. This becomes a particular concern for climate impacts on human rights, the realisation of international commitments, and the economy.
- *5.12.2.* The Framework must emphasise the long-term necessity and benefits of the green transition. While it highlights the short-term issues that a rapid transition in energy sources may cause, the long-term goals and achievements will provide benefits for the greater good of the environment well-being, sustainable economic development, and the rights of future generations. The Framework must provide clarity on its focus; that being the, reduction of the short-term impacts of the energy transition. To ensure as ‘just’ [the transition] remains as possible to ensure that the long-term benefits are more readily and equitably distributed.

### 3.13. COMPETENCE (pg. 18)

- *3.13.1.* In addition to the issues concerning the Framework, the PCC appears to lack the capacity, and resources to initiate and manage networks and forums. The PCC does not have the capacity to identify additional priority sectors. Thus, most of its [the PCC’s] proposals and solutions remain at risk of not being taken forward, including this Framework. The Framework should have set out a roadmap for the undertaking of future consultations and public participation programmes at the provincial level, and what the communities must anticipate from this process. It is also important to note that the PCC has been unable to obtain the funding required for building capacity amongst its stakeholders and membership organisations. Furthermore, the PCC has failed to mobilise resources for the identification of the impacts the climate crisis will have upon tourism and other sectors in the longer term. Studies so far have yielded inconclusive findings.

### 3.14. INTERGENERATIONAL EQUITY

- 3.14.1. The JET Framework should have done more to recognise the principle of intergenerational equity. The principle of intergenerational equity states that every generation holds the Earth in common with members of the present generation and with other generations, past and future. This principle is designed to protect natural resource diversity, the quality of the environment, and the ability of future generations to equitably access the benefits therefrom, are translated into the obligations to prevent and mitigate climate change, together with the obligation to provide adaptation assistance.<sup>7</sup> The principle articulates a concept of fairness among generations in the use and conservation of the environment and its natural resources. The principle is the foundation of sustainable development. It has also been applied to cultural resources and to economic and social problems. Thus, there is an intergenerational responsibility to maintain a clean environment, meaning each generation has a responsibility to the next to preserve that environment. Furthermore, the duty also poses the government with certain responsibilities and obligations such as access to adequate and sufficient information, access to quality affordable education, and youth participation and consultation.

## **4. RECOMMENDATIONS**

The Framework must:

- 4.1. Call for community benefit agreements or other instruments to ensure equitable access to affordable electricity, especially for communities impacted by large-scale renewable energy projects;
- 4.2. Include analysis of the impact of the green transition on electricity prices and recommendations for ensuring that consumers do not bear the cost of the transition;
- 4.3. Explore programmes for energy democratisation, including analysis of the feasibility of community-held renewable energy projects for communities lacking access to the centralized grid;

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<sup>7</sup> AliceVenn, 'Social justice and climate change', in *Managing Global Warming: An Interface of Technology and Human Issues*, (2019), pages 711-728



- 4.4. Situate the “just transition” within the broader climate justice context, including calls for climate resilience measures which support and align with drastic efforts to decarbonize the economy through the complete phasing out of fossil fuels and carbon reductions within all sectors;
- 4.5. Explicitly denounce the use of gas as a “transition energy source”;
- 4.6. Call for legally-mandated minimum percentages of electricity generation from renewable sources supported by the latest science available on mitigation and adaptation targets aligned to zero net carbon targets;
- 4.7. Shorten the projected timeline for transitioning away from coal and gas;
- 4.8. Call for the explicit consideration of the requirements of a just transition; specifically in the issuing of every environmental authorization, as well as the passage of relevant legislation, policy and regulations;
- 4.9. Recommend financial support for small-scale and subsistence farmers to adapt to climate impacts;
- 4.10. Demand legal protections for IPLCs (Indigenous Peoples and Local Communities) to prevent the continued rezoning and expropriation of agricultural land, including for large-scale renewable energy projects;
- 4.11. Facilitate meaningful inclusion of all stakeholders, primarily marginalized and resource dependent IPLCs, as well as the incorporation of relevant Traditional Knowledge in discussion and recommendations regarding the protection of human rights amid increased demand for mineral resources;
- 4.12. Provide a detailed analysis of the number, nature, and location of jobs to be created in the transition towards to renewable energy power generation, as well as the proposed job reskilling initiatives;
- 4.13. Align the Framework’s job analysis with the programmes and ambits of the National Economic Development and Labour Council;
- 4.14. Propose a plan, or provide for a transparent and accessible platform which identifies, a just transition funding sources and the allocations of said funds;
- 4.15. Highlight the financial risk that taxpayers will bear as guarantors of power purchase agreements and recommend that these costs are not passed to electricity consumers;
- 4.16. Articulate the roles and responsibilities of each government department as it pertains to addressing National climate change commitments for the Paris Agreement, including budgetary, and enforcement and compliance responsibilities;
- 4.17. Provide a cost-benefit analysis and justification of the REBID model;

- 4.18. At the outset of the Framework, RE, IPPs, and REIPPs, should be clearly defined followed by explanations of their implications for the energy transition;
- 4.19. Provide specific time-frames within which the Framework's objectives will be achieved;
- 4.20. Emphasise through the development of policy, legislative and regulatory provisions within existing environmental and mineral and energy legislation the long-term environmental, economic, and human rights benefits of the transition to renewable energy;
- 4.21. Greater transparency on the status of energy transition funding procurement, in addition to laying out a roadmap for upcoming community and public consultation processes so as to provide the general public with a wider understanding of what to expect;

## **5. CONCLUSION**

- 5.1. The nature of climate risks and the urgency of the transition is such that stakeholders must work intentionally to enhance the effectiveness of problem definition, decision making, and implementation of responses. Furthermore, effective governance requires far-sighted thinking, with due consideration of the imperatives of a just transition. Existing processes are, for the most part, weighted toward short-run and immediate effects on workers and businesses. These processes often do not pay sufficient attention to the long-term economic and environmental damage done by high emissions and outdated technologies. It follows that any decision with substantial long-range economic impacts, especially those concerning energy, infrastructure, and support for new economic activities, must describe in detail the implications for the just transition.
- 5.2. In addition, there is a need to build renewable energy parastatals and municipal-owned renewable energy entities that are under democratic control through constituency-based governing councils, with a strong social mandate to provide energy services, fight energy poverty/inequality and extend the right to energy. Moreover, the introduction of strategic and targeted local content requirement regime aimed at building a renewable energy manufacturing sector that guarantees jobs, and a sector where full rights for workers (including women workers) are respected, and trade union presence is permitted; is emblematic of the pursuit of forums of more effective cooperation and solidarity around energy in Southern Africa, that will ultimately replace competition and avoid workers disputes among workers of different regional nationalities.
- 5.3. In the absence of strategies to ensure fair outcomes, the costs of the transition will fall disproportionately upon workers, the poor, poorer communities, and small businesses. Key constituencies must be equipped with the capacity and power to manage—and even benefit from—the impacts of the transition and the climate crisis. By extension, the aims of the just transition

necessitate the meaningful participation of affected communities in the planning, co-design, implementation, and monitoring of strategies.

- 5.4. In this context, the most immediate task is to set up or reorganize structures that capacitate stakeholders, including affected communities, to respond constructively to the climate crisis. Key elements are systems to identify the impacts of the climate crisis and the transition on working people and their communities, and institutions with the capacity and resources to respond appropriately. All affected economic and civil society stakeholders need to participate and support this process. That said, the democratic state has a central role in shaping collective action to achieve long-run social and economic goals.