Geothermal Energy and Indigenous Communities:
The Olkaria Projects in Kenya

by Dr. Ben R. Ole Koissaba
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This report is part of the project
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Abbreviations

ACHPR          African Commission on Human and Peoples’ Rights
ACHPR-WG       African Commission’s Working Group on Indigenous Populations
AFD            Agence Française de Développement
AGIL           African Geothermal International Limited
CDM            Clean Development Mechanism
DVC            Deputy Vice Chancellor
EIB            European Investment Bank
EIB-CM         European Investment Bank Complaint Mechanism
ESIA           Environmental and Social Impact Assessment
EU             European Union
FAO            Food and Agricultural Organization
GDC            Geothermal Development Company
ILO            International Labor Organization
IPPs           Independent Power Producers
KenGen         Kenya Electricity Generating Company
KfW            Kreditanstalt für Wiederaufbau
NGO            Non-Governmental Organization
NEMA           National Environmental Management Authority
PAP            Project Affected Persons
RAP            Resettlement Action Plan
TJRC           Truth Justice and Reconciliation Commission
UNDP           United Nations Development Program
UNDRIP         United Nations Declarations on the Rights of Indigenous Peoples’

1. The views expressed in this publication are those of the author and do not necessarily represent the views of the Heinrich Böll Foundation.
1. Introduction

The case study was carried out in Kenya between October 5th and 14th, 2017. The Kenyan case study looks at the extent to which human rights objectives and gender equality have been incorporated into EU external climate actions in Kenya, with a special focus on the implementation of several major geothermal projects. Finally, it provides recommendations on how EU external climate policy actions could be better aligned with the Sustainable Development Goals and involve civil society in the implementation of these projects. The decision to study the geothermal projects was driven by the European Union’s support for Green Energy projects in Kenya, and the planned expansion of geothermal projects in Kenya as a means of accessing clean energy.

Climate change has been identified as a key determinant and influencer of the enjoyment of human rights, such as the rights to health, life, adequate housing, and safe and adequate water and food, with women and children being particularly vulnerable to climate change impacts. That is especially so if renewable energy projects are in areas inhabited by already marginalized and indigenous communities.

The key stakeholders interviewed for the Kenyan case study are Kenya Electricity Generating Company (KenGen); Geothermal Development Company (GDC); Akiira Power Generating Company; and the Narasha, Olkaria, Kedong, Olgumi, Suswa, and Rapland communities from Narok, Kajiado, and Nakuru Counties. Due to time constraints, information from the financiers, especially the European Investment Bank (EIB) and the World Bank, was obtained via a literature review. As the research progressed, it became clear that it was necessary to interview other stakeholders, including the National Land Commission, the county governments of Narok and Kajiado, and research institutions that have done or are doing geothermal research at Olkaria.

2. Country Policy Context

2.1 Energy and geothermal projects in Kenya: an overview

The energy sector and, ultimately, geothermal power projects are crucial for the Kenyan economy and the socio-economic development of the country as such. The exploration and exploitation of new sources of energy are therefore prioritized by the Kenyan National Energy and Petroleum Policy. In 2015, Kenya’s installed on-grid capacity was 2,295 MW from 42 plants, with geothermal producing 593 MW, hydro 827 MW, wind 26 MW, fuel oil 751 MW, biomass 38 MW, and gas turbines 60 MW. That capacity is expected to increase exponentially by 2020 to 5,040 MW, with geothermal expected to produce 1,984 MW, hydro 921 MW, wind 786 MW, fuel oil 751 MW, solar 430 MW, and gas turbines 60 MW.

Based on interviews involving all the local communities that live adjacent to the geothermal plants, only the Rapland community has access to electricity. The rest of the communities that live around the power plants do not have electricity because it is expensive to connect to the main power lines.

In Kenya’s Least Cost Power Development Plan geothermal power has been identified as a cost-effective power option, and the Geothermal Development Company (GDC) was set up to fast-track the harnessing of Kenya’s vast resources. Exploration for geothermal has been carried out in Suswa; Longonot; Olkaria; Eburru; Menengai; Arus-Bogoria; Lake Baringo; Korosi; Paka; Lake Magadi; Badsal; Sili; Emurungegolok; Namarunu; Barrier; Mwanyamala; Homa Hills; Nyambene; and Chyulu Hills.

The investments in 280 MW of geothermal energy in Olkaria I and IV could be attributed to Kenya’s efforts to fulfill the objectives of its green energy growth program. Geothermal energy in Kenya is governed by the Geothermal Resources Act. According to Waruru, Kenya has huge geothermal potential, with progress being made towards achieving production of 5,000 MW of power, over 70% of which will come from renewable sources by 2030.

Geothermal projects in Kenya are currently funded or co-funded by the European Investment Bank, the Government of Kenya, the French Development Agency (AFD), the Japan International Cooperation Agency (JICA), the German Development Agency (KfW) and the World Bank (WB), with the balance provided by KenGen. The main Independent Power Producers (IPPs) for geothermal are Orpower, Akiira, and Africa Geothermal International (AGIL).

In view of the great potential, the Ministry of Energy and Petroleum has paved the way for the exploration, development and production of geothermal, petroleum and coal by putting forth a comprehensive regulatory and institutional framework. In its Sessional Paper No. 4 of 2004 (National Energy Policy), the ministry laid down broad-based energy sector reforms that provided for the specific functions in the electricity sub-sector, as well as the consolidation of all energy laws under government-mandated regulatory commissions with strengthened functions. The National Energy Policy recommended the enactment of both the Energy Act and the Petroleum Act to fast-track prudent regulation, increase stakeholder participation, and enhance stakeholder interests, including boosting investor confidence.

The 2008 national development blueprint (Kenya Vision 2030) and the promulgation of the Constitution of Kenya in 2010 made it necessary to review the energy sector and policies. The process concluded with the 2015 National Energy and Petroleum Policy. The document sets out the national policies and strategies for the energy and petroleum sector.

“The power companies operate like they are above the law, they have policies, but they do not respect them. Many times, when the community complains, KenGen uses the police to threaten the community.”

Jackson Ole Shaa interview / October 10th, 2017

2.2 The human rights situation in Kenya and its implications for geothermal projects

Human rights in Kenya: a critical situation

Human rights in Kenya are addressed by Chapter 4 of the Constitution of Kenya. That chapter, which is commonly known as the Bill of Rights, guarantees every person the enjoyment of rights and fundamental freedoms. The Bill also applies to all national laws and binds all state organs.

Despite being enshrined in the Constitution, respect for human rights and for the administration of justice is wanting. Authorities have been accused of using excessive force and intimidating communities perceived to be in the opposition, failure to effectively carry out investigations, and reprisals against NGOs that work on a range of issues related to human rights and advocacy. In general, the situation was further exacerbated by the political environment, with disputed elections in 2017.

According to interviews conducted during the case study, communities noted that the police were deployed to enforce displacements despite existing court orders. Human rights advocates from the community have also faced threats of arrest on several occasions. In general, the government has repeatedly been accused of intimidating human rights defenders, journalists and communities that challenge projects like the geothermal projects in Kenya. Human Rights Watch further states that over the last five years the government has failed to investigate a range of human rights abuses across the country and has undermined the basic rights of self-expression.

Geothermal projects and their human rights implications

Despite the existence of laws meant to protect the persons affected by geothermal projects, a number of factors inhibit the communities from seeking redress. Firstly, geothermal projects are carried out under the notion of “national good”, hence local interests are treated as secondary. Secondly the projects are used as political tools by the sitting governments, which limits the chances of aggrieved communities seeking recourse using local legal or administrative mechanisms because the projects are deemed to be government projects. It is also important to note that despite the Constitution of Kenya stipulating the rights that each citizen should enjoy, respect of the same by the government and independent power producers is lacking. The lack of awareness on how to seek redress on the part of the affected communities, exorbitant legal fees, and the time it takes for such cases to be adjudicated in courts are also inhibiting factors.

Geothermal development in Kenya is governed by several laws. Such laws include the Environmental Management and Co-ordination Act and the Geothermal Resource Act and its supplementary legislation. Other regulations include the Energy Act, the 2013 Wildlife (Conservation and Management) Act, the Forest Act, the

11. Interview with Jackson Ole Shaa on 10 October 2017 at Narasha.
13. Interview with Jackson Ole Shaa on October 10th, 2017.
Occupational Health and Safety Act, the Public Health Act, the Water Act, the Physical Planning Act, the County Governments Act and the Constitution of Kenya. Geothermal development is also guided by World Bank environmental and social safeguard policies such as its operating procedures on environmental assessment, natural habitats, indigenous people and involuntary resettlement. In addition, Kenya is a signatory to various international treaties and protocols that govern the application of environmental norms and standards. Some of these treaties and conventions include the more recent Paris Agreement, the Ramsar Convention, the Convention on Biological Diversity, the Kyoto Protocol, and the Vienna Convention on the Protection of the Ozone Layer. Furthermore, the community stated that geothermal resources in Olkaria have been exploited with no regard for the health or the environment of local communities. Toxic waste from the power station in Naivasha have been emitted into the air and disposed of in local waterways, which has violated applicable international environmental standards and resulting in livestock deaths.  

With regards to land rights, Article 62 of the Kenyan Constitution states that all land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals. Land is classified as public land, private land and community land. Land management is governed by the Community Land Act, the Land Act, the Land Registration Act, and the National Land Commission Act. The Land Act regulates the administration and management of public and private land. The Land Registration Act introduced a cadastral system for all types of land. The Community Land Bill recognizes four classes of community land: communal land, family or clan land, reserve land, and any other category of land recognized under this Act such as land under the Land (Group Representatives) Act. Such land may be held under customary tenure, freehold, leasehold, or any other tenure system recognized by written law. The Kenyan Constitution also provides for compulsory acquisition of land by the government for national interests. The Olkaria geothermal projects are located on the category of private land. The Constitution also provides for benefit-sharing through the Natural Resource (Benefit-Sharing) Bill. According to the Food and Agricultural Organization, compulsory acquisition is the power of government to acquire private rights in land without the willing consent of its owner or occupant to benefit society. It is a power possessed in one form or another by governments of all modern nations. The Bill elaborates systems and procedures that the State is required to follow in ensuring sustainable use and exploitation of resources, and the equitable sharing of the benefits accruing from the exploitation of the same. Benefit-sharing with communities can be an important precondition for economic survival and for improving the living conditions of communities. The Bill mentions the exploitation of a broad range of resources, including natural gas, forest, and water resources, all of which play a role in climate mitigation activities.  

Geothermal projects and their gender implications

In Kenya, like many parts of Africa, women face myriad disadvantages in decision making, access to and control of economic assets.

The Constitution (Article 27(3)) stipulates that “women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres”. It further provides that “every person has a right to acquire and own property” and prohibits Parliament from enacting any laws that would deprive someone of their right to own property or limit their right to enjoy that property. The absence of mechanisms that address human rights and, by extension, the non-existence of human rights approaches and gender equality in energy projects has resulted in numerous problems and conflicts between the affected communities, between the communities and the implementation agencies, and for the funders of such projects.

Kenya’s new Constitution has changed the structure of both political and government institutions. Key among its new provisions are clauses for greater political representation of women. However, the Constitution is silent on many other facets of life in which women are inadequately involved, such as decision-making in national and multinational projects, including the current geothermal projects that are the subject of this study.

According to the Institute for Human Rights and Business, there are fewer women engaged at the project level within the extractive industry, resulting in minimal economic activities that directly benefit women.

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17. Interview with Ole Tinkoi on 10 December 2017.  
18. Ibid.  
19. Ibid.  
21. The Natural Resource (Benefit-Sharing) Bill is yet to be adopted and is still being debated by Parliament.  
2.3 The Maasai historical land claims

The Olkaria Region is located within the Hell’s Gate National Park, which was officially established in 1984. The first geothermal station, Olkaria I, was built in 1981, but even after the region was designated a protected area, the exploitation of geothermal power in the region continued with the building of Olkaria II and III in 2000 and Olkaria IV in 2014. Resettlements of the indigenous Maasai communities took place on several occasions over the last decades. The first resettlement occurred in 1984, while the latest took place in 2013 to make way for the Olkaria IV geothermal project. That has exacerbated a number of conflicts relating to land ownership and resulted in loss of life and property.

The conflicts have mainly been between the Maasai and the land-buying company, the Ngati Farmer Cooperative Society, which acquired 16,000 acres from Maiella Limited in 1965.

According to Maasai elders from Narasha and Olkaria who were interviewed, the Maasai took the Ngati Farmer Cooperative Society to court to lay claim to the land. According to interviews during this case study, a case that was filed by the Maasai was decided in favor of the Maasai and 4,000 acres were returned to them. Over 2,000 Maasai continued to live on the remaining 12,000 acres not awarded to them by the court. The Maasai refused to move, claiming ancestral ownership of the land. In 2013, more than 2,000 Maasai were forcibly evicted. The evictions were violent and involved massive destruction of property and loss of livestock. The European Investment Bank continued to finance the Olkaria projects, although the land on which the project is located has remained subject to a dispute over ownership and the Maasai are still settled on the land.

The second historical conflict driven by geothermal exploration involves the Kedong Ranch, managed by Kedong Ranch Ltd. Kedong Ranch took over 74,000 acres of ancestral Maasai land, although the Maasai still live and graze their animals on the land as squatters. Based on data acquired from interviews carried out for this case study on 13th of October 2017 with a representative of the Maasai living in Kedong, the Maasai went to court in 2010 but their case was delayed due to loss of court documents in the High Court. In February 2015, the High Court in Nakuru ruled that the Maasai were not legally occupying the land, arguing that since the Maasai are nomadic pastoralists, it is impossible for them to have been in one place continuously for a period of twelve years, which is the minimum period a person is required to live on any land before they can claim ownership through adverse possession.

27. Upon attainment of independence the government mobilized communities from Central Kenya to form land-buying companies to buy land from British settlers who were leaving Kenya. Ngati Farmers was one of those companies.
28. Maiyila Limited is among the many companies owned by British settlers that sold their land to mainly Kikuyu land-buying companies, which were given loans and grants from the Settlement Fund Trustee by the government.
30. Interview with Ole Noosaron on October 13th, 2017.
32. Kedong is derived from the Maasai name “Ewuaso O Nkidongi”, which is the name for the only river that crosses the plains and supported thousands of Maasai livestock during times of drought. The Maasai name for the area is “Ongata E Kitet” (the plains of Kitet).
33. Interviews with Ole Tinkoi and other Maasai representatives from Kedong during the case study.
3. Case study: the Olkaria Geothermal Projects

The Olkaria geothermal power generation project is touted as the largest such project in the world. Located approximately 120 km west of Nairobi, in Nakuru County, the Olkaria geothermal field covers approximately 80 sq. km and was gazetted as a Geothermal Resource Area in 1971.\(^{35}\) The Clean Development Mechanism (CDM) currently covers the four geothermal power stations in Olkaria and another project situated close to Longonot. Further expansion to Suswa is being considered. The Olkaria power plants and their extensions are the only active geothermal site at the moment.\(^{36}\) The EIB funding amounts to EUR 244,947,563 for the whole Olkaria geothermal project.\(^{37}\) In the context of this case study, the EIB and EU-based companies and funds have been involved in geothermal projects that have raised serious concerns in relation to their human rights, climate change and gender equality impacts. Key areas of concern are project approvals, identification of the Maasai as indigenous people, land rights, and adequate consultations. In a recent report by the EIB Complaints Mechanism (EIB-CM), the EIB questions the effectiveness and the inclusiveness of the consultative procedures during the implementation of those projects.\(^{38}\) That has led indirectly to human rights violations. Testimonies from the affected communities and especially the persons affected by the project attest to that failing.\(^{39}\)

3.1 EIB’s approval of financing the project

The financiers, including the European Investment Bank, approved the projects despite shortcomings pointed out in the Environmental and Social Impact Assessment and the Resettlement Action Plans. The 2012 Resettlement Action Plan and KenGen’s Environmental and Social Impact Assessment for the resettlement site were accepted without additional studies and consultations about the quality of the Rapland, which were strongly recommended by the 2012 Resettlement Action Plan.\(^{40}\) The lenders failed to comply with their follow-up obligations by approving the resettlement without requesting an enhanced Environmental and Social Impact Assessment. Further, the lenders did not consider the local tensions and the Environmental and Social Impact Assessment for Olkaria IV.\(^{41}\) The financiers were also aware of the land conflicts over Olkaria and Kedong Ranch.

Consideration of the Maasai as an indigenous people

The Constitution of Kenya does not recognize the term indigenous people but uses the term “marginalized” groups to define groups of people who self-identify and consider themselves indigenous, including the Maasai. While there is no universal interpretation of the term “marginalized groups of people”, the proposed definition by Special Rapporteur Capotorti is often viewed as authoritative. It defines a minority as “a group, numerically inferior to the rest of the population of a State, in a non-dominant position, whose members being nationals of the State possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.”\(^{42}\) The Maasai argue that due to their culture and historical marginalization they meet the criteria of a marginalized group, and hence an indigenous people.

“Most of the decisions were made by KenGen after consulting selected people from the community. The rest of us were only called to be informed of what has been decided. Any person who disagreed was threatened of being excluded from monetary compensation and resettlement.”

Interview with Ole Noosaron

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Footnotes:


41. Ibid.

Negotiating the size of land instead of basing land-for-land compensation on a proper assessment of land use;

- Failure to provide an assessment of the land quality of the proposed resettlement land as requested by the Environmental and Social Impact Assessment for Olkaria IV;

- Abusing the right of the persons affected by the project to secure of tenure by physically relocating them before the title deed to the land had effectively been transferred to the persons affected by the project;

- In addition, their socio-economic livelihood activities had not been restored to a level equal to or above the previous one, as required by the international lenders' policies for involuntary resettlement;

- Further, the community felt that KenGen had abused the rights to adequate compensation for the land they occupied, and thus had violated the rights of the persons affected by the project to property and an adequate standard of living, including the right to adequate food and housing;

- The community also raised their concerns about inadequate consultation on the choice of Rapland. According to their remarks, the current location is unsuitable for human habitation because of the steep terrain, frequent landslides, and poor quality of the soil to support enough pasture and agricultural activities.

By extension, the EIB failed to closely supervise the project and did not put in place adequate procedures to ensure compliance with human rights standards as stipulated in various European laws, policies, UN standards and other global political commitments.

3.2 EIB Complaints mechanism and mediation process

The World Bank and the EIB, co-financers of the Olkaria projects, received complaints from the community and established a mediation process to consider the complaints and develop a strategy to address the same. To address complaints that arise from projects financed by the European Investment Bank, the EIB created the EIB Complaints mechanism and mediation process.

The only time materials were translated was when the EIB-CM and the World Bank were giving feedback about the findings of the investigation into community complaints.


As enshrined in the right to housing (ICESCR, No. 4; Guiding Principles on Internal Displacement – GPID). The community expected to be given an absolute title, but they got a lease instead, which remains a contentious issue.


EIB Complaints Mechanism division (EIB-CM). The Complaints Mechanism is an independent body for investigating complaints from organizations, corporations and individuals affected by EIB activities. Complainants do not need to prove that they are directly affected by an EIB decision, action or omission and are not required to identify the rules, regulations or policies in question.

The report on the mediation process was made available in December 2016 after a long and highly contentious process.\(^{54}\) According to the Rapland Community, the mediation process had several critical weaknesses. The outcomes of the mediation agreement included measures to improve the quality of soil, roads and water provision. The process also acknowledged an increase in the numbers of the persons affected by the project eligible for compensation and provided further re-examination of individual cases under the supervision of the EIB and World Bank. It also included steps to enhance the restoration and improvement of livelihoods, particularly for youth and women.\(^{55}\) However, the community feels that the mediation agreement failed to clearly address several contentious issues and others were only vaguely dealt with.

The community stated that most of the mediation process agreements had not been fulfilled by KenGen. The community also expressed concerns that water had only been made available to Olosinyati and Olonoongot villages as opposed to the five villages that were in the agreement. While the road is partially complete, it is at risk of being washed away by landslides.

Also, the communities alleged that the grievance mechanism in place was not working effectively and that some of the complainants had been subject to retaliation after sending their complaints to the European Investment Bank Complaints Mechanism and the World Bank. The resettlement plan targeted four villages in different locations\(^{56}\) but all the members of the four villages were settled as a group at the current Rapland location. According to the Mediation Mechanisms Agreement,\(^{57}\) the settlement site would have modern houses, modern infrastructure, social services, and sufficient land for grazing livestock. A Resettlement Action Plan Implementation Committee was set up comprising a team from the World Bank, KenGen, EIB, AFD, KfW, the Naivasha Deputy County Commissioner, representatives of the community,\(^{58}\) and officials from the Japan Bank for International Cooperation.

According to interviews with the Rapland community on October 12th, 2016\(^{59}\), KenGen did not respect the agreements in the following respects:

- fewer houses were built for the resettlement than initially agreed, with just 150 of the agreed 164 being constructed;
- mobility to access essential services like healthcare and water was reduced due to distances (only two villages have water against the planned five);
- the settlement was not culturally appropriate;
- insufficient consideration was given to the needs of vulnerable persons (mainly the elderly and the disabled); and
- families were separated.\(^{60}\)

The process of identifying the eligibility of persons affected by the project for compensation and their entitlements took place between 2009 and 2013.\(^{61}\) It included a range of activities and brought about major changes in the identification of the persons affected by the project community. A Resettlement Action Plan was prepared in 2009 that included a set of socio-economic baseline data.\(^{62}\) Because of the complaints made by the community members, the EIB proposed a mediation process to address the issues that were identified. The mediation process between the company and community representatives was established with the facilitation of the European Investment Bank Complaints Mechanism (EIB-CM), and supported by the World Bank’s Grievance Redress Service. According to interview data gathered for this study, three and a half years after the resettlement and almost two years after the mediation agreement, the provisions have not been fully implemented, including critical issues, such as water supply, health facilities, schooling, the availability of grazing land, and land titles.

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56. Namely Cultural Centre, Olonoongot, Olosinyati, and Olomayiana Ndogo.


58. Comprising five representatives from each community – three men and two women, plus one representative each for young people, vulnerable groups, the council of elders, and Cultural Centre management.

59. Due to fear of retaliation from KenGen and the Provincial Administration, the Rapland community requested that their identities be kept confidential.

60. Members of the Cultural Centre who were used to living together found it unacceptable to be living in scattered family clusters at relatively large distances from one another.

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4. Policy recommendations

To address the current human rights and gender challenges resulting from existing geothermal projects, the EIB and other entities involved in geothermal energy should:

- Strengthen indigenous community structures through institutional capacity-building for women, youth, and traditional leadership.

- Develop livelihood restoration initiatives need to be culture-appropriate and should involve entrepreneurial capacity-building for local entrepreneurs. Due to the isolation of the Rapland community from the rest of the neighbouring communities, market linkages should be established through financing local producer and marketing groups.

- Carry out a participatory process to identify the persons affected by the project that were left out.

- Hold off funding to the Akiira 1 project and launch a new study on the health, social, cultural, environmental, and economic impacts that the projects may have on the Rapland community, as recommended by the Resettlement Action Plan in 2012.63

- Since costs have already been incurred and the rights of the people have been infringed, another study needs to be commissioned by the EIB, the World Bank and KenGen to identify potential opportunities to remedy the situation. It should include an all-inclusive environmental audit for communities that have been affected and those that are yet to be relocated due to future expansion of geothermal projects. Such a study would enable an in-depth understanding of alternative livelihoods for the potential persons affected by the project and other local communities that will be affected by the projects.

Based on the findings in this study, the following recommendations are made regarding proposed new geothermal projects:

- Financiers need to institutionalize broad stakeholder involvement with mechanisms to ensure the equitable participation of women throughout all stages of the processes.

- The EU should require the fulfillment of all the principles of free, prior and informed consent before approving such projects.

- Financing should be suspended when serious human rights violations occur. Victims must have access to effective remedies, and human rights defenders who raise concerns should not face intimidation or reprisals.

- Impact assessments carried out by the EU, IFIs, GDC, KenGen, and the Government of Kenya should comprehensively address potential impacts in relation to all internal and external factors.

- When addressing the impact assessments, the EU should develop a comprehensive checklist on climate change, fundamental human rights, and gender equality. It should be systematically applied prior to granting concessions, and during project implementation.

- All proposed projects should respect the objectives of climate mitigation and ensure that climate adaptations are consistently applied at every stage.

- All Environmental and Social Impact Assessment studies must include consultations with indigenous experts and should be participatory and inclusive for the persons affected by the project and other communities that are non-resident but depend on the land for their livelihood.64

The following gender and human rights considerations should be addressed in climate-related development projects funded by the EU:

- The EIB’s operationalization of its existing safeguards should be improved and reviewed to ensure appropriate supervision and implementation of its human rights-based components.

- The legal foundation of the resolution of the African Commission on Human and Peoples’ Rights, the EU Action Plan on Human Rights and Democracy,65 the Paris Agreement, the United Nations Declaration on the Rights of Indigenous Peoples, and other declarations pertaining to human rights and gender equality should be enhanced to guarantee the participation of indigenous communities, as well as the application of the free, prior and informed consent of communities.

- The EU should support the Kenyan government in improving the existing Climate Change National Action Plans and implementing the United Nations Guiding Principles on Business and Human Rights, with specific reference to identifying, mitigating, and preventing the potential human rights and gender impacts on resettlement.

- The European Union, international financial institutions and the Kenyan government should develop climate change mitigation and adaptation programmes that use a gender analysis to improve the welfare of women and girls—e.g., access to credit, capacity-building and extension services, information dissemination, improved access to land and natural resources, sustainable energy and technology, and access to reproductive health information and services.

- The European Union, international financial institutions and the Kenyan government should develop gender-sensitive indicators to monitor and evaluate the processes of stakeholder inclusion and responses to their input.

- Any deviation from EIB social standards in the context of co-funding arrangements should be accompanied by requirements to report negative developments to EIB management and decision-makers. Being informed is a precondition to responding appropriately and in a timely manner. An alternative option is to categorize projects involving resettlement measures as highly sensitive and requiring more frequent and timely reports.

- Delegation of supervisory responsibilities to co-financers must be accompanied by clear standards and rules about how the EIB operationalizes its retained supervisory obligations.


64. Pastoralism involves moving livestock from place to place, so there is interdependence of pasture among various Maasai groups. The Maasai communities from Suswa, Olke, and Ewuaso depend on this area for grazing during dry seasons.

5. Conclusions

The case of the Olkaria geothermal projects has demonstrated the complexity of climate co-funding, the local obstacles to successful project implementation in host countries, and the inadequacy of supervisory procedures to address the negative impacts of the implementation of geothermal projects. Similarly, the study has shown the importance of integrating and enforcing climate change, human rights and gender equality policies into the development of geothermal projects.

Some challenges emanated from multinational funding of the geothermal projects in Kenya. Key among them is the problem of the supervisory roles of co-funded projects. Further complications arose where the operating standards of international financial institutions were not applied to geothermal projects in Kenya because such standards do not exist or are weak in Kenya. It is suggested that the EIB should extend its external mandate to also include climate change mitigation and adaptation, which links to its energy mandate in matters of renewable energy promotion. Delegating supervisory responsibility to KenGen without clear requirements and standards from the international financing institutions led to lapses in ensuring that all required safeguards were met.

Despite the existence of a domestic legal framework to promote the sustainable development of geothermal energy, as well as the ratification and signing of various international environmental treaties and conventions, there is a great need for high-level policy discussions on reviewing the existing national framework in Kenya regarding its effectiveness in protecting the livelihoods, human rights and gender equality of people affected by large-scale projects.

Effective stakeholder engagement is particularly helpful in planning and decision-making with regard to projects, which could significantly affect local communities. As shown by the case study, ineffective stakeholder engagement could lead directly or indirectly to adverse impacts and infringements of human rights. According to the United Nations Declaration on the Rights of Indigenous Peoples, consultations should be carried out in good faith with the indigenous peoples concerned through their own representative institutions.

Financiers should provide contingency funding to support and facilitate local communities’ capacity building to be able to initiate entrepreneurial projects that harness their local natural resources. This may be based on a benefit-sharing approach where local communities benefit as co-owners rather than just receiving compensation. The Geothermal Development Company has the potential to lay a strong foundation for building strong community entry processes and capacity-building initiatives.
# List of Civil Society Experts Interviewed

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<th>Name</th>
<th>Role</th>
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<tr>
<td>Cornelius Ndetei</td>
<td>Environmental Scientist</td>
<td>Kenya Electricity Generating Company</td>
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<td>HaronKiraison</td>
<td>Community Liaison</td>
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<td>Eng. Johnson Ole Nchoe</td>
<td>CEO</td>
<td>Geothermal Development Company</td>
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<td>Joan Wamuyu</td>
<td>GM Corporate Services</td>
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<td>Irene Onyambu</td>
<td>RM South Rift</td>
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<td>Daniel Kilelu</td>
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<td>Pascal Manan</td>
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<td>Paul Lemori</td>
<td>Area Admin.-North Rift</td>
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<tr>
<td>Dr. Clement Lenachuru</td>
<td>Commissioner</td>
<td>National Land Commission</td>
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<td>Rebecca Supeyo</td>
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<td>13 members attended. The community requested anonymity for fear of retaliation.</td>
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<td>Ole Noosaron</td>
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<td>Daniel S. Rogei</td>
<td>Researcher on Geothermal Energy</td>
<td>SIMOO/McGill University</td>
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<td>Hon. Phillip Mpaayei</td>
<td>Senator, Kajiado County</td>
<td>Kajiado County</td>
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<tr>
<td>Prof. Simon ole Seno</td>
<td>DVC &amp; Natural Resource Expert</td>
<td>Maasai Mara University</td>
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<td>Dr. James Nampushki</td>
<td>Social Development Expert</td>
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</table>
References


Biography of the author

Dr. Ben R. Ole Koissaba holds a Ph.D. in International Family and Community Studies from Clemson University, South Carolina, USA, an MA in Social Entrepreneurship from Northwest University, Kirkland, Washington, USA, and a Post-Graduate Diploma in Theology and Development from the Oxford Centre for Mission Studies of the University of Leeds, UK. He is a Certified Development Project Manager. Dr. Koissaba is currently the African Project Coordinator at Cross-Cultural Consulting Services.