

# Geothermal Energy and Indigenous Communities :

The Olkaria Projects in Kenya

by Dr. Ben R. Ole Koissaba



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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’

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<sup>1</sup>. 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.

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.

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.<sup>2</sup> That is especially so if renewable energy projects are in areas inhabited by already marginalized and indigenous communities.

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2. European Institute for Gender Equality (2012). *Gender Equality and Climate Change*. Retrieved from: <http://eige.europa.eu/rdc/eige-publications/gender-equality-and-climate-change-report>.



## 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.<sup>3</sup> 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.<sup>4</sup>

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<sup>5</sup> 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; Badlands; Silali; Emuruangogolak; Namarunu; Barrier; Mwananyamala; Homa Hills; Nyambene; and Chyulu Hills.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup>

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<sup>9</sup> made it necessary to review the energy sector and policies. The process concluded with the 2015 National Energy and Petroleum Policy.<sup>10</sup> 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 10<sup>th</sup>, 2017**

3. ROK (2015). Draft National Energy and Petroleum Policy. Ministry of Energy [https://www.ketraco.co.ke/opencms/export/sites/ketraco/learn/maps/Legal\\_Documents/National\\_Energy\\_and\\_Petroleum\\_Policy.pdf](https://www.ketraco.co.ke/opencms/export/sites/ketraco/learn/maps/Legal_Documents/National_Energy_and_Petroleum_Policy.pdf)

4. USAID Kenya & East Africa (May 2016). *Development of Kenya's Power Sector 2015-2020*. Retrieved from: [https://www.usaid.gov/sites/default/files/documents/1860/Kenya\\_Power\\_Sector\\_report.pdf](https://www.usaid.gov/sites/default/files/documents/1860/Kenya_Power_Sector_report.pdf)

5. Energy Regulatory Commission (2013). Kenya Updated Least Cost Power Development Plan Study Report 2011-2031. Retrieved from: [http://www.erc.go.ke/index.php?searchword=LCPDP&searchphrase=all&Itemid=606&option=com\\_search](http://www.erc.go.ke/index.php?searchword=LCPDP&searchphrase=all&Itemid=606&option=com_search).

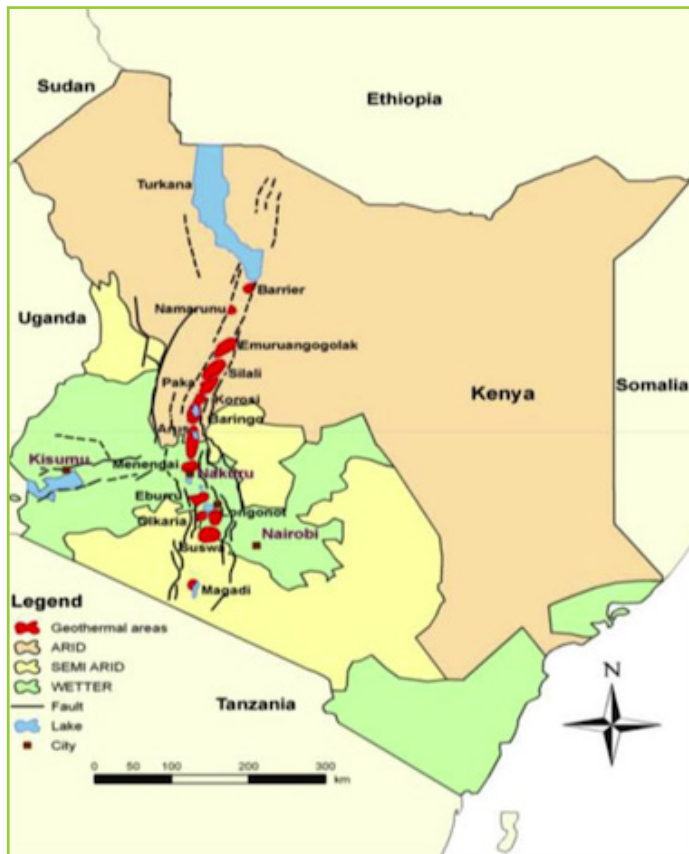
6. Musembi, R (2014). *GDC Strategy for Kenya. Progress and opportunities*. Retrieved from: <http://geo-energy.org/reports/EAG/GDC%20USEA%20Presentation%20-%20Geothermal%20Road%20Show.pdf>

7. World Bank (February 23, 2015). *Kenya's Geothermal Investments Contribute to Green Energy Growth, Competitiveness and Shared Prosperity*. Retrieved from: <http://www.worldbank.org/en/news/feature/2015/02/23/kenyas-geothermal-investments-contribute-to-green-energy-growth-competitiveness-and-shared-prosperity>

8. Waruru, M. (June 15, 2016). *Kenya on Track to More Than Double Geothermal Power Production*. Renewable Energy World. Retrieved from: <http://www.renewableenergyworld.com/articles/2016/06/kenya-on-track-to-more-than-double-geothermal-power-production.html>.

9. Kenyan legislation is available at <http://kenyalaw.org/kl/>.

10. ROK (2015). *Draft National Energy & Petroleum Policy*. Retrieved from: [http://www.erc.go.ke/images/docs/National\\_Energy\\_Petroleum\\_Policy\\_August\\_2015.pdf](http://www.erc.go.ke/images/docs/National_Energy_Petroleum_Policy_August_2015.pdf).



Geothermal energy locations in Kenya. Source : Ogola 2010

Kenya has introduced major policy, regulatory and institutional changes to enhance energy access and promote investment in renewable energy and energy efficiency. Those strategies include Sessional Paper No. 4 and are governed by several statutes, namely Energy Act (No. 12 of 2006), Geothermal Resources Act (No. 12 of 1982), Feed-in Tariffs for Renewable Energy, electricity regulations and the Electric Power (Electrical Installation Work) Rules, Energy (Complaints and Dispute Resolution) Regulations, and the Energy (Electricity Licensing) Regulations.

The National Energy Policy and Kenya Vision 2030 recognize the impact of energy projects on the livelihoods of communities that will be affected by energy projects. However, both the National Energy Policy and Vision 2030 do not contain systematic, concise measures on how human rights, gender equality, and climate change will be addressed before, during and after projects are initiated. Similarly, the Environmental and Social Impacts Assessment guidelines provided by the National Environmental Management Authority do not use a human rights-based approach. They lack adequate safeguards for addressing human rights, gender equality and climate change.

Furthermore, despite the existence of regulatory requirements, a community human rights advocate expressed concern that mechanisms to enforce the regulations are either weak or non-existent. That abets corruption and compromises the regulatory mechanisms that have been put in place.<sup>11</sup>

11. Interview with Jackson Ole Shaa on 10 October 2017 at Narasha.

12. Human Right Watch (2017). World Report 2017. Retrieved from: <https://www.hrw.org/world-report/2017>.

13. Interview with Jackson Ole Shaa on 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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

### 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.<sup>15</sup>

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

14. Human Rights Watch (2017). World Report 2017. Retrieved from: <https://www.hrw.org/world-report/2017>.

15. Koissaba, B.R. Ole (2014). *Kenyan Government Manipulates Courts to Dispossess the Maasai of Their Lands*. Cultural Survival. Retrieved from: <https://www.culturalsurvival.org/news/kenyan-government-manipulates-courts-dispossess-masai-their-lands>

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.<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup> 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.<sup>19</sup>

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,<sup>20</sup> "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.<sup>21</sup>



Livestock deaths have been reported because of consuming toxic waste from geothermal plants. Picture Credit : Ole Tinkoi

## 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.<sup>22</sup> 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.<sup>23</sup> 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.<sup>24</sup>

16. World Bank (2018). Operations Manual. [online]. Retrieved from: <https://policies.worldbank.org/sites/ppf3/Pages/Manuals/Operational%20Manual.aspx>

17. Interview with Ole Tinkoi on 10 December 2017.

18. Ibid.

19. Customary tenure refers to land rights under African customary law. Freehold and particularly leasehold are common forms of tenure under the Group Ranch (Representative) Act. The distinction from private land is that the group holding the land complies with the definition of community given in the Constitution.

20. FAO (2008). FAO. *Compulsory acquisition of land and compensation*. Land Tenure Studies, p.5. Retrieved from <http://www.fao.org/3/a-i0506e.pdf>

21. The Natural Resource (Benefit-Sharing) Bill is yet to be adopted and is still being debated by Parliament.

22. ROK (2010). Constitution of Kenya 2010. Retrieved from: <http://www.kenyalaw.org>.

23. Okoth. J. (July 10, 2017). *Kenya's parliament continues to stall on the two-thirds gender rule*. The Conversation [online]. Retrieved from: <https://theconversation.com/kenyas-parliament-continues-to-stall-on-the-two-thirds-gender-rule-79221>

24. Kenya Human Rights Commission (2016). Human Rights and Business Country Guide - Kenya. Retrieved from: <https://www.hrbcountryguide.org/countries/kenya>.

## 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.<sup>25</sup> 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.<sup>26</sup> 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,<sup>27</sup> which acquired 16,000 acres from Maiella Limited<sup>28</sup> in 1965.<sup>29</sup>

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.<sup>30</sup> 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.<sup>31</sup> 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<sup>32</sup> 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,<sup>33</sup> 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.<sup>34</sup>

25. Webkenya (2003). Safari Rift Valley - Hell's Gate National Park & Mt Longonot National Park. Retrieved from: [http://www.webkenya.com/eng/safari/hells\\_gate.php](http://www.webkenya.com/eng/safari/hells_gate.php)

26. KenGen (2017). Geothermal Plants [Online]. Retrieved from: <http://www.kengen.co.ke/content/geothermal-plants>

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. Maiyiela 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.

29. TJRC. (2014). Report of the Truth, Justice and Reconciliation Commission: Volume IIA. Nairobi, Retrieved from: <https://digitalcommons.law.seattlu.edu/tjrc/>

30. Interview with Ole Noosaron on October 13th, 2017.

31. Koissaba, B. O. (July 7, 2014). Maasai Protest New Land Concessions for Geothermal Extraction in Kenya [Center for World Indigenous Studies, online newspaper], Retrieved from: <https://intercontinentalcry.org/maasai-protest-against-new-land-concessions-geothermal-extraction-kenya-24504/>. See also: <http://youtu.be/la3c95KrMd8>

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.

34. High Court of Kenya at Nakuru (2015). Ruling on constitutional petition No. 57 of 2014. Kenya Law Retrieved from: <http://kenyalaw.org/caselaw/cases/view/106776/>.

### 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.<sup>35</sup> 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.<sup>36</sup> The EIB funding amounts to EUR 244,947,563 for the whole Olkaria geothermal project.<sup>37</sup> 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.<sup>38</sup> 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.<sup>39</sup>

#### 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.<sup>40</sup> 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.<sup>41</sup> 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".<sup>42</sup> 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**

35. Kanyinke, S. (2013). Renewable Energy Projects and the Rights of Marginalised/Indigenous Communities in Kenya. International Work Group for Indigenous Affairs. Eks-Skolens Trykkeri, Copenhagen, Denmark. Retrieved from: [https://www.iwgia.org/en/iwgia\\_files\\_publications\\_files/0725\\_REPORT21.pdf](https://www.iwgia.org/en/iwgia_files_publications_files/0725_REPORT21.pdf)

36. Schade, J. (2017). Kenya 'Olkaria IV' Case Study Report: Human Rights Analysis of the Resettlement Progress, p. 5. Retrieved from: [www.uni-bielefeld.de/soz/ab6/ag\\_faist/downloads/WP\\_151.pdf](http://www.uni-bielefeld.de/soz/ab6/ag_faist/downloads/WP_151.pdf)

37. European Investment Bank. Projects Financed Multi-Criteria Lists. Retrieved from: <http://www.eib.org/projects/loan/list/?from=1982&region=6&sector=1000&to=2017&country=KE>

38. EIB-CM (2015). Conclusions Report Olkaria. Retrieved from: [www.eib.org/attachments/complaints/sg-e-2014-07and-08-conclusions-report-en.pdf](http://www.eib.org/attachments/complaints/sg-e-2014-07and-08-conclusions-report-en.pdf).

39. Tarazona, D. (June 23, 2017). The forgotten struggle of Kenyan indigenous people. Retrieved from: <https://www.eibinafrica.eu/documentary-olkaria-geothermal-power-plant/>

40. IBB Africa. (2012). Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station, Retrieved from: <http://documents.worldbank.org/curated/en/508361468046149605/pdf/RP8830v110P1030IA0IV0RAP0JULY002012.pdf>.

41. Ibid.

42. Capotorti, F. (1977). Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities. E/CN.4/Sub.2/384/Rev.1, para. 568. Retrieved from: <http://www.ohchr.org/EN/Issues/Minorities/Pages/internationalaw.aspx>



The African Commission on Human and Peoples' Rights and the African Commission on Human Rights Working Group<sup>43</sup> as well as the United Nations Declaration on the Rights of Indigenous Peoples<sup>44</sup> identifies the Maasai as "self-identifying indigenous peoples." Accordingly, there was a need to apply indigenous rights guaranteed in those instruments when dealing with the Maasai in the project area. An Indigenous Peoples Plan for the Maasai would have created an opportunity for due process for developing benefits that the community could claim. The lack of identification of the Maasai as indigenous people has had adverse effects on their lives and livelihoods.

The World Bank's Social Safeguard Policy was applicable since the projects are co-funded by the World Bank.<sup>45</sup> The policies of lenders like the World Bank aim at obtaining broad community support among vulnerable and indigenous people. The EIB does not have an indigenous peoples' policy. Still, the EIB's Environmental and Social Handbook refers to effective consultation.<sup>46</sup> However, the EIB and World Bank decided not to treat the affected persons as indigenous peoples and not to apply Annex C 4.10 of the World Bank Operational Manual on Indigenous Peoples.<sup>47</sup>

Against that background, the EIB and World Bank financed the project, even though several rights of the Maasai as an indigenous people were violated.

According to the community, all interviews and consultations with members of the local community were not conducted in the local language (Maa), but in Swahili. Moreover, project materials were not translated into Maa.<sup>48</sup> The right to free, prior and informed consent is critical if indigenous peoples are to achieve the right to self-determination in controlling and managing their lands and resources.<sup>49</sup> Free, prior and informed consent ensures their consultation and participation in decision-making. However, community members felt that in this case the EIB and its partners ignored this inclusive process.

## Land rights

Regarding rights to access land and land-based resources, the community members felt that KenGen abused these rights by:

- 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 security of tenure<sup>50</sup>, 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;<sup>51</sup>
- 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.<sup>52</sup>

## 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.<sup>53</sup> To address complaints that arise from projects financed by the European Investment Bank, the EIB created the

43. ACHPR-WG. (2006). Indigenous Peoples in Africa: The Forgotten Peoples. Retrieved from: [http://www.achpr.org/files/special-mechanisms/indigenous-populations/achpr\\_wgip\\_report\\_summary\\_version\\_eng.pdf](http://www.achpr.org/files/special-mechanisms/indigenous-populations/achpr_wgip_report_summary_version_eng.pdf)

44. UNDRIP. (2007, September 13). UNGA Res. 61/295, United Nations Declaration on the Rights of Indigenous Peoples, 61 UN GAOR (vol. III), Supp. No. 49, p. 15, UN Doc. A/61/49. Retrieved from: [research.un.org/en/docs/ga/quick/regular/61](http://research.un.org/en/docs/ga/quick/regular/61).

45. Testimonies from the community described many occasions on which local human rights defenders were excluded from meetings called for the purpose of consultation on the projects.

46. IB (2010). Environmental and Social Practices Handbook, Version 2 of 24/02/2010, page 66: "... standards for dealing with involuntary resettlement and standards for the treatment of vulnerable groups, including women and indigenous peoples. Bank staff will endeavor to ensure that appropriate arrangements for effective consultation with stakeholders are put in place".

47. Note: OP/BP 4.10, Indigenous Peoples, were revised on April 2013 to consider the recommendations in "Investment Lending Reform, Retrieved from: <https://policies.worldbank.org/sites/ppf3/PPFDocuments/090224b0822f89d5.pdf>

48. 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.

49. It is endorsed in the United Nations Declaration on the Rights of Indigenous Peoples and is an amplification of the consultation and participation requirements under the International Labour Organization Convention No. 169 (1989). Convention on indigenous and tribal peoples, 1989 (No.169), Retrieved from: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169).

50. 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.

51. Schade, J. (2017). Kenya Olkaria IV Case Study Report. Retrieved from: [www.uni-bielefeld.de/soz/ab6/ag\\_faist/downloads/WP\\_151.pdf](http://www.uni-bielefeld.de/soz/ab6/ag_faist/downloads/WP_151.pdf).

52. CEU (2015). Climate Action Delivery Plan, Retrieved from: [https://eeas.europa.eu/topics/energy-diplomacy\\_en](https://eeas.europa.eu/topics/energy-diplomacy_en).

53. EIB (2018). Complaints mechanism [online]. Retrieved from: <http://www.eib.org/about/accountability/complaints/index.htm>.

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.<sup>54</sup> 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.<sup>55</sup>

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 Oloonongot 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<sup>56</sup> but all the members of the four villages were settled as a group at the current Rapland location. According to the Mediation Mechanisms Agreement,<sup>57</sup> 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,<sup>58</sup> and officials from the Japan Bank for International Cooperation.

According to interviews with the Rapland community on October 12th, 2016<sup>59</sup>, 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.<sup>60</sup>

The process of identifying the eligibility of persons affected by the project for compensation and their entitlements took place between 2009 and 2013.<sup>61</sup> 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.<sup>62</sup> 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.



Community participation during the case study.  
Picture credit : Ben Ole Koissaba

54. EIB-CM (2015). Conclusions Report Olkaria. Retrieved from: [www.eib.org/attachments/complaints/sg-e-2014-07and-08-conclusions-report-en.pdf](http://www.eib.org/attachments/complaints/sg-e-2014-07and-08-conclusions-report-en.pdf).

55. EIB. (2016, May 28th). Agreement on Olkaria IV Resettlement Mediation. Retrieved from: <http://www.eib.org/about/accountability/complaints/cases/sg-e-2014-08-olkaria-b.htm>.

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

57. EIB. (2016, May 28th). Agreement on Olkaria IV Resettlement Mediation, op. cit.

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.

61. GIBB Africa. (2009). *KenGen Olkaria IV Project - Resettlement Action Plan*. Nairobi, Kenya. Retrieved from: <http://pubdocs.worldbank.org/en/175751449237265429/text/Olkaria-IV-RAP-Vol-1-Disclosed-Dec-1-2009.txt>.

62. GIBB Africa. (2012). *Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station*. Retrieved from: <http://documents.worldbank.org/curated/en/508361468046149605/pdf/RP8830v110P1030IA01V0RAP0JULY002012.pdf>

## 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.<sup>63</sup>
- 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.<sup>64</sup>

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,<sup>65</sup> 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-financiers must be accompanied by clear standards and rules about how the EIB operationalizes its retained supervisory obligations.

63. GIBB Africa. (2012). Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station. Retrieved from: <http://documents.worldbank.org/curated/en/508361468046149605/pdf/RP8830v110P1030IA01V0RAP0JULY002012.pdf>

64. Pastoralism involves moving livestock from place to place, so there is interdependence of pasture among various Maasai groups. The Maasai

communities from Suswa, Oike, and Ewuaso depend on this area for grazing during dry seasons.

65. CEU (2015). EU Action Plan on Human Rights and Democracy 2015-2019. Retrieved from: [https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019_en).

## 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

Cornelius Ndetei Haron Kiraison	Environmental Scientist Community Liaison	Kenya Electricity Generating Company
Eng. Johnson Ole Nchoe Joan Wamuyu Irene Onyambu Daniel Kilelu Pascal Manan Paul Lemori	CEO GM Corporate Services RM South Rift Area Admin. South Rift SOCR Nakuru Area Admin.-North Rift	Geothermal Development Company
Dr. Clement Lenachuru	Commissioner	National Land Commission
Rebecca Supeyo	Community Liaison	Akiira Geothermal Limited
13 members attended. The community requested anonymity for fear of retaliation.		Olgumi/Kisharu/ Community
14 members attended. The Rapland representatives requested anonymity for fear of retaliation Ole Noosaron		Rapland Community
17 members attended. The community requested anonymity for fear of retaliation.		Suswa Community
31 members attended. The communities requested anonymity for fear of retaliation.		Kitet/Satelite/Kedong Communities
Jackson Shaa Daniel Mpatinga Jackson Torinke Dancan Sencho Lucy Kisotu Daniel Ole Shaa Ole Tinkoi		Narasha Community
Michael Tiampati Robert Roine	National Coordinator	Pastoralist Development Network of Kenya
Daniel S. Rogei	Researcher on Geothermal Energy	SIMOO/McGill University
Hon. Phillip Mpaayei	Senator, Kajiado County	Kajiado County
Prof. Simon ole Seno Dr. James Nampushi	DVC & Natural Resource Expert Social Development Expert	Maasai Mara University

## References

- ACHPR-WG. (2006): Indigenous Peoples in Africa: The Forgotten Peoples? Retrieved from: [http://www.achpr.org/files/special-mechanisms/indigenous-populations/achpr\\_wgip\\_report\\_summary\\_version\\_eng.pdf](http://www.achpr.org/files/special-mechanisms/indigenous-populations/achpr_wgip_report_summary_version_eng.pdf)
- Capotorti, F. (1977). Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities. E/CN.4/Sub.2/384/Rev.1, para. 568. Retrieved from: <http://www.ohchr.org/EN/Issues/Minorities/Pages/internationallaw.aspx>
- Council of the European Union (2015). Climate Action Delivery Plan. Retrieved from: [https://eeas.europa.eu/topics/energy-diplomacy\\_en](https://eeas.europa.eu/topics/energy-diplomacy_en)
- Council of the European Union (2015). EU Action Plan on Human Rights and Democracy 2015-2019. Retrieved from: [https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019_en)
- European Institute for Gender Equality (2012). Gender Equality and Climate Change. Retrieved from: <http://eige.europa.eu/rdc/eige-publications/gender-equality-and-climate-change-report>
- European Investment Bank (2010). Environmental and Social Practices Handbook. Version 2 of 24/02/2010. European Investment Bank – Complaint Mechanism (2014). Conclusions Report Olkaria. Retrieved from: [www.eib.org/attachments/complaints/sg-e-2014-07and-08-conclusions-report-en.pdf](http://www.eib.org/attachments/complaints/sg-e-2014-07and-08-conclusions-report-en.pdf)
- Energy Regulatory Commission (2013). Kenya Updated Least Cost Power Development Plan Study Report 2011-2031. Retrieved from: [http://www.erc.go.ke/index.php?searchword=LCPDP&searchphrase=all&Itemid=606&option=com\\_search](http://www.erc.go.ke/index.php?searchword=LCPDP&searchphrase=all&Itemid=606&option=com_search)
- FAO (2008). FAO. Compulsory acquisition of land and compensation, Land Tenure Studies, p.5. Retrieved from <http://www.fao.org/3/a-i0506e.pdf>
- GIBB Africa. (2009). KenGen Olkaria IV Project - Resettlement Action Plan. Nairobi, Kenya. Retrieved from: <http://pubdocs.worldbank.org/en/175751449237265429/text/Olkaria-IV-RAP-Vol-1-Disclosed-Dec-1-2009.txt>
- GIBB Africa. (2012). Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station. Retrieved from: <http://documents.worldbank.org/curated/en/508361468046149605/pdf/RP8830v110P1030IA0IV0RAP0JULY002012.pdf>
- High Court of Kenya at Nakuru (2015). Ruling on constitutional petition No. 57 of 2014. Kenya Law Retrieved from: <http://kenyalaw.org/caselaw/cases/view/106776/>.
- Humans Rights Watch (2017). World Report 2017. Retrieved from: <https://www.hrw.org/world-report/2017>
- IEA. (2015). Situational Analysis of Energy Industry, Policy and Strategy for Kenya. Retrieved from: [https://www.africaportal.org/documents/12954/Situational-Analysis-of-Energy-Industry-Policy-and--Strategy-for-Kenya\\_1.pdf](https://www.africaportal.org/documents/12954/Situational-Analysis-of-Energy-Industry-Policy-and--Strategy-for-Kenya_1.pdf)
- IHRBC (2016). The State of Human Rights in the Kenyan Extractive Sector. Retrieved from: <https://www.ihrb.org/focus-areas/commodities/report-state-of-human-rights-kenyan-extractive-sector-executive-summary>
- Kanyinke, S. (2013). Up in Smoke? Maasai rights in the Olkaria geothermal area, Kenya. International Work Group for Indigenous Affairs.
- Kanyinke, S. (2015). Renewable Energy Projects and the Rights of Marginalised/Indigenous Communities in Kenya. International Work Group for Indigenous Affairs. Eks-Skolens Trykkeri, Copenhagen, Denmark. Retrieved from: [https://www.iwgia.org/en/iwgia\\_files\\_publications\\_files/0725\\_REPORT21.pdf](https://www.iwgia.org/en/iwgia_files_publications_files/0725_REPORT21.pdf)
- KenGen (2017). Geothermal Plants [online]. Retrieved from: <http://www.kengen.co.ke/content/geothermal-plants>
- Kenya Human Rights Commission (2016). Human Rights and Business Country Guide - Kenya. Retrieved from: <https://www.hrbcountryguide.org/countries/kenya>
- Koissaba, B. R. Ole. (July 7, 2014). Maasai Protest New Land Concessions for Geothermal Extraction in Kenya. Center for World Indigenous Studies. [online newspaper]. Retrieved from: <https://intercontinentalcry.org/maasai-protest-against-new-land-concessions-geothermal-extraction-kenya-24504/>
- Koissaba, B.R. Ole (February 7, 2015). Kenyan Government Manipulates Courts to Dispossess the Maasai of Their Lands. Retrieved from: <https://www.culturalsurvival.org/news/kenyan-government-manipulates-courts-dispossess-maasai-their-lands>
- Musembi, R (2014). GDC Strategy for Kenya. Progress and opportunities. Retrieved from: <http://geo-energy.org/reports/EAG/GDC%20USEA%20Presentation%20-%20Geothermal%20Road%20Show.pdf>
- Okoth. J. (July 10, 2017). Kenya's parliament continues to stall on the two-thirds gender rule. The Conversation [online]. Retrieved from: <https://theconversation.com/kenyas-parliament-continues-to-stall-on-the-two-thirds-gender-rule-79221>
- Power Africa (2015) Development of Kenya's Power Sector 2015-2020. Retrieved from :[https://www.usaid.gov/sites/default/files/documents/1860/Kenya\\_Power\\_Sector\\_report.pdf](https://www.usaid.gov/sites/default/files/documents/1860/Kenya_Power_Sector_report.pdf)
- Report of the Truth, Justice and Reconciliation Commission: Volume IIA. Nairobi. <https://digitalcommons.law.seattleu.edu/tjrc/>
- ROK (2010). Constitution of Kenya 2010. Retrieved from: <http://www.kenyalaw.org/lex/actview.xql?actid=Const2010>
- ROK (2015). Draft National Energy & Petroleum Policy. Retrieved from: [http://www.erc.go.ke/images/docs/National\\_Energy\\_Petroleum\\_Policy\\_August\\_2015.pdf](http://www.erc.go.ke/images/docs/National_Energy_Petroleum_Policy_August_2015.pdf)
- Schade, J. (2017). Kenya 'Olkaria IV' Case Study Report: Human Rights Analysis of the Resettlement Progress. Series on Environmental Degradation and Migration. Bielefeld University. Retrieved from: [www.uni-bielefeld.de/soz/ab6/ag\\_faist/downloads/WP\\_151.pdf](http://www.uni-bielefeld.de/soz/ab6/ag_faist/downloads/WP_151.pdf) TJRC. (2014).

- Tarazona, D. (June 23, 2017). The forgotten struggle of Kenyan indigenous people. Retrieved from: <https://www.eibinafrica.eu/documentary-olkaria-geothermal-power-plant/>
- TJRC. (2014). Report of the Truth, Justice and Reconciliation Commission: Volume IIA. Nairobi, Retrieved from: <https://digitalcommons.law.seattleu.edu/tjrc/>
- UNDRIP. (2007, September 13). UNGA Res. 61/295, United Nations Declaration on the Rights of Indigenous Peoples, 61 UN GAOR (vol. III), Supp. No. 49, p. 15, UN Doc. A/61/49. Retrieved from: [research.un.org/en/docs/ga/quick/regular/61](http://research.un.org/en/docs/ga/quick/regular/61).
- USAID Kenya & East Africa (May 2016). Development of Kenya's Power Sector 2015-2020. Retrieved from: [https://www.usaid.gov/sites/default/files/documents/1860/Kenya\\_Power\\_Sector\\_report.pdf](https://www.usaid.gov/sites/default/files/documents/1860/Kenya_Power_Sector_report.pdf)
- Waruru, M. (June 15, 2016). Kenya on Track to More Than Double Geothermal Power Production. Renewable Energy World. Retrieved from: <http://www.renewableenergyworld.com/articles/2016/06/kenya-on-track-to-more-than-double-geothermal-power-production.html>
- Webkenya (2003). Safari Rift Valley - Hell's Gate National Park & Mt Longonot National Park. Retrieved from: [http://www.webkenya.com/eng/safari/hells\\_gate.php](http://www.webkenya.com/eng/safari/hells_gate.php)
- World Bank (February 23, 2015). Kenya's Geothermal Investments Contribute to Green Energy Growth, Competitiveness and Shared Prosperity. Retrieved from: <http://www.worldbank.org/en/news/feature/2015/02/23/kenyas-geothermal-investments-contribute-to-green-energy-growth-competitiveness-and-shared-prosperity>

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