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PROPOSED JUST ENERGY TRANSITION FRAMEWORK GUIDELINE FOR KENYA

*Providing for Justice in Kenya's Renewable Energy
Benefit-sharing Model*

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Natural Justice supports public interest lawyers, affected communities and civil society organisations to:

- Challenge new fossil fuel exploration and generation.
- Advocate for law and regulatory reform to provide for equitable and just energy access for communities across Africa.
- Ensure robust public participation in decision-making for large-scale renewable energy projects to help avoid potential social and environmental harms to Indigenous peoples, local communities, and biodiversity, and ensure local communities' benefit from the energy transition.
- Build legal capacity and a community-of-practice to support Just Energy Transition work in Africa.

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Glossary of terms and abbreviations

BOO – Build-Own-Operate: A public-private partnership model in which a private company designs, finances, constructs, gets paid to fund, build, owns and runs a project indefinitely, operates and maintains an infrastructure facility, and provides the related services for a specified period, without an automatic requirement to transfer the facility to the public authority at the end of the project term.

BOOT - Build-Own-Operate-Transfer: A public-private partnership model where a private company designs, constructs, finances, owns, operates and maintains a facility or infrastructure facility for a specified period, after which the facility is, on completion, transferred to the contracting authority and the ownership to a client (like the state or other company). The private company will still manage and operate the facility or infrastructure for a set period of time.

CBA - Community Benefit Agreement: This is a legally binding contract between a developer and a local community. It sets out benefit-sharing, mutual obligations, and local development projects. The term “benefit-sharing agreement” is defined in the Natural Resources (Benefit Sharing) Bill, with a limited scope of addressing revenue from natural resources exploitation to affected parties and state.

CDA – Community Development Agreements: This is a binding agreement and a type of benefit-sharing mechanism. The term CDA can be found in Kenya's Mining Act, Mining Community Development Agreement Regulations and the Petroleum Act.

CSR - Corporate Social Responsibility: An internal business model of a company, where it integrates social and environmental concerns into its operations to bring a positive impact to society and stakeholders. In Kenya's energy and mining sectors, in terms of the Mining Act and Energy Act, a company is mandated to include this responsibility. CSR is not generally framed as a standalone statutory obligation; rather, companies may be required to comply with specific legal obligations relating to community development, benefit-sharing, local content, environmental and social impact assessment, consultation, compensation and environmental management.

ESIAs - Environmental and Social Impact Assessments: It is a systematic assessment

undertaken before certain proposed projects, programmes or activities are approved or implemented to identify, evaluate and mitigate their potential adverse environmental and social impacts, including through public participation and review by the relevant regulatory authority.

GRM - Grievance Redress Mechanisms: A formal or locally recognised process that enables stakeholders, such as project-affected persons, employees; community members and the general public, to raise complaints, concerns or feedback regarding a project or service to be dealt with in a formal, transparent and be able to find resolution. can raise complaints or concerns relating to a project, service or business activity, and seek a fair, timely and rights-compatible response or remedy. Grievance Redress Mechanisms (**GRMs**) may include company-level procedures, community dialogue platforms, mediation, customary or traditional dispute-resolution mechanisms, or referral to formal legal and administrative processes, provided they are legitimate, accessible, predictable, equitable, transparent and rights-compatible.

Installed capacity: The maximum rated output from power plants, generation units or electricity systems or facilities under ideal, continuous operating conditions. Installed capacity does not mean the amount of electricity actually generated, because actual output may be lower due to maintenance, fuel availability, weather conditions, intermittency, grid constraints or demand levels.

IPPs - Independent Power Producers: Producers of electricity that are owned by private companies. Non-utility private companies that build, own and operate electricity generation plants and sell the power generated, usually in bulk, to an off taker, such as Kenya Power, under a Power Purchase Agreement (PPA).

JET - Just Energy Transition: A shift from one energy system which is dependent on fossil fuels, to another energy system based on renewable energy, and which incorporates principles of environmental justice, human rights and energy justice.

MATs - Mutually Agreed Terms: Terms negotiated and accepted by parties relating to conditions, rights and obligations in a transaction or relationship.

PPAs - Power Purchase Agreements: A long-term legal contract between a seller, typically

a power plant operator or project developer and a buyer/off taker, under which the buyer agrees to purchase electricity generated by the seller over a specified period, usually at an agreed or predetermined price.

DRAFT

Executive summary

Kenya's has made significant progress in renewable energy development, particularly in geothermal, hydro, wind and solar energy. The Energy Act, 2019, provides an important legal foundation for expanding access to affordable energy services, including the objective of ensuring that all households are connected to electricity by 2030.

As renewable energy projects expand, and as emerging sectors such as green hydrogen develop, Kenya requires clearer and more practical mechanisms to ensure that affected communities participate meaningfully in decision-making and share fairly in the benefits of energy development.

Renewable energy projects are frequently located in areas where communities depend on the land, water, grazing areas, cultural landscapes and other natural resources for their livelihoods. While these projects contribute to addressing climate change and achieving national development goals, they can also reproduce injustice where affected communities bear the social, environmental and livelihood impacts without receiving fair, tangible and lasting benefit.

A baseline assessment of the renewable energy sector, and consultations with affected communities, conducted by Natural Justice in 2025/2026, identified recurring governance challenges in renewable energy development. The findings indicate weak implementation of community participation and benefit-sharing commitments. Existing benefit-sharing mechanisms are fragmented across different legal frameworks.

For example, Community Development Agreements (**CDAs**) are recognised in specific sectors, such as mining and carbon markets, while other sectors use different revenue-sharing, trust-fund, local content or project-specific arrangements. In renewable energy projects, benefits are often delivered through voluntary or discretionary Corporate Social Responsibility (**CSR**) initiatives which are not a substitute for structured, enforceable and community-prioritised benefit-sharing mechanisms.

The following framework identifies legal, policy and implementation gaps in community participation and benefit-sharing, and proposes practical guidance for embedding justice, accountability and community rights in renewable energy and green hydrogen

development.

The framework is based on human rights and the principles of energy justice – procedural, distributive, and recognition justice. Procedural justice requires meaningful and inclusive participation in decision-making processes. Distributive justice seeks to ensure that the benefits and burdens associated with energy projects are shared fairly. Recognition justice emphasises the protection of rights, identities and livelihoods, particularly for communities dependent on land and natural resources.

In response to the challenges identified in the baseline assessment, the framework proposes five guiding principles for a just energy transition in Kenya. These are:

- Meaningful and inclusive participation throughout the project lifecycle;
- Equitable and structured benefit-sharing mechanisms;
- Transparency, access to information and accountability;
- Recognition and protection of community land rights and natural resource governance; and
- Local economic development and livelihood protection.

These principles should guide the planning, approval, implementation, monitoring and decommissioning of renewable energy projects.

To address the challenges and gaps in community benefits, the framework analyses the current models that exist, including community benefit-sharing, CDAs, royalties and public-private partnerships. The framework also looks at various case studies of renewable energy projects, providing an overview of the challenges experienced by communities in these real-world examples.

The framework recommends: Early and meaningful participation of affected communities, legally binding benefit-sharing arrangements, improved access to energy and, where relevant, water services for host communities, enhanced community awareness and legal literacy, strengthened Grievance Redress Mechanisms (**GRMs**), stronger safeguards for land rights and Free, Prior and Informed Consent (**FPIC**), improved institutional coordination and preparing governance frameworks for emerging

sectors such as green hydrogen. It further proposes the establishment of community-led just transition forums and energy protocols to facilitate early engagement between communities, government and project developers, community priority-setting and accountability.

Ultimately, a just energy transition in Kenya requires more than just an expansion of renewable energy. It requires that communities, with other stakeholders like state actors and developers, are equal partners in planning, building and operations of renewable energy. Communities hosting renewable energy projects need to be recognised not only as project-affected persons, but as rights holders, development partners and accountability actors.

Renewable energy development should, therefore, be governed through clear legal standards, transparent institutions, enforceable community benefit arrangements and sustained participation. This will help ensure that Kenya's energy transition is not only low carbon, but also fair, inclusive and beneficial to host communities.

Introduction

Across Africa, energy systems have long shaped development trajectories: from post-independence hydroelectric ambitions to the current diversification into renewable energy sources. Today, the continent faces a complex convergence of challenges, including persistent energy poverty, climate vulnerability, and growing demand for industrialisation, employment, and infrastructure. In this context, energy is not only a sectoral issue but a central determinant of inclusive economic development and social welfare.

Large-scale renewable energy projects, while essential for decarbonisation, often involve land acquisition, infrastructure expansion, and shifts in local resource use. These processes can have significant implications for communities in project areas, particularly where governance systems are weak or fragmented. Ensuring that affected communities are meaningfully included, and that they share in the benefits of energy development, is therefore central to achieving a just energy transition.

Kenya's position in renewable energy development

Kenya has positioned itself as a regional leader in renewable energy development, particularly in geothermal generation, wind and solar projects. What about its energy transition?

Despite Kenya's strong renewable energy profile, gaps remain in the coherence, implementation and coordination of the legal and institutional framework governing energy projects. In practice, public participation may be uneven and inadequately conducted, communities land rights may be inadequately protected, and benefit-sharing standards may differ across technologies, sectors and projects. These gaps risk undermining public trust, delaying project implementation, and weakening the equity and sustainability of the transition.

In the Energy and Petroleum Regulatory Authority's (**EPRA**) latest biannual statistics report of 2025/2026, total installed capacity of renewable energy was 80.6% of 3,868.8 MW consisting of 943.7 MW geothermal capacity, 540.9 MW solar, 872.5 MW hydro

capacity and 436.1 MW wind.¹

The National Energy Policy has set out the goal of achieving universal energy access by 2030, with an ambition to harness the vast renewable energy potential in the country. As of 2024, the government attained approximately 75% national electricity access, with 90% and 68% access in urban and rural areas respectively.

However, achieving a near 100% renewable energy use and production requires more than resource availability and infrastructure investments. It demands strong and coherent legal, policy, regulatory, institutional and financial frameworks that create enabling conditions for a just and inclusive energy transition.

Kenya's renewable energy expansion is also taking place alongside growing interest in emerging sectors such as green hydrogen as a future decarbonisation pathway. The Green Hydrogen Strategy and Roadmap for Kenya 2023² identifies green hydrogen as a potential pathway for decarbonisation, green industrialisation, fertiliser production, investments and job creation. As these new technologies develop, Kenya has an opportunity to embed community participation, benefit-sharing, accountability and rights protection at an early stage, rather than addressing these issues only after project-related conflicts arise.

Benefit-sharing agreements in Kenya

When rolling out renewable energy projects and just energy transitions, the most important components are meaningful participation, rights protection, benefit-sharing and accountability, which allow for the establishment of a “social license” (wide acceptance of something) with communities and Indigenous Peoples.

Benefit-sharing provisions are fragmented across different laws and policies despite several attempts to integrate existing independent benefit-sharing schemes across sectors into one comprehensive legal framework to ensure benefits accruing from the

¹ EPRA, Bi-annual Statistics Year 2025/2026. Available at <https://epra.go.ke/sites/default/files/2026-03/Biannual%20Statistics%20Report%202025-2026.pdf>.

² Ministry of Energy and Petroleum, Green Hydrogen Strategy and Roadmap for Kenya (September 2023). Available at https://energy.go.ke/sites/default/files/KAWI/Publication/GHS_15_11_2023_COMP.pdf.

exploitation and utilisation of natural resources are distributed equitably to all levels of government, communities, and the impacted entities.

Currently, community benefit-sharing in renewable energy projects is negotiated on a project-by-project basis. This is because the Energy Policy and the Energy Act do not provide a comprehensive framework for sharing revenues among the national government, county governments, and local communities. Consequently, benefit-sharing is often negotiated through elements such as corporate social responsibilities, or resettlement action plans, to name a few.

However, ministry documents are beginning to recognise the importance of benefit-sharing; for instance, the Draft National Geothermal Strategy (2026) expressly acknowledges and even recommends clear and enforceable community benefit-sharing mechanisms as part of maintaining a project's social licence to operate. Due to the potential impacts of renewable energy projects on land, livelihoods natural resources and cultural heritage, a benefit-sharing mechanism should be clear, consistent and transparent and enforceable. It should also address the paradox that some host communities lack reliable and affordable electricity access, even though Kenya's electricity supplied to the national grid is largely generated from renewable sources. Benefit-sharing should, therefore, include measures to improve local energy access and reduce reliance on polluting household energy sources, such as firewood, charcoal and kerosene.

Establishing trust and legitimacy with affected communities is essential for renewable energy development. This should not be reduced to voluntary corporate social responsibility or once-off consultation meetings. Rather, it should be grounded in legally recognised rights, inclusive participation, negotiated and enforceable benefit-sharing mechanisms, and accountability throughout the project lifecycle. In this way, Kenya's renewable energy transition can advance climate goals while also delivering tangible equitable benefits for host communities, Indigenous Peoples, other marginalised groups and future generations.

Purpose of the Framework

The purpose of this framework is to provide structured guidance on how benefit-sharing, accountability and community participation can be integrated into Kenya's renewable energy sector in a manner that is equitable, transparent, and grounded in human rights. It seeks to inform policy, legal, and institutional reforms so that communities affected by renewable energy projects are not only consulted but are recognised as rights holders, active participants and beneficiaries of the energy transition.

The framework is informed by stakeholder consultations and baseline findings from selected renewable energy project sites, as summarised in **Annexure A**. It is also grounded in Kenya's constitutional, energy, land, environmental, and access to information frameworks, as well as international and comparative principles on energy justice, community participation and benefit-sharing.

Energy justice provides a useful analytical framework for assessing whether energy systems are fair, inclusive and accountable. The concept of energy justice offers a structured approach to understanding and addressing the social, economic, and governance dimensions of energy systems. It emphasises that energy production and distribution must be assessed not only in terms of efficiency and sustainability, but also in terms of fairness and equity.

Energy justice is commonly understood through three interrelated dimensions: procedural justice, distributive justice and recognition justice.

Procedural justice focuses on the fairness and inclusiveness of decision-making processes. In the context of renewable energy, this requires meaningful and early participation of affected communities, access to timely; accurate; and accessible information, and transparent and accountable governance processes.

Procedural justice ensures that communities are not merely informed of decisions but are able to influence outcomes that affect their livelihoods and environments.

Distributive justice concerns the equitable allocation of benefits and burdens

associated with energy systems. In renewable energy development, there needs to be fair distribution of economic benefits such as employment and revenue-sharing, equitable access to electricity and water and avoidance of disproportionate environmental and social burdens on host communities. Distributive justice is particularly relevant in contexts where communities hosting energy infrastructure do not experience corresponding socio-economic benefits.

Recognition justice emphasises the need to acknowledge and respect the rights, identities, and knowledge systems of affected communities. Recognition of customary land rights and resource use systems, inclusion of historically marginalised groups in governance processes and respect for cultural values, and livelihoods linked to land and natural resources are included in recognition justice. Recognition justice is critical in ensuring that energy transitions do not marginalise vulnerable groups or undermine existing social systems.

Although Kenya has established a relatively strong legal and policy framework for renewable energy, implementation gaps remain. Benefit-sharing provisions are fragmented across different laws and policies, while CSR initiatives are often discretionary and insufficient to address community concerns. A more coherent and enforceable framework is, therefore, required to regulate participation, benefit-sharing, accountability, and grievance mechanisms within renewable energy development.

Legal and Institutional Gaps affecting a Just Energy Transition

Renewable energy projects are often implemented in areas where communities depend on land and natural resources for livelihoods. Where consultation processes, land governance mechanisms, and benefit-sharing arrangements are not clearly defined or consistently implemented, tensions may arise between project developers, government institutions, and affected communities. This results in uncertainty in project development and delays which could have been avoided should clear, proper consultation be done with adequate benefit-sharing established.

Since renewable energy projects often require approvals and participation from both national institutions and county governments, overlapping responsibilities and weak

coordination can create uncertainty over roles. For example, delays may occur when a solar or wind project receives national approval but encounters county-level planning or land-use challenges, leading to duplication of processes, conflicting decisions, and inefficiencies in project implementation.

An analysis of the unclear roles and responsibilities played by national and county governments is shown below. The Ministry of Energy and Petroleum is responsible for developing national energy policies, while the EPRA regulates renewable energy projects under the Energy Act 2019. The Rural Electrification and Renewable Energy Corporation (**REREC**) implements rural electrification and renewable energy programmes, and the Renewable Energy Resource Advisory Committee advises the government on renewable energy resource allocation.

At the same time, county governments are responsible for land-use planning, local development planning, community representation and community-facing governance. The responsibility to provide basic services, including electricity, sits within national and county government level.

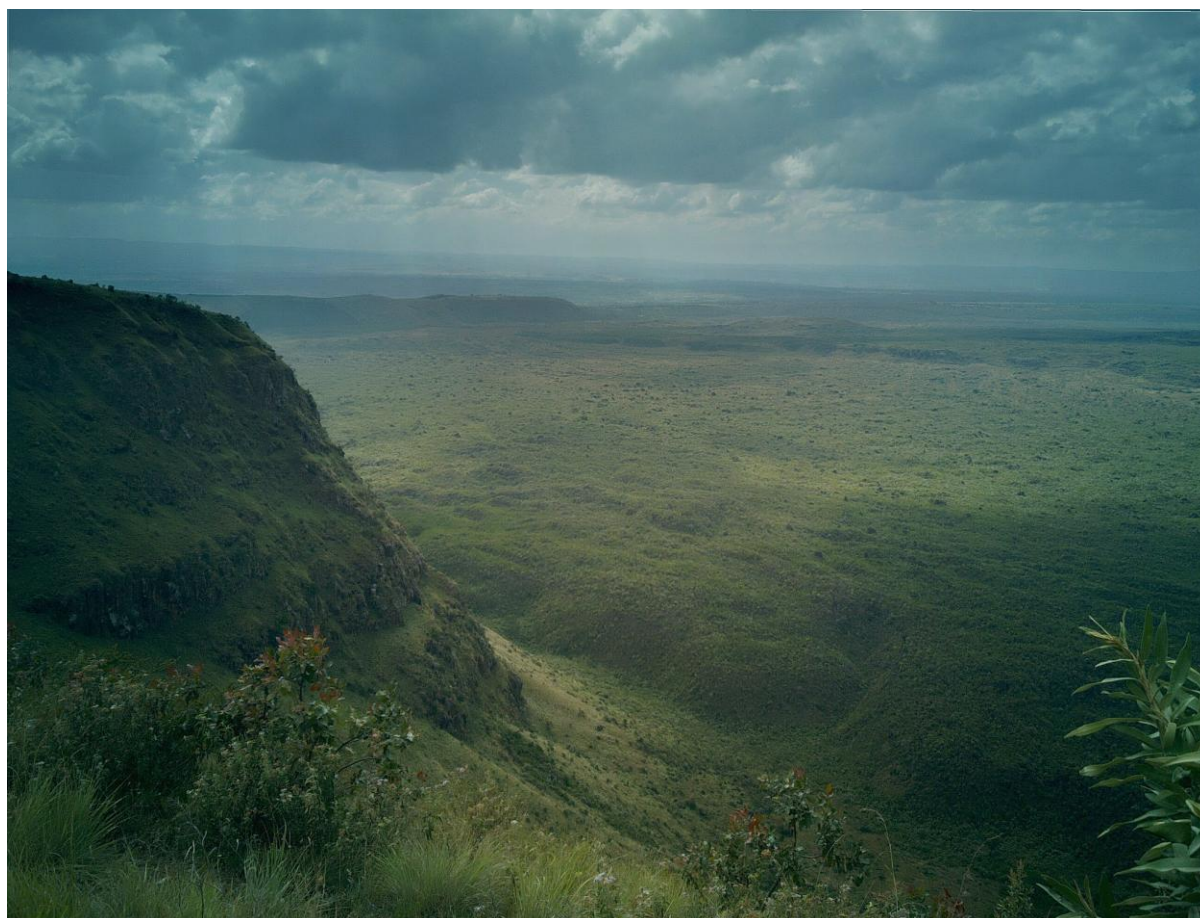
The national energy framework regulates the transmission, distribution and retail supply chain of electricity at national level, while county governments' functions include county planning, development and county energy planning under the Energy Act.

Weak Enforcement of Existing Legal Provisions

The Constitution of Kenya, 2010, particularly Articles 10, 42, 60, 69, 174, and 232, supports public participation, sustainable development, access to land and natural resources for communities, equitable sharing of resources, environmental protection, and devolution, respectively. Nonetheless, practical implementation gaps persist in renewable energy and extractive sector governance.

The Environmental and Social Impact Assessment (**ESIA**) conditions are not consistently monitored or enforced. This has been attributed corruption and administrative inefficiencies which undermine regulatory oversight, while political transitions and changes disrupt project continuity and accountability. Therefore, even where strong legal

provisions exist, weak enforcement undermines their practical impact.



Menengai Crater in Kenya, site of geothermal energy projects

Gaps in Benefit-Sharing Frameworks

Although Kenya has introduced benefit-sharing provisions in sector-specific legislation, these remain limited and inconsistent.

The Energy Act, 2019, under section 85 provides for benefit-sharing in geothermal projects, but implementation is uneven. Recently, the Geothermal Strategy has been prepared but not yet implemented with public comments process still ongoing. Certain provisions allow discretionary decision-making, weakening their enforceability.

The absence of a comprehensive legal framework, such as the pending Natural Resources (Benefit Sharing) Bill, creates fragmentation across sectors. In the absence of a binding framework, benefit-sharing is often reduced to discretionary or ad hoc arrangements, rather than structured enforceable obligations. There is, therefore, a need

for deliberate benefit-sharing mechanisms as corporate social responsibility is not sufficient.

While the Energy Act, 2019 introduced provisions on economic and financial benefits for the country and local content participation, Kenya still lacks a comprehensive, clear, and operationalized framework specifically addressing community benefit-sharing for equitable sharing of social, economic, environmental, and financial benefits arising from renewable energy projects, with only specific energy sources including aspects like geothermal royalties and local content. Currently there is no statutory benefit-sharing percentage for wind, solar or transmission projects.

Existing laws provide limited guidance on how revenues, royalties, employment opportunities, infrastructure investments, carbon revenues, or other project benefits should be distributed among national governments, county governments, and host communities. There is also limited clarity on community ownership models, long-term livelihood restoration measures, and mechanisms for transparent management of community benefit funds. In practice, benefit-sharing arrangements are often negotiated on a project-by-project basis, resulting in inconsistencies, inadequate accountability, and community grievances regarding exclusion and inequitable distribution of benefits.

Inadequate Protection of Community Land Rights

Land governance remains a critical area of legal vulnerability, particularly in areas under community land tenure. The Community Land Act (2016) recognises and protects community land rights, provides that community land vests in the community, and gives customary land rights equal legal force with other registered land rights. It also provides that unregistered community land is held in trust by county governments, and county governments are prohibited from selling, transferring or converting such land for private purposes while holding it in trust.

While the Community Land Act recognises community land rights and provides mechanisms for registration, governance and community decision-making, implementation remains uneven. Many communities continue to occupy unregistered community land, which is held in trust by county governments, creating risks where land

is allocated, leased or converted for energy projects before communities have secured formal registration, received adequate information, or participated meaningfully in decisions affecting their land.

A just energy transition requires that land acquisition, leasing, easements, wayleaves and access arrangements for renewable energy projects be based on clear tenure recognition, meaningful consultation, community consent where required, fair valuation, timely compensation and livelihood restoration. Compensation should not be limited to the market value of land, but should also consider grazing routes, seasonal resource use, cultural sites, water access, biodiversity, intergenerational value and the social and economic relationship communities have with land. Policy reform should therefore prioritise the registration of community land, standard procedures for land access in energy projects, protection of customary and pastoralist land-use systems, and safeguards to ensure that renewable energy development does not reproduce historic patterns of dispossession.

Procedural Gaps in Public Participation

Although the Constitution of Kenya, the Community Land Act, the Energy Act, the Environmental Management and Coordination Act (**EMCA**), and the County Governments Act (2012), provide for public participation, access to information, and community engagement, gaps remain in the practical implementation and enforcement of these rights. Consultation processes are, at times, undertaken as procedural requirements rather than meaningful and continuous engagement processes that guarantee FPIC, effective participation, and access to remedy for affected communities. Weak community awareness of legal rights, limited access to technical information, and unequal bargaining power between investors and communities further undermine inclusive decision-making.

While Kenyan law recognises public participation as a key requirement, its practical application remains limited. Participation often occurs after key decisions have already been made with communities. Information is frequently technical, inaccessible, or provided too late for any real intervention or consultation. Power asymmetries between communities, developers, and state institutions limit meaningful engagement. This

results in procedural compliance without substantive inclusion, weakening the legitimacy and social licenses needed for renewable energy projects.

Weak Grievance Redress and Accountability Mechanisms

Legal and institutional mechanisms for accountability exist but are not consistently accessible or effective.

Project-level grievance mechanisms are often poorly communicated or inaccessible. This results in communities frequently relying on courts or external bodies, which are costly and time-consuming. This is exacerbated by delays in enforcement of court decisions, further undermining trust in the system. This gap reduces the ability of communities to seek timely and effective remedies.

This is evidenced by both the communities in Turkana and Nakuru turning to courts to enforce compliance with the law in wind and geothermal projects respectively. In the case of Turkana, the High Court ruled that the community land had been acquired without proper procedure.³ In Nakuru, the Environment and Land Court in 2025 ordered in favour of the community due to lack of proper public participation. This resulted in a prospecting license for geothermal being cancelled.⁴

Effective project-level grievance mechanisms could help address disputes earlier and reduce escalation to courts, while preserving communities' right to seek judicial and administrative remedies.

Regulatory Gaps in Emerging Sectors including Green Hydrogen

Emerging sectors such as green hydrogen expose gaps in the current legal framework. Existing laws (water, land, environmental) apply indirectly but are not tailored to sector-specific risks. There is a lack of clear guidelines for Environmental Impact Assessments (EIAs) for large-scale green hydrogen projects. Governance questions around water

³ Business and Human Rights Centre “Lake Turkana Wind Power lawsuit”. Available at <https://www.business-humanrights.org/en/latest-news/lake-turkana-wind-power-lawsuit-re-land-rights-kenya/>.

⁴ Natural Justice “Sosian Energy case emphasises the importance of public participation in energy projects” (20 March 2025). Available at <https://naturaljustice.org/sosian-energy-case-emphasises-the-importance-of-public-participation-in-energy-projects/>.

demand, land access, infrastructure, safety, export orientation, local benefits, public awareness and benefit-sharing are raised without specific standardised law or policy on these aspects for green hydrogen. These gaps create uncertainty and increase the risk of repeating governance failures observed in existing renewable energy projects.

Lack of Harmonisation Across Legal Frameworks

Stakeholders identified inconsistencies and lack of alignment across laws governing energy, land, and environmental management. There are overlapping provisions which create confusion in implementation. Absence of standard operating procedures for project development result in uncertainty.

Renewable energy projects located on community land must comply with the Community Land Act, which requires community consent through the Community Assembly, while the EMCA requires Environmental and Social Impact Assessments **(ESIAs)** and public participation before project approval.

At the same time, the Energy Act governs project licensing through EPRA but does not prescribe a clear sequence or standard operating procedure for integrating land rights, consent, environmental approvals, and energy licensing. As a result, developers and regulators may follow different processes, creating uncertainty, delays, and overlapping implementation requirements.

This uncertainty continues into standards for community benefits. The Mining Act grants royalties of 10% to local communities with 1% gross annual turnover of mining operations in CDAs. Land-based and non-land-based carbon projects in terms of the Climate Change Act, require an annual social contribution minimum of 40% of gross revenue and 25% gross revenue respectively. The Petroleum Act allocates 5% to local communities, and the Energy Act proposes 5% royalties on geothermal projects to communities, while offering no statutory percentage for other renewable energy projects.

This fragmentation reduces regulatory clarity and weakens overall system effectiveness. It further creates uncertainty with communities, with different projects allocating different benefits – though the impacts may be similar.

Guiding Principles

With the gaps identified in the previous chapter, the following guiding principles are proposed to inform the development of a JET framework in Kenya. These principles aim to ensure that renewable energy development is inclusive, equitable, and aligned with human rights and sustainable development objectives.

Principle 1: Meaningful and Inclusive Participation

Renewable energy projects should be planned, approved, implemented and monitored through early, continuous, inclusive and meaningful participation of affected communities. Participation should begin before key decisions are made and should enable communities to influence project design, benefit-sharing arrangements, mitigation measures and monitoring processes.

Meaningful community participation is a foundational pillar of a just energy transition and procedural justice. Special attention must be given to the inclusion of women, youth, pastoralist communities, and persons with disabilities, recognising existing barriers to participation.

The operationalisation of FPIC, particularly in areas involving community land, is essential to ensure that participation is meaningful and rights-based rather than symbolic.

Principle 2: Equitable and Structured Benefit-sharing

Benefit-sharing mechanisms must move beyond ad hoc CSR initiatives toward structured, transparent, and legally enforceable systems.

Equitable benefit-sharing is central to ensuring that communities hosting renewable energy projects are not disproportionately burdened while others benefit.

Benefit-sharing should reflect the scale, duration, and impact of renewable energy projects. Commitments on clear benefit-sharing should be compulsory to obtain licenses/authorisations for large scale projects.

Providing of basic services is an obligation of the state which should be enforced in terms of access to water and energy from large-scale projects.

Principle 3: Transparency, Access to Information and Accountability

Renewable energy governance in Kenya must be anchored in transparency, access to information, accountability, and equitable benefit-sharing across the entire project lifecycle. These principles are grounded in Articles 10 and 35 of the Constitution of Kenya 2010, which enshrine public participation, transparency, accountability, and the right of access to information as binding national values.

In terms of the information that should be available, it must include public access to project information; including contracts; ESIAs; and benefit-sharing arrangements, disclosure of how benefits, monetary and non-monetary are calculated; allocated; and distributed, defined institutional roles and coordination among national and county governments, regulators, and developers. To ensure transparency and access to information is available there needs to be effective monitoring and enforcement mechanisms throughout project life cycle, including decommissioning with accessible and responsive accountability systems, including grievance redress mechanisms

The Access to Information Act 2016 operationalizes this right by guaranteeing the public access to information held by both public and private entities where such information is necessary for the protection of a right or fundamental freedom.

Effective monitoring and enforcement mechanisms must be maintained throughout the project lifecycle, including decommissioning, supported by regular reporting, independent audits, and sanctions for non-compliance.

Principle 4: Recognition and Protection of Community Land Rights and Natural Resource Governance

Renewable energy development must recognise and protect community and Indigenous land rights and access to natural resources, particularly in areas governed under community land systems.

This requires respect for FPIC in all land-related decisions; security of tenure being supplied to communities; regardless of land right whether private or community. For land rights not recognised there needs to be formal and legally binding recognition of customary land use systems, including pastoralist livelihoods and cultural heritage. Should land rights or natural resources be impacted, land acquisition and compensation processes must be transparent. Developers should endeavour to adopt models of safe and accessible co-use of land and resources or mitigation. Relocation or deprivation of natural resources and land to communities should only be considered a last resort.

Failure to adequately recognise land rights risks displacement, conflict, and the erosion of cultural and livelihood systems.

Principle 5: Local Economic Development and Livelihood Protection

Renewable energy projects must contribute to sustainable local economic development and protect existing livelihoods. Community benefits should include local economic development, contributions to livelihoods that are long-term and sustainable, ensuring upliftment of communities in a way that doesn't result in window-dressing.

This includes skills development, capacity building and decent and sustainable employment opportunities for local communities. Developers should ensure that projects do not undermine existing livelihood systems, particularly in rural and pastoralist contexts. As a last resort, should livelihoods be impacted, an equally sustainable replacement must be provided in consultation with community members. In working with communities, there should be promoting of local economic linkages and value creation through the project.

Energy projects should act as catalysts for local development rather than sources of economic exclusion.

Comparative examples of benefit-sharing success

An example of ensuring inclusion of a community throughout a project can be found in

Hopefield, South Africa.⁵ The “community approach” of the project proponent was to have continuous engagement with the community, which included spending time with the community and understanding them. This was not in terms of any protocol or framework guidelines, but rather to create a social license. The Hopefield project included community participation during the planning, construction and operation phase, instead of waiting for official processes like EIAs.

Another success is seen in Nigeria, through its community co-owned models for mini grids.⁶ This includes creating Community Power Committee agreements whereby 20% of the mini grid proceeds go back to the community. In another instance, the Mbiabet Esieyere Community Development Initiative was set up as a trustee which governs the assets and reinvestment of the proceeds. This co ownership has resulted in increased community attendance of meetings and more willingness to interact with developers.

In terms of practicality of allowing communities to have better access to information, Malawi, through the support of the World Bank, has the regional communications infrastructure program.⁷ This program gives internet access to students and villagers and training for teachers on equipment. The support includes infrastructure for broadband connectivity to institutions and rural areas. This project was commenced due to identified issue of lack of internet access which was compounding lack of access to information.

Two examples of community protocols which are known include the Ogiek Biocultural Community Protocol⁸ and the Endorois Peoples’ Biocultural Protocol⁹. These should

⁵ Swartz, K “Addressing community energy challenges with utility-scale renewables: A case study of Hopefield Wind Farm” (April 2019). Available at <https://scholar.sun.ac.za/server/api/core/bitstreams/770be5f2-2721-48e9-ae9a-e9e0ab382e04/content>.

⁶ Business and Human Rights Centre “Nigeria: Shared -Benefit solar mini grids have potential for stronger trust and socio-economic gains” (20 November 2025). Available at [Nigeria: Shared-Benefit Solar mini grids have potential for stronger trust and socio-economic gains - Business and Human Rights Centre](#).

⁷ A G20 Initiative “Regional Communications Infrastructure Program (RCIP)”. Available at [Regional Communications Infrastructure Program \(RCIP\) Malawi - Inclusive Infrastructure](#).

⁸ Natural Justice “Ogiek Biocultural Community Protocol”. Available at <https://naturaljustice.org/publication/ogiek-biocultural-community-protocol/>.

⁹ Endorois Peoples’ Biocultural Protocol. Available at <https://endoroisindigenouswomen.org/wp-content/uploads/2023/05/EIWEN-Biocultural-protocol-.pdf>.

become a standard for affected communities of renewable energy developments and green hydrogen.

DRAFT

Benefit-Sharing in Kenya

Developers and government actors often promote energy projects as gateways for development, highlighting a range of benefits for the host communities. This is done to build trust and secure social acceptance of the projects. However, upon implementation, community respondents noted that their expectations were not always met.

There is a disconnect between what the law allows for and implementation by companies and government. This requires the need for a structured, transparent, and legally enforceable benefit-sharing framework that ensures equitable distribution (in line with energy justice principles) of both monetary and non-monetary benefits throughout the project lifecycle.

Type of benefits

This section explains the current benefits that are available to communities, and the gaps which should be addressed.

Economic Benefits

Economic benefits must extend beyond short-term employment during construction phases and include long-term local employment opportunities. Ideally these employment opportunities should not only involve low-skilled and low-paid opportunities but extend to professional opportunities. This includes skills development and capacity building. For local procurement and supply chain participation, local businesses should be supported during a project's lifetime.

Economic benefits can also take the form of revenue-sharing arrangements. Under the Climate Change (Carbon Markets) Regulations, 2024, the annual social contribution for land-based projects on public or community land is at least 40% of aggregate earnings of the previous year less cost of doing business, and for non-land-based projects it is 25% of aggregate earnings of the previous year less cost of doing business.

For geothermal, the Energy Act provides for royalties from geothermal energy to be apportioned as 20% to the county government, 5% to the local community through a trust

fund, and 75% to the national government, although the Cabinet Secretary may waive, suspend or reduce the royalty in certain circumstances.

As mentioned above in Nigeria, in the case of the mini solar grids, economic benefit can take the shape of equity participation or community ownership models. This includes communities owning shares in the company, local partnership arrangements.

Without structured mechanisms, economic benefits tend to be concentrated among external actors, with limited local retention of value.

Social Benefits

Social benefits relate to improvements in community well-being. This can take the form of investments in health, education, and public infrastructure. Specifically for energy projects could be the providing of electrification and improved energy access and affordability for host communities. To ensure sustainability, social benefits should include capacity building and skills development.

However, reliance on ad hoc CSR initiatives has resulted in fragmented and unsustainable outcomes, highlighting the need for institutionalised approaches.

Environmental Benefits

Environmental benefits include local environmental restoration and conservation initiatives, reduced pollution and improved environmental quality and community participation in environmental monitoring

Communities should not only bear environmental risks but also share in environmental gains. Bio-cultural protocols support shows the importance of protecting and preserving environments, especially of Indigenous People. This recognition of importance of environment should further be seen in light the constitutional right to a healthy environment.

Benefit-Sharing Mechanisms

This section outlines mechanisms that can be used to operationalise equitable,

structured and enforceable benefit-sharing within renewable energy projects. These mechanisms should ensure that benefit-sharing commitments are transparent, enforceable and responsive to the needs and priorities of affected communities.

In Kenya, benefit-sharing mechanisms are currently more developed in some sectors than others. Mining, petroleum, geothermal and carbon markets contain specific benefit-sharing or community development mechanisms. However, wind, solar, transmission infrastructure and emerging technologies such as green hydrogen do not yet have an equivalent comprehensive statutory benefit-sharing framework. As a result, benefits in these sectors are often addressed through voluntary CSR initiatives, land leases, licence conditions or individually negotiated agreements.

Community Benefit Agreements (**CBAs**) are agreements negotiated between developers and affected or host communities which define benefit commitments, establish timelines and accountability mechanisms, and provisions for monitoring and enforcement. They may define their respective rights, responsibilities, timelines, roles, reporting obligations, monitoring arrangements, grievance procedures, enforcement mechanisms and commitments throughout the project lifecycle.

In Kenya, CBAs are not currently established as a general statutory requirement under the Energy Act. However, they may be used as contractual benefit-sharing instruments where properly negotiated, documented and executed. For projects on community land, they should also be aligned with the Community Land Act requirements on community consultation, approval and benefit arrangements for investments on community land.

CBAs should be negotiated through transparent, inclusive and representative processes, with safeguards for women, youth, persons with disabilities, pastoralist groups and other marginalised community members.

In Kenya, CDAs are recognised in specific legal frameworks, including the Mining framework and carbon market framework. They provide useful models for structuring long-term community development commitments, but they do not currently apply as a general statutory requirement across all renewable energy projects.

Benefit-sharing may also take the form of royalty, revenue-sharing or social contribution mechanisms. Kenya uses different models across sectors: mining royalties include a community share; petroleum provides a local community share through a trust fund; geothermal royalties include a 5% local community share through a trust fund; and the carbon market framework provides for annual social contributions for qualifying carbon projects on public or community land.

However, wind, solar and transmission projects largely rely on voluntary CSR initiatives, land leases, licence conditions and project-specific negotiated arrangements, rather than a comprehensive statutory benefit-sharing framework.

They are often short-term, discretionary and insufficiently aligned with community needs and priorities particularly where they are not developed through meaningful participation or linked to monitoring and accountability mechanism.

Beyond CBAs; CDAs and royalties, another model which can be utilised is public-private partnerships which can provide an important mechanism for delivering benefits arising from renewable energy projects. Through collaboration between government institutions and project developers, these arrangements can support the provision of local infrastructure, social services and economic development initiatives. Such partnerships should be aligned with local development priorities, including County Integrated Development Plans (**CIDPs**), county energy plans, community-identified needs, and should contribute to improving access to basic services and promoting long-term local development.

Governance and Institutional Roles

This section identifies the key institutions and actors responsible for renewable energy governance and benefit-sharing in Kenya, and clarifies their respective roles in ensuring that benefit-sharing commitments are planned, implemented, monitored and enforced.

Effective benefit-sharing depends on clear institutional roles and coordination across national government, county governments, regulators, public agencies, private developers, community structures, civil society and oversight institutions.

Table 1: Roles of different actors in Kenya within benefit-sharing arrangements

Actor	Core governance role	Specific role in benefit-sharing
National government institutions	Policy formulation, national energy planning, legal and regulatory reform, inter-governmental coordination, licensing, national project oversight	Develop national benefit-sharing policy, minimum standards, model agreements and monitoring frameworks
The Energy and Petroleum Regulatory Authority (EPRA)	Licensing, tariff oversight, compliance monitoring, enforcement of energy-sector obligations, consumer protection, local content oversight and regulatory reporting.	Integrate benefit-sharing commitments into licensing, reporting and compliance processes where legally provided
National Environmental Management Authority (NEMA)	Environmental assessment, licensing, monitoring, audits and enforcement	Ensure EIA/ESIA and ESMP processes identify community impacts, mitigation measures and monitoring obligations
County governments	County energy planning, land use planning, local development planning, local representation, community-facing governance, facilitation of local participation, service delivery within county functions, and alignment of benefit-sharing commitments with County Integrated Development Plans (CIPDs) and county energy plans.	Align benefit-sharing commitments with CIDPs, county energy plans and community priorities; support local monitoring and accountability
Rural Electrification and Renewable Energy Corporation	Electrification of rural areas and promoting renewable energy development.	Incorporate community benefit-sharing through CSR and development initiative when designing and

(REREC)		implementing projects.
KenGen	Largest electricity generator/producer from geothermal, hydroelectric, wind, and thermal sources in Kenya	As the responsible institution planning and developing new generating capacity, it is responsible for negotiating and implementing benefit commitments contained in project agreements and obtaining ESIA approvals.
Geothermal Development Company (GDC)	Exploring, developing and managing geothermal resource for electricity production.	Negotiating and implementing benefit commitments contained in project agreements, stakeholder engagement and obtaining ESIA approvals in geothermal projects
Kenya Electricity Transmission Company Limited (KETRACO)	Plan, design, construct, own and operate the high voltage electricity transmission grid and regional power interconnectors.	Responsible for land acquisition and compensation, stakeholder engagement, and obtaining ESIA approvals associated with transmission lines/ networks.
Kenya Power and Lighting Company	Responsible for electricity distribution and acts as the single buyer of power.	Implementation of the Corporate Social Responsibility and Investment Policy.
Land Institutions / National Land Commission	Manages public land and oversees land acquisition for the implementation of renewable energy projects.	Oversees acquisition process, ensures adequate and timely compensation and investigates land administration issues.
Public Private Partnerships (PPP) Directorate	Reviews, appraises and supports the development of PPP projects under the PPP Act	Influence and ensure benefit-sharing commitments are incorporated into PPP project agreements.
National Treasury	Oversee public finance.	Ensures public investments comply with fiscal and legal requirements.
Civil society	Rights awareness, legal	Support communities to understand, negotiate, monitor

organisations	empowerment, policy advocacy, community mobilisation, capacity building, independent monitoring and support to affected communities.	and enforce benefit-sharing commitments
Private developers / Independent Power Producers (IPPs)	Project development, financing, construction, operation, compliance with licence conditions, community engagement, benefit-sharing commitments, local content obligations, ESIA/ESMP obligations and grievance mechanisms.	Negotiate, implement, report on and fund benefit-sharing commitments; comply with local content, ESIA/ESMP and grievance obligations
Community structures	Community representation, identification of community priorities, participation in decision-making, monitoring of benefit-sharing commitments, grievance raising, local consultation, social legitimacy and holding duty bearers accountable.	Identify priorities, negotiate benefits, monitor implementation, manage community benefit structures and raise grievances
Courts	Exercise judicial function depending on the nature of dispute, safeguard enforcement, dispute resolution, accountability	Enforce procedural and substantive safeguards that underpin equitable benefit-sharing.
Kenya National Commission on Human Rights Commission	National human rights institution, with the primary responsibility of promoting and protecting human rights	Investigates allegations of human rights violations arising from renewable energy developments.
Commission on Administrative Justice	Promotes and protects fair, lawful, and accountable public administration.	Investigates maladministration, unreasonable delay, failure to provide information especially

		benefit-sharing related information, and abuse of administrative power by public institutions.
Parliament	Make legislation, approves the national budget, scrutinizes government spending, and oversees the executive.	Exercises oversight over the Executive through relevant committees inquiries e.g. energy committee and public investment committee, scrutiny of state corporations, and review of reports from oversight institutions such as Auditor General.

Clear institutional roles are essential to prevent benefit-sharing commitments from becoming discretionary, fragmented or unenforceable. A renewable energy benefit-sharing framework should therefore specify which institutions are responsible for setting standards, approving projects, verifying community participation, monitoring implementation, enforcing compliance and resolving disputes. It should also ensure that communities have the information, capacity and representative structures needed to participate as rights holders and accountability actors throughout the project lifecycle.

Dispute resolution and GRM

Effective grievance redress and dispute resolution mechanisms are essential to meaningful participation, accountable benefit-sharing and the legitimacy of renewable energy projects.

Where GRMs are unclear, inaccessible or poorly communicated, community concerns may remain unresolved and mistrust may increase. This can lead affected communities to seek alternative avenues for redress, including complaints to regulators, petitions, tribunals or litigation. While these avenues are legitimate and must remain available, disputes that could have been addressed earlier may escalate, resulting in delays, increased costs and weakened trust between communities, developers and government institutions.

The baseline findings indicate that only 20% of the energy stakeholder respondents f

considered the available GRM within the renewable energy projects adequate and fair. These findings indicate that the mere existence of grievance mechanisms is insufficient without accessibility, awareness, and responsiveness.

Risk and Mitigation

Renewable energy projects face a heightened risk of community opposition, litigation, delay or loss of legitimacy where affected communities are not meaningfully consulted, where benefit-sharing commitments are unclear, and where grievance mechanisms are inaccessible or ineffective. These risks can be mitigated through early and continuous participation, transparent access to information, enforceable benefit-sharing arrangements, and accessible grievance redress mechanisms.

Projects face a heightened risk of community opposition, loss of legitimacy, litigation, delay, suspension or being halted where affected communities are not meaningfully consulted, where benefit-sharing commitments are unclear, and where grievance mechanisms are inaccessible or ineffective. These risks can be mitigated through early and continuous participation, transparent access to information, enforceable benefit-sharing arrangements, and accessible grievance redress mechanisms.

Under-regulation creates uncertainty for communities, developers, investors and public authorities because expectations on participation, benefit-sharing, land access, local content and grievance redress are unclear. At the same time, poorly designed or inconsistent regulation may increase uncertainty, raise transaction costs or discourage responsible investment. The objective should therefore be proportionate, predictable and enforceable regulation that protects rights, provides certainty to developers and investors, and ensures fair outcomes for host communities. Under-regulation creates uncertainty for communities, developers and investors and public authorities because expectations on participation, benefit-sharing, land access, local content and grievance redress are unclear. At the same time, poorly designed or inconsistent regulation may increase uncertainty, raise transaction costs or discourage responsible investment. The objective should therefore be proportionate, predictable and enforceable regulation that protects rights, provides certainty to developers and investors, and ensures fair

outcomes for host communities.

The State has a central role in setting minimum standards, coordinating institutions, enforcing safeguards and ensuring that renewable energy development advances public interest objectives while protecting community rights. Consultation between the state, developers and communities can allow and create social licenses to the benefit of all stakeholders but should not be limited to this end. It should address power imbalances, ensure community concerns influence decisions and create legitimate, rights-based and mutually beneficial project outcomes.

Key risks and mitigation measures should be identified at each stage of the project lifecycle, including planning, approval, construction, operation, benefit delivery, monitoring and decommissioning.

The matrix below sets out key risks that may arise in the implementation of renewable energy benefit-sharing arrangements, together with proposed mitigation measures. It recognises that risk should be understood from the perspective of all stakeholders, including communities, developers, investors, regulators and government institutions. Clear legal standards, meaningful participation, transparent benefit-sharing commitments, effective monitoring and accessible grievance mechanisms are essential to reducing conflict, strengthening accountability and ensuring that renewable energy projects contribute to a just energy transition.

Table 2: Key Risks and Mitigation Measures for a Just Renewable Energy Benefit-Sharing Framework

Risk	Why it matters	Mitigation Measure
Weak or late public participation	Communities may perceive projects as imposed, leading to mistrust, objections, litigation and delays.	Require early, continuous and meaningful participation before key approvals; document how community input influences decisions.
Unclear benefit-sharing obligations	Benefits may become discretionary, ad hoc or uneven across projects and technologies.	Establish minimum benefit-sharing standards, model agreements, licence conditions and monitoring

		requirements.
Weak protection of land and livelihood rights	Projects may result in displacement, loss of grazing areas, cultural impacts, compensation disputes or livelihood disruption.	Require clear land access] procedures, community consent where applicable, fair valuation, compensation and livelihood restoration.
Poorly designed community benefit funds or trusts	Benefits may be captured by elites or mismanaged.	Require inclusive governance, public reporting, independent audits, conflict-of-interest rules and grievance procedures.
Inaccessible GRMs	Unresolved complaints may escalate to regulators, tribunals or courts.	Establish project-level GRMs with clear timelines, escalation pathways and access to formal remedies.
Under-regulation	Developers, communities and regulators lack certainty on obligations and expectations.	Adopt harmonised legal and policy standards for participation, benefit-sharing, monitoring and enforcement.
Poorly designed or inconsistent regulation	Projects may face uncertainty, high transaction costs or weak investor confidence.	Ensure regulation is proportionate, predictable, technology-sensitive and aligned with project scale and impacts.
Weak institutional coordination	Overlapping mandates may cause delays, inconsistent decisions and weak enforcement.	Clarify roles of national government, counties, EPRA, NEMA, land institutions and community governance structures.
Emerging technology risks, especially green hydrogen	Water demand, land use, infrastructure and export-oriented models may create new community impacts.	Develop sector-specific safeguards for water, land, benefit-sharing, local content, environmental assessment and community participation.

Recommendations

The recommendations below translate the findings of this framework into practical actions for strengthening benefit-sharing, community participation and accountability in Kenya's renewable energy sector. They focus on the measures needed to move from broad policy commitments to implementation, including clearer legal standards, early and meaningful community engagement, enforceable benefit-sharing arrangements, stronger land and resource safeguards, accessible grievance mechanisms and improved institutional coordination. The recommendations are intended to guide government institutions, regulators, county governments, project developers, communities and civil society actors in advancing a just energy transition that is fair, inclusive and capable of delivering tangible benefits to host communities.

Table 3: Recommendations for different actors in Kenya regarding ways they can advance benefit-sharing in renewable energy projects

Recommendation	Priority action	Lead actors	Evidence of implementation
Strengthen early and meaningful participation	Require community engagement before site selection, project approval and EIA/ESIA finalisation; document how community views influence decisions	Ministry of Energy, EPRA, NEMA, county governments, project developers	Consultation plans, meeting records, translated materials, revised project documents showing community input
	Ensure public access to information including ESIA, EIAs, licensing information, contracts, benefit-sharing agreements in accessible format and local languages	EPRA, NEMA, EMCA, project developers	Transparent and accessible documents in local languages are provided to communities
	Public participation for projects, policies and laws is inclusive,	Department of Energy, county governments,	Attendance registers disaggregated by

	including women; the elderly; youth, culturally appropriate, local languages and accessible, with comments recorded	EPRA, NEMA, project developers	gender and age, inclusion of comments of communities
	Ongoing monitoring, auditing reporting throughout project lifecycle, with accessible and responsive accountability systems	EMCA, EPRA, NEMA, National Environmental Tribunal and Courts	Audit report
Establish enforceable benefit-sharing mechanisms	Require large-scale renewable energy projects to adopt clear benefit-sharing arrangements through agreements, licence conditions, community trusts or project agreements	Parliament, Ministry of Energy, EPRA, county governments, project developers	Benefit-sharing agreements, licence conditions, fund governance documents, monitoring reports
	Fast-track the enactment and implementation of the Natural Resources Benefit Sharing Bill to provide a comprehensive legal framework for equitable benefit distribution	Parliament of Kenya, Senate and the President	The Natural Resources Benefit Sharing Bill is enacted
	Introduce minimum benefit standards, including local employment quotas, community development funds, and mechanisms to	Parliament of Kenya, Ministry of Energy and Petroleum, County Governments	Laws and policies are enacted with clear minimum benefit standard for all renewable energy projects

	improve access to electricity for host communities		
	Renewable energy projects develop formal, transparent, and enforceable benefit-sharing agreements with host communities	Project developers, EPRA	Host communities have benefit-sharing agreements
	Monitoring and reporting on benefit-sharing agreement	Project Developer	Annual audit report published
Ensure Resource Access	Inclusion of water and energy access addressed in ESIA and EIA processes.	Ministry of Energy, EPRA, NEMA, county governments, project developers	Agreed terms in benefit-sharing agreement on water and energy access.
	Benefits from national and genetic resources.	NEMA	Agreed terms of benefit-sharing for national and genetic resources included in community benefit agreement
Improve Community Awareness and Legal Literacy	Strengthen partnerships with civil society organisations to deliver continuous civic education and capacity-building initiatives	Civil Society Organisers, County Governments, Ministry of Energy and Petroleum	An advisory board with civil society and relevant government departments is created
	Design and implement targeted community awareness programmes on energy laws, land rights, participation	County Governments, Ministry of Energy and Petroleum	Targeted community awareness programme reports are publicly shared

	processes, and grievance mechanisms		
Strengthen and Standardise Grievance Redress Mechanisms	Require all renewable energy projects to establish accessible, transparent, and community-level grievance redress systems with clearly defined procedures and timelines	NEMA, EPRA, National Environmental Complaints Committee, Project Developer	Inclusive, culturally appropriate, accessible grievance procedure and manual are made publicly available
Improve Land Governance and FPIC	Accelerate community land registration processes to strengthen tenure security and reduce vulnerability to land-related conflicts	Ministry of Lands, Public Works, Housing and Urban Development	Community land is registered
	Ensure full and consistent implementation of FPIC in all projects affecting community land	National Land Commission Ministry of Environment, Climate Change and Forestry	FPIC is enforced, including the right to say no
Strengthen Institutional Coordination and Enforcement	Establish formal coordination mechanisms between national and county governments to clarify roles and improve alignment in renewable energy governance	Ministry of Energy and Petroleum, EPRA, NEMA, County Governments, Office of the Attorney General	Clear policy guidelines developed
	Strengthen monitoring and enforcement of existing laws, including compliance with EIA	Parliament, Ministry of Energy, EPRA, county governments	Compliance report

	requirements and benefit-sharing provisions		
Develop Governance Frameworks for Emerging Energy Technologies	Develop clear policy and regulatory frameworks for emerging sectors such as green hydrogen, including guidelines on land use, water resources, and community engagement	Ministry of Energy and Petroleum, EPRA, National Treasury, Research Institutions	Green Hydrogen laws and policies are enacted
Form Just Transition Forums and Energy Protocols	Formation of community just transition forums with consultations on creating energy protocols	Civil Society Actors, Communities	Established community led just transition forums with energy protocol

Annexure A: Summary of key findings from case studies and baseline report

Natural Justice conducted consultations in Kenya in 2025/2026. The workshops were conducted in order to understand the status quo with regards to renewable energy projects and the ways that community's benefit from these projects – also highlighting the challenges and gaps. The consultations focused on three counties hosting large-scale renewable energy projects in Kenya:

- Nakuru County (Menengai Geothermal Project)
- Garissa County (Raya Solar Power Plant)
- Marsabit County (Lake Turkana Wind Power Project)



Findings from the workshops and completed surveys were used to prepare a baseline assessment. The baseline assessment examined governance conditions within Kenya's renewable energy sector, with a focus on counties hosting large-scale energy projects,

including Marsabit, Nakuru, and Garissa. These contexts provide insight into how institutional arrangements, stakeholder relationships, and governance systems operate in practice, and how they shape the prospects for a Just Energy Transition.

The assessment applied the energy justice framework—focusing on procedural, distributive, and recognition justice—as an analytical lens. The study examined:

- Participation in energy project decision-making processes
- Fairness of benefit-sharing arrangements
- Access to grievance and accountability mechanisms
- Awareness of laws and policies governing renewable energy development
- Effectiveness of stakeholder engagement structures

Data was collected through workshops, surveys and consultation with project-affected communities, government officials, civil society organisations, private sector actors and sector experts.

Case studies

Case Study 1: Nakuru County – Menengai Geothermal Project

Type of renewable energy project: Geothermal

Types of impacts on communities: Land rights infringements (from infrastructure and transmissions lines), atmospheric emissions, water consumption, solid waste, and impacts on biodiversity.

Land tenure arrangements of affected community: Privately owned farms

Types of benefits provided through the project: Employment as casual labourers

The Menengai Geothermal Project lies in the expansive Menengai Caldera, a seismic active zone within Nakuru county within the Rift Valley region of Kenya. The project is spearheaded by the Geothermal Development Company (**GDC**) to harness geothermal resources and diversify Kenya's energy mix.

The first phase of the project generates over 100 MW of electricity, contributing to Kenya's renewable energy targets and providing reliable baseload power. The electricity generated is sold to Kenya Power through Power Purchase Agreements (**PPAs**) and

transmitted to the national grid under the framework of the Energy Act 2019.

Under phase I, GDC has undertaken a steam sales business model where GDC supplies steam to power plants for conversion to electricity. Over the past years, GDC has awarded three contracts to Independent Power Producers (**IPP's**) to finance, procure, construct and operate three power plants, on a Build-Own-Operate (**BOO**) basis. The IPPs include Globeleq which was awarded a license in 2024, Sosian Energy, which was synchronized to the grid in 2024, and Orpower Twenty-Two, which is expected to start production in 2026.

While initially the development in the first phase was limited to the Menegai Caldera, a public land managed by the Kenya Forest Service, subsequent phases has seen GDC and IPPs move to conduct seismic surveys and well testing on private land outside the caldera. This has caused a lot of tension with local communities who bear the brunt of this expansion.

The land around the caldera to the west is a densely populated area occupied by communities who primarily engage in agribusiness. While the project contributes significantly to national energy generation, consultations revealed persistent governance and equity concerns.

Case Study 2: Garissa County – Raya Solar Power Plant

Type of renewable energy project: Large-scale solar

Types of impacts on communities: Land rights infringements, loss of habitats and agricultural land, impacts on biodiversity – especially birds and insects.

Land tenure arrangements of affected community: Unregistered community land

Types of benefits provided through the project: Employment as casual labourers: cleaners, drilling of boreholes, setting up water tanks, construction of primary schools, construction of access road

The Raya Solar Plant, located in Raya village within Garissa County, at the time of its commissioning, was the largest grid-connected solar power plant in east & central Africa. The plant aimed to connect the largely unconnected rural northern Kenya to the grid and reducing energy costs. Currently, this project is contributing about 2% of the national

energy mix.¹⁰

The host communities living near the project are primarily pastoralists who keep cattle, goats and camels and this influences their land use system. As most nomadic communities in Kenya, they hold rights to vast land used for pasture for their livestock in terms of the Constitution and Community Land Act. While the land may seem unoccupied, it is not unutilised.

Case Study 3: Marsabit County – Lake Turkana Wind Power Project

Type of renewable energy project: Large-scale wind

Types of impacts on communities: Land rights infringements, waste, noise, loss of grazing and arable land, impacts on biodiversity – especially birds and migrating species.

Land tenure arrangements of affected community: Unregistered community land

Types of benefits provided through the project: Employment as casual labourers in construction phase

Loiyangalani area is a small town located on the southeastern coast of Lake Turkana in Marsabit County. With a population of approximately 35,000 people¹¹, it is home to the Elmo, Samburu, Rendille and Turkana (Elmo-SARETU) communities, whose main economic activities are fishing, pastoralism and tourism.

In June 2018, the Elmo-SARETU witnessed the birth and operationalization of the Lake Turkana Wind Power Project (LTWPP). Said to be Africa's largest wind farm with a production of 310 MW¹², LTWPP is situated on the plains of the Sarima area near Loiyangalani, a strategic location meant to harness the strong wind corridor along the lake and contribute to the production of renewable energy in Kenya.

¹⁰ 'Rural Electrification and Renewable Energy Corporation' (www.rerec.co.ke) <<https://www.rerec.co.ke/garissa-solar-power-plant.php>>.

¹¹ Thomas Brinkhoff, 'Loiyangalani (Subcounty, Kenya) - Population Statistics, Charts, Map and Location' (*Citypopulation.de*2019) <https://www.citypopulation.de/en/kenya/sub/admin/marsabit/1001_loiyangalani/> accessed 12 March 2026.

¹² African Development Bank, 'Lake Turkana Wind Power Project: The Largest Wind Farm Project in Africa' (*African Development Bank - Building today, a better Africa tomorrow*13 March 2019) <<https://www.afdb.org/en/projects-and-operations/selected-projects/lake-turkana-wind-power-project-the-largest-wind-farm-project-in-africa-143>>.



Lake Turkana Windfarm

Cross Cutting Key Issues

- i. **Gaps in regulatory frameworks:** From the baseline assessment, inadequacies in existing provisions and weak enforcement of laws and policies were noted.
- ii. **Fragmented Government and Institutional Coordination:** The study identified significant fragmentation across governance levels and institutions. National agencies, county governments, and regulatory bodies often operate with overlapping or unclear mandates. National-level institutions were found to drive project implementation with limited coordination with county governments. County governments reported exclusion from key processes, including benefit-sharing negotiations and project oversight. Institutions such as the National Land Commission were not consistently engaged in land acquisition and compensation processes. This fragmentation weakens accountability, creates gaps in oversight, and limits the effectiveness of governance systems.
- iii. **Exclusion from decision-making:** Communities reported exclusion from decision-making that impacts land and livelihoods. When included in the process language literacy, gender and socio-cultural dynamics were barriers. Early and

continuous participation of communities in environmental impact assessments, project planning and benefit-sharing is critical to maintaining trust and reducing conflict.

- iv. **Weak benefit-sharing frameworks:** Clear dissatisfaction with benefit-sharing arrangements, which communities feel do not reflect the scale, duration and profitability of energy projects, and lack localisation of benefits. Concerns are raised that CSR does not equate to meaningful benefit-sharing. Benefit-sharing mechanisms must move toward structured, enforceable and rights-based approaches. Included in this should be legal empowerment to strengthen community engagement and accountability.
- v. **Limited transparent access to information:** Limited access to legal rights, information on project plans, project agreements, ESIA's, EIAs and grievance processes.
- vi. **Livelihood and resources:** Concerns around water use, land access, potential displacement, loss of access to livelihoods and cumulative environmental impacts.
- vii. **Employment inequities:** Limited local access to skilled employment opportunities.
- viii. **Low awareness of emerging sectors:** Minimal understanding of green hydrogen and its implications. Specifically with green hydrogen, concerns were raised about high water and land demand and technical complexity.
- ix. **Land, livelihoods and natural resources issues:** As communities privately own land, there is fear of relocation or loss of land ownership. There is a lack of addressing communities' concerns including loss of land, loss of access to livelihoods and culturally significant sites. For community land the systems require strengthened safeguards and clearer benefit-sharing mechanisms. There needs to be more respect of land rights and transparency in land compensation.
- x. **Lack of local energy access:** Host communities remain disconnected from or

unable to afford electricity despite their proximity to the project. Energy access for host communities must be explicitly addressed in project design.

- xi. **Capacity and inclusion gaps:** Language barriers, low levels of formal education, and gender dynamics limited meaningful participation. Participation processes must be tailored to local contexts, including language and literacy considerations. Local partnerships (CSOs, county government) are critical for effective engagement.
- xii. **Grievance redress mechanisms:** GRMs were reported as not accessible due to lack of knowledge or projects were too early in stages of planning so not available. While grievance mechanisms exist in some projects, their effectiveness is limited. Low awareness and accessibility of GRM. Limited trust in project-level grievance processes. Reliance on courts and external institutions are considered as a last resort.