



COMMENTS ON THE DRAFT NATIONAL PETROLEUM POLICY 2026

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From; Natural Justice

Part A: General Comments

We have reviewed this policy with the understanding that it falls within the broader framework of the draft National Energy Policy anchored around support for a just and equitable energy transition aligned with global climate goals. The draft petroleum policy's objective to promote petroleum resource exploration, development and production (Section 1.42, page 18) undermines the broad strategic objective for a just energy transition. Oil and gas exploration as proposed by the policy carries with it the following risks:

1. **Slowing the energy transition:** this would divert resources and investment potential from renewable energy development which carries with it greater opportunities for job creation.
2. **Stranded assets:** this is likely to be higher given Kenya's diversity of renewable energy resources which offer cheaper energy alternatives.
3. **Environmental and public health costs:** the lack of strong social and environmental safeguards in the policy increases the risk of environmental and social fallout from the proposed oil & gas developments.
4. **Litigation:** global and regional trends indicate an increasing number of legal challenges to new fossil fuel projects on environmental and human rights grounds. These cases occasion delay and increase cost of fossil fuel development in addition to slowing down energy expansion with consequent impacts Kenya's economic development objectives.

In our view these reasons suggest that the primary policy position should be one that aligns with the draft National Energy Policy in pushing for energy transition and providing clear pathways for phase out of existing fossil fuel energy in the economy rather than new oil & gas development.

In addition to these concerns, we note that the following key provisions are not included in the draft policy:

1. **Best resettlement practices in land-based projects are not included** in the draft policy despite being in the Kenya Off-Grid Solar Access Project (KOSAP) funded by the World Bank i.e. the Resettlement Policy Framework (RPF) dated September 2024. It is critical to mainstream these best practices for petroleum projects.
2. **The requirement for Community Development Agreements (CDAs) is not included** in the draft policy despite being in the Mining Act (section 109 (i)) and the Climate Change Act (section 23E (3-9)). We think it is critical to include the requirement for CDAs to promote effective community engagement practices, local support for projects and sustainable development practices.



3. **Entitlement of communities to 5% of Royalties** - the draft policy does not contain any statements or commitments regarding the provisions of the Petroleum Act on the right of host community to 5% of the national government share of the profits derived from upstream petroleum operations (section 58 of the Petroleum Act). It is critical to include these legislative requirements for consistency and to ensure these requirements are implemented.

Part B: Comments on the Draft Provisions

| No. | Specific Policy Section | Comments/Proposal | Justification |
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| 1. | 1.4.3 (d) Protection of the Environment and Conservation | <p>The policy claims to prioritise environmental protection and conservation of biodiversity without setting out any meaningful measures towards this.</p> <p>Proposal: due to the environmental and social impacts of oil & gas development, principles of free, prior and informed consent should be anchored as a pre-condition to proposed fossil fuel development, noting that the earmarked resource development blocks lie in areas of cultural and economic significance for local and indigenous communities.</p> <p>Given the gravity of these concerns, the policy should include a detailed section addressing these issues with specific regulatory safeguards and institutional mechanisms to ensure compliance and enforcement.</p> | <p>The absence of clear mechanisms to ensure free, prior and informed consent as well as the demarcation of sensitive ecosystems within which no fossil fuel development may be pursued creates environmental and public health concerns.</p> |
| 2. | 1.4.3 (e) Diversification of the Economy | <p>This section of the draft policy proposes as a guiding principle, the integration of oil & gas into the economy contrary to the strategic objective of a just energy transition and decarbonisation pathway articulated in the Energy Transition Investment Plan.</p> <p>Proposal: replace the section with a section setting out a framework for decarbonisation and substitution of oil & gas with renewable energy alternatives.</p> | <p>The proposed integration of oil & gas into the economy contradicts the strategic objective of a just energy transition aligned with climate goals anchored on renewable energy technology as set out in the draft National Energy Policy.</p> <p>It also directly undermines key strategic transition pathways under the energy transition investment plan, which envisions a substitution of fossil fuels from the economy rather than integration of oil & gas as proposed by the draft petroleum policy.</p> |

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| 3. | <p>3.1.2 Environmental and Regulatory Concerns</p> <p>3.1.4 Market Dynamics and Energy Transition</p> <p>Chapter 4: Policy Statements - 4.1 Upstream Sub-Sector</p> | <p>The draft policy states as follows <i>‘As a result, there is a shift in the sector towards environmentally responsible practices to minimize the sector’s environmental footprint and contribute to sustainable development (3.1.2)’</i></p> <p>The draft policy further provides that <i>‘The transition to renewable energy sources is a defining trend in the current global energy landscape. The increasing adoption of electric vehicles, advancements in battery storage, and the development of green hydrogen are reducing reliance on fossil fuels’ (3.1.4).</i></p> <p>The policy statement under Chapter 4.1 (Upstream Sub-Sector) is to the effect that the Government will participate in exploration, development and production and facilitate investments in petroleum operations, including development and utilization of natural gas and associated infrastructure (4.1.4).</p> <p>Proposal: the draft policy should promote decarbonisation of the economy and the phase out of oil & gas.</p> | <p>Globally, there is reduced investment in fossil fuels, and it will therefore continue to be increasingly difficult to attract investors in oil & gas exploration and production. Efforts should be directed towards clean energy resources, which Kenya has in plenty and in line with its public commitment as a global leader in green energy.</p> <p>The proposal for oil & gas development will impede the speed of transition towards a low carbon economy effectively undermining the key investment imperatives under the Kenya Energy Transition Investment Plan (ETIP, p. 10)</p> |
| 4 | <p>5.7 Local Content - Policy Statements</p> <p><i>the Government will Develop a legal and regulatory framework on local content for the Oil and Gas sector.</i></p> <p>Page 69 – Local Content</p> | <p>The policy statement omits to acknowledge that Kenya already has adequate local content provisions under the Petroleum Act and what remains is the adoption of the Local Content Bill 2023 and relevant regulations.</p> <p>Proposal: Change the policy statement to read that the government will implement the local content provisions in the Petroleum Act.</p> | <p>Adequate local content provisions are already included in the Petroleum Act and what remains is the adoption of the Local Content Bill 2023 and relevant regulations.</p> |

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| | <p>5.6.1 Climate Change Mitigation and Adaptation;</p> <p>Page 68 (Environment, Social and Governance (ESG)) - <i>'Promote climate change mitigation and adaptation in petroleum operations.'</i></p> | <p>The draft policy states that <i>'Globally, the Oil and Gas Sector faces a challenge of minimizing greenhouse gas emissions while meeting increasing energy demands. Recognizing that a complete energy transition may not be achievable in the short to medium term, Kenya remains committed to developing its petroleum resources while ensuring climate change mitigation and adaptation'</i> (5.6.1).</p> <p>In this regard, the draft policy has the following policy Statement - <i>'The Government will promote climate change mitigation and adaptation in petroleum operations'</i> (5.6.1, and page 68).</p> <p>Proposal: For consistency with Kenya's climate change and green energy leadership commitments, the draft policy should not contain statements that are contradictory or entirely disingenuous. The policy orientation should be towards decarbonisation and reduction of domestic oil & gas consumption and investment in substitutes for fossil fuels as set out in the Energy Transition Investment Plan, pp. 10 and 11.</p> | <p>For consistency with climate change and green energy leadership commitments. Any other position is not only contradictory to Kenya's proclamations and commitments, but also entirely disingenuous.</p> <p>Any other position will also contradict the position taken by the draft National Energy Policy regarding just energy transition and reduction of emissions.</p> |