

The cost of ignoring human rights and Indigenous Peoples

WRITTEN ON 10 NOVEMBER 2021. POSTED IN [NEWS \(/EN/NEWS.HTML\)](#)



In a historic judgment by the Kenyan Environment and Land Court in Meru the title deeds of the land on which the Lake Turkana Wind Project (LTWP) sit have been declared “irregular and unlawful”. The case which began in October 2014 and finally ended on 19 October 2021 found that the title deeds were acquired irregularly.

Indigenous Peoples in the area have long complained that this large wind energy project, among other issues, never followed proper free, prior and informed consent (FPIC) protocols or proper compensation when the land leases were acquired and violated current and former land acts. And in general, Indigenous Peoples and advocacy organisations have criticised the project consortium and its funders of routinely refusing to recognise the affected groups living and using the land and their human rights.

The county government now has 12 months to correct the process or else the deeds will automatically be cancelled and the land will go back to the community.

“This is not only a victory for the El Molo, Turkana, Samburu and Rendille communities that have been affected by the LTWP in different ways but one for all Kenyan communities that are facing serious threats of displacement and human rights abuses from large land-based investments,” said Mali Ole Kaunga, Director of IMPACT (Indigenous Movement for Peace Advancement and Conflict Transformation).

A human rights-based approach is needed

IWGIA has been following, researching and reporting on the LTWP and other renewable energy projects in Kenya for years, beginning with a [2015 report \(/en/resources/publications/308-human-rights-reports/3204-renewable-energy-projects-and-the-rights-of-marginalisedindigenous-communities-in-kenya.html\)](#) and a [follow-up report in 2019 \(/en/resources/publications/3535-the-impact-of-renewable-energy-project-on-indigenous-communities-in-kenya.html\)](#).

In the end, our research has found that communities, as a rule rather than the exception, suffer when these large-scale projects are designed and implemented as they often do not take a human rights-based approach.

“It is imperative that we make our energy supply green for the future of the planet. And the people of Kenya should also have access to sustainable energy. But this verdict is an important reminder that the green transition can only succeed if it puts human rights at its core. There is a great risk involved if the rights of Indigenous Peoples are violated and if they are not fully part of the transition as equal partners,” IWGIA Executive Director Kathrin Wessendorf said.

Communities negatively impacted

In the case of the LTWP several local Indigenous communities have suffered.

For example, the employment market has been completely upended. In the beginning of the project there were many short-term, low-skill job opportunities, but when these jobs opened up people from all over the country came to scoop them up. So not all available jobs were given to local people and higher-skilled jobs were almost exclusively given to outsiders. Once the project was finished, the jobs dried up leaving large employment gaps, where the remaining and few jobs left were to be security guards.

To make room for the project an entire village was relocated and rebuilt, the impacts of which cannot be overstated. The rebuilt village tripled in population as people from around the country came for work during the construction phase of the project, and spawned the arrival of substance abuse, prostitution, increased conflict over scarce resources and a severe lack of sanitation.

Most egregiously, the communities where the project was sited have not yet been able to benefit from the energy produced as most of the communities aren’t connected to the national grid and the process to get connected is cost-prohibitive. **NOTE! This site uses cookies and similar technologies.** [Learn more \(/en/privacy-policy.html\)](#)

"The communities also recognise the importance of clean energy. It is strange that the authorities did not deem it fit to consider that communities and Marsabit counties also need clean energy, Marsabit county obtains its energy from diesel propelled generators, while the power generated by the LTWP is transferred 420 kilometres to connect with the national grid in Suswa," Mali Ole Kaunga explained.

>> [Listen to the stories of the Indigenous Peoples and local communities affected by the LTWP](https://www.zerotoleranceinitiative.org/podcast/episode/1e4dc3f1/e1-the-zero-tolerance-initiative-podcast-kenya-left-in-the-dark) (<https://www.zerotoleranceinitiative.org/podcast/episode/1e4dc3f1/e1-the-zero-tolerance-initiative-podcast-kenya-left-in-the-dark>)

In general, Indigenous Peoples support the transition to green energy as this is an important element of combatting climate change, which in many cases particularly affects the areas where Indigenous Peoples live. However, Indigenous Peoples demand that their fundamental collective human rights must be respected when such large-scale projects are undertaken, as currently their lands are often seen by the state and private corporations as virgin land up for grabs to develop and exploit. Many companies do not live up to international human rights standards and do not carry out proper consultations to secure Indigenous Peoples' free, prior and informed consent. Indigenous Peoples' rights and needs are often ignored.

Ruling in Norway

In a similar case, also in October, [Norway's Supreme Court ruled](https://www.domstol.no/enkelt-domstol/hoyesterett/avgjorelser/2021/hoyesterett-sivil/hr-2021-1975-s/) (<https://www.domstol.no/enkelt-domstol/hoyesterett/avgjorelser/2021/hoyesterett-sivil/hr-2021-1975-s/>) that the rights of Sámi reindeer herders were violated by two wind farms in the western part of the country as the turbines have illegally encroached on grazing lands and have had significant negative consequences on the reindeer's ability to graze. Thus, the permits for their operation were deemed illegal as they interfered with the herders' cultural rights under Article 27 of the UN Universal Declaration of Human Rights.

As judges noted, green and renewable energy projects are necessary and important, but there are less intrusive ways to construct and operate them. Indigenous Peoples and IWGIA have been speaking out on this for decades. Not only are there less intrusive ways, there are also more respectful, inclusive and legal ways to carry them out.

The responsibility of business

What the Kenya and Norway cases both demonstrate is that the tide is shifting.

"It [the Kenyan ruling] is also a warning to investors that they have a duty to undertake their own independent due diligence if due process of the law was followed when acquiring the lands they are investing in. This is also evidence that the process of transitioning from 'dirty fuels' (fossil fuels) to clean energy is not as 'clean' as assumed by the Paris agreement or Sustainable Development Goal 7. There are human rights abuses and threats to Indigenous Peoples being displaced from their ancestral land rights," Mali Ole Kaunga said.

While green projects are a necessity as climate change accelerates, the manner in which these projects are developed must be in accordance with fundamental human rights to avoid negative, and sometimes irreversible, impacts on Indigenous Peoples and other local populations. Green energy projects also become more costly if not implemented with due diligence. Carrying out illegal activities, such as human rights violations and the lack of proper consultation, can lead to serious and long-term legal ramifications, financial loss and increased reputational risks that could have been avoided.

Photo: Windmills at the Lake Turkana Wind Power project site. Credit: J M Ole Kaunga / IMPACT

Tags: [Land rights](/en/component/tags/tag/land-rights.html) (</en/component/tags/tag/land-rights.html>), [Business and Human Rights](/en/component/tags/tag/business.html) (</en/component/tags/tag/business.html>), [Human rights](/en/component/tags/tag/human-rights.html) (</en/component/tags/tag/human-rights.html>)

Download The Indigenous World

The Indigenous World

All countries and international processes featured on our website can be found in The Indigenous World, IWGIA's annual global report on the Indigenous Peoples' rights.

Get the latest version of The Indigenous World here

[Download](/en/resources/indigenous-world.html) (</en/resources/indigenous-world.html>).

NOTE! This site uses cookies and similar technologies.

If you do not change browser settings, you agree to it. [Learn more](/en/privacy-policy.html) (</en/privacy-policy.html>).

I understand