



20 YEARS OF

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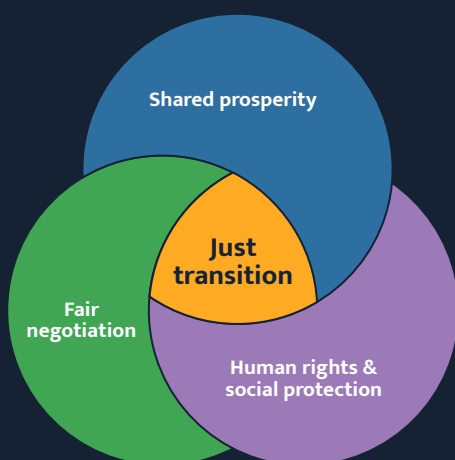
# Fast and fair:

## ACHIEVING A JUST ENERGY TRANSITION IN AFRICA

### Executive summary

Pressure is building on Africa to achieve a fast transition to clean energy, as well as a rapid delivery of its vast transition mineral wealth, which is integral for the world's clean energy supply chains. However, this mineral extraction and renewable energy installation in Africa comes with human rights opportunities and challenges. Using evidence primarily from South Africa and Kenya, this briefing highlights the centrality of human rights to achieving a rapid and efficient energy transition. It also documents the dangers of rights abuse to communities and workers, as well as to the speed and cost of the energy transition itself.

The evidence presented in this briefing emphasises the need for transformed business models to deliver a just transition to the benefit of companies, investors and local communities. Three core [Just Energy Transition Principles](#) could provide the pathway for this transformation, helping to generate public support and benefit to communities and workers, which will be essential to the global energy transition.



- ▶ **Shared prosperity:** Investments are structured to create broad benefit through co-ownership models that generate buy-in from workers and communities who share in the wealth generated from clean energy on their land.
- ▶ **Human rights due diligence and social protection:** Companies and investors have a duty of care to shield vulnerable workers and communities from harm, mitigate risk, and put them first for energy access, retraining, new decent work.
- ▶ **Fair negotiation – Consultation and consent:** Communities – especially Indigenous communities – need to know there will be respectful negotiations where their right to free, prior and informed consent will be upheld throughout the project, and their leaders will not face threats and attacks when they dissent.

Pursuing an alternative approach – once which fails to centre human rights and shared benefit for communities and workers being asked to support the transition – risks derailing what must be a fast and fair shift to renewable energy.

# Introduction

Africa is at the heart of the climate change debate, particularly due to its role in the just energy transition. From providing critical minerals required for wind and solar technology (such as cobalt, manganese, zinc and copper) and the manufacturing of electric batteries (bauxite and cobalt), to increasing recourse to renewable energy to address the energy deficit, the energy transition holds many opportunities for African nations, workers and communities.

However, these opportunities are also accompanied by dangers. The current approach to critical minerals extraction and the deployment of renewable energy installations is unviable. It harms local communities, is unsustainable and, in turn, generates understandable conflict and resistance which slows the transition and increases its costs. To ensure the energy transition is just and fair, host communities and workers must also be guaranteed recipients of the benefits. This cannot be achieved unless respect for human rights is embedded into business models.

The [Business & Human Rights Resource Centre](#) (Resource Centre) has spent the past 10 years engaging with communities involved in the extraction of transition minerals and those impacted by renewable energy. The human rights concerns raised by these communities reveal a worrying trend of abuses, such as ignoring land rights, including those of Indigenous Peoples, failure to engage local communities, abuse of workers' rights and [attacks on human rights defenders](#) (HRDs). Faced with a reality of harm and abuse, communities are pushing back and asserting their rights. Mining and renewable energy installation projects have been [suspended](#) after community protests and [lawsuits](#) by local community advocates. From this pushback, better business models are beginning to emerge – but only after wrong-headed approaches by investors and companies have created an impasse. For instance, following initial conflict, dialogue between the company and the community has led to a [community in Kenya now reaping co-benefits](#) from a wind power project. These benefits include reasonable compensation – on the community's terms – by the company, who also benefit from a more stable and cooperative investment environment.



# Renewable energy in Africa

The continent's centrality to the just transition debate is set to continue. Firstly, a high percentage of the population does not have reliable energy sources. The abundance of wind, solar and geothermal resources in many parts of the continent suggests renewable energy will be a significant part of the energy mix which will address this gap. Kenya is already leading, with more than 70% of its energy derived from renewable sources and the ambitious goal of transitioning to 100% clean energy by 2030. Secondly, Africa is home to vast reserves of transition minerals such as lithium, cobalt, copper, nickel and manganese – which will play a crucial role in achieving the globe's net-zero goals. South Africa, Mozambique and Guinea also have significant deposits of transition minerals such as bauxite, graphite and platinum. Finally, major investments in the renewable energy value chain have been committed. These include the [Just Energy Transition Partnership](#) (JET-P) with South Africa, earmarked for the first tranche, and Senegal, which is due to receive funds in the second tranche.

## 92 allegations

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82/92

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55 allegations occurred in the Democratic Republic of the Congo, Zambia accounted for 27 allegations

However, allegations of human rights abuse linked to transition minerals and renewable energy are rife. According to the Resource Centre's [Transition Minerals Tracker](#), Africa has recorded 92 allegations of human rights abuse linked to the extraction of transition minerals since 2010 – the second highest after South America. Nearly all (82 out of 92) allegations recorded in Africa were linked to **copper** and **cobalt** mining. Nearly two-thirds of the allegations (55 out of 82) occurred in the DRC, which is the source of over 30% of the global cobalt product and the first producer of copper on the continent. Zambia, the second largest producer of copper on the continent after the DRC, accounted for 27 allegations.

Other allegations of human rights abuse included:

- ➔ **Violation of land rights and harms to livelihoods:** Beyond copper and cobalt mining, allegations of insufficient compensation for communities, lack of community participation or consultation and food insecurity related to bauxite, another important transition mineral, were identified in [Guinea, home to the world's biggest reserves](#).
- ➔ **Environmental concerns:** Environmental and social impact studies are sometimes overlooked, yet ultimately lead to project shutdowns and critical human rights abuses. For example, [two lithium mines in Zimbabwe were closed](#) by national authorities because they allegedly lacked proper Environmental Impact Assessments (EIA) Certificates.
- ➔ **Labour rights:** According to a [report by RAID](#), mineworkers in the DRC's cobalt sector are paid below a living wage, despite not requiring significant investment by the mining companies to increase their wages to a living wage standard.
- ➔ **Child labour:** All four cases of child labour recorded in the Transition Minerals Tracker are [associated](#) with the DRC.

# Insights from Kenya and South Africa

## Kenya

In 2022, the Resource Centre [published a report](#) looking at the human rights concerns in Kenya's renewables sector. It highlighted the most prevalent concerns raised by communities – particularly marginalised communities – impacted by renewable energy installations. Their concerns mainly related to forced evictions, unjust resettlement mechanisms, inadequate compensation and lack of access to information about the project. Since the publication of the report, there have been developments in two case studies, Lake Turkana Wind Project and Marsabit Geothermal Project, which demonstrate the challenges local communities face.

### Land rights

For the past decade, [Lake Turkana Wind Power](#) – the biggest wind power project in Africa – has been involved in a lawsuit filed by members of the local community. The contestation has mainly centred on how the company acquired land. In 2021, the [High Court ruled](#) that the company acquired the land in an “unprocedural manner” and directed the company to regularise the land acquisition within one year. More recently, the [Court declined a request](#) by the company to review its decision and maintained that the company had not taken satisfactory measures to comply with the earlier order. This leaves the company in a precarious position as it may lose the title to the land because of its failure to engage the community and get consent.



Lake Turkana Wind Power project  
George Kaguangi • Flickr



## Community engagement, access to information and Free, Prior and Informed Consent (FPIC)

The El Molo Indigenous community has expressed concern about the lack of access to sufficient information on the proposed [Marsabit Geothermal project operated by KenGen](#) on their ancestral land. Community representatives wrote to the company requesting information. They felt the response provided was not satisfactory and asked the Resource Centre to seek further information from KenGen, including details of the company's intentions, as well as: 1) current steps taken towards construction of the Project on El Moro community lands; 2) steps taken to engage with the El Moro community, including details of the persons engaged with and the date(s) of such engagements; 3) a summary of the outcome of such processes; 4) its proposals for further engagement with the El Moro community. KenGen did not respond.

## Access to remedy and grievance mechanisms

- ➔ **Lake Turkana Wind Power Project:** This lawsuit by the local community has taken more than a decade in the courts, including the hearing of the application by the company for the court to review. According to the local community, the cost of litigation is very high, and this has prevented them from hiring a lawyer for the review application by the court which was undefended. The community is apprehensive they may not be able to afford to engage a lawyer should the company appeal.
- ➔ **El Molo case:** The situation of the El Molo highlighted above demonstrates the failure by KenGen, a state-owned enterprise, to provide important information for the community's existence.
- ➔ **Lessons from better corporate practice In Kenya:** Sustained community activism and willingness to collaborate on the [Kipeto Wind Energy Project \(KWP\)](#) has led to an engagement model which resulted in the community consenting to the proposed project. At the negotiation stage, the KWP hired a local lawyer to facilitate its understanding of the issues raised by the community. The local landowners were provided documentation regarding the engagement, and they know when to expect payment for leasing their land to the company. The community is in the process of setting up a trust where the company will allocate 5% of its profit to the community to utilise the funds. There is also a company-based grievance mechanism that the community recurses to in case of dispute with the company.

## South Africa

South Africa is [home to significant deposits of some of the world's most strategic minerals, including lithium, zinc and manganese](#) – essential for the transition to renewable energy. It is the world's largest producer of manganese and has some of the biggest reserves of this mineral, which is critical for the manufacturing of steel required for wind and solar equipment, as well as in batteries.

South Africa is also in a special position because, at the COP26 climate change conference in 2021, a group of international partners [pledged US\\$8.5 billion to accelerate South Africa's Just Energy Transition](#). This plan was later endorsed by the South African Cabinet in 2022. Major investments are being committed including, among others, the Just Energy Transition Partnership (JET-P). Under this initiative, there will be significant investment in the renewable energy value chain in South Africa. However, in the rush to harness cleaner sources of energy, serious human rights and environmental concerns associated with this increased mineral demand should not be overlooked.

Many communities and miners' organisations in South Africa, where the mining of these transition minerals takes place, have raised concerns about the lack of consultation, lack of clear and effective grievance mechanisms to address their concerns and the lack of access to water due to the mining of these transition minerals. In 2023, the Resource Centre's [report on the financing of these minerals](#) revealed much still needs to be done at the investment and financing levels of these projects to protect human rights, especially the rights of communities to be consulted.

### Community engagement, access to information and Free, Prior and Informed Consent (FPIC)

Mining Affected Communities United in Action ('MACUA'), a national movement representing and advancing the rights and interests of mine-affected communities across seven provinces of South Africa, has found it difficult to secure company engagement with the affected communities. Fatima Vally, MACUA's Advice Officer noted:

“ *In a survey we conducted two years ago, [looking at manganese mining in the Kalahari Manganese field](#), we shockingly discovered that out of a community of 140 members where mining of manganese was taking place, 94% of them indicated they had never been consulted by a mining company.*”

This often has dire consequences. Our [analysis of global data](#) on attacks against HRDs in 2020 revealed at least one in three attacks against HRDs was linked to a lack of meaningful participation, access to information and consultation or the failure to secure FPIC of Indigenous communities.



## Labour rights

As is the norm in the extractives industry, the mining of transition minerals is riddled with labour rights abuses, including disputes over wages and health and safety issues for miners. In 2018, Vedanta Zinc International and ELB Group had to [halt work at its Gamsberg zinc project](#) after an accident claimed the life of an ELB employee. In 2020, the National Union of Mineworkers [declared a wage dispute](#) with Assmang Operations in the Northern Cape following a failure to reach a wage settlement with the company.

There is also uncertainty among workers and communities on how they will be protected when the transition takes place. Some have argued the transition to green energy sources could worsen poverty. As noted by [Climate Change News](#), “*uncertainty on renewable retraining frightens South Africa’s coal communities*”. The article noted that during a community consultation about the transition held “*by government people from Johannesburg*” in 2022, locals were promised training for the renewable sector. However, this has not happened. One local community member said:

“*Our kids are studying in the fields of coal, but coal is dying. People will be left without knowing what they can do. If people are skilled, they can transfer skills to other people in the communities so that they have chances of being employed.*”

## Transparency and accountability

While the situation in many of these mining communities is concerning, it is not just South Africa. Zimbabwe – [said to have the largest lithium reserves](#) in Africa and the sixth largest in the world – is facing similar challenges. In its recent report ([Implications of the lithium mining rush in Zimbabwe: Analysis of legal developments](#)), the Zimbabwe Environmental Law Association (ZELA) noted:

“*The need for the government to develop a critical minerals development strategy that clearly defines the need for responsible mining practices, value addition and beneficiation plans. This strategy should also allow for public access to information to increase transparency and strengthen the fiscal and mining regime to harness the country’s lithium potential.*”

ZELA’s Director Mutuso Dhliwayo said the transition to renewable energy will need strong institutions and policies to guard against abuse of communities and to ensure no repetition of the violations communities faced during the mining of fossil fuels. In our interview with Mr Dhliwayo, he further noted the need for a human rights-based approach to the mining of transition minerals. This includes strong regulatory measures, which promotes shared value among stakeholders, social and environmental safeguards and due diligence which mitigates human rights and environmental risks associated with the mining of transition minerals. Recently, the Zimbabwean Government had to direct an arms manufacturing company, controlled by the Zimbabwe National Army, to [halt lithium exports](#) after unearthing explosive corruption linking its senior officials to illegal exports of the critical mineral.

# Conclusion and recommendations

The rush to clean energy is urgent, but it will not be achieved effectively if it is driven at the cost of people's rights. Evidence suggests that violations of local communities' rights, land rights, the FPIC rights of Indigenous Peoples and attacks on communities and their leaders are particularly prevalent. The human rights concerns highlighted in this report demonstrate the urgent need for new policy and practice. Governments, companies and investors need to transform market signals and business models to enter fair negotiations which deliver shared prosperity, environmental protection and human rights due diligence across the energy transition supply chain.

This approach should be human rights-centred and include decent working conditions for miners, avoidance of human rights abuses and pollution-related harms to communities in the proximity of mines and embrace co-ownership and co-benefit models for communities where renewable energy installations are to be deployed. Commenting on the need for companies to engage local communities, a local Indigenous leader stated:

“ Potential investors should respect Indigenous communities and ensure that we are sufficiently informed about any projects that could affect us, and our consent sought before they are implemented. Furthermore, the negotiation process should be transparent, with all potential impacts and benefits clearly communicated in a language and manner that is accessible and understandable. Investors must appreciate that any engagement should contribute positively to the long-term sustainability of our communities, respecting our sovereignty, and supporting our social, cultural, and economic wellbeing.”

Paul Lepakana, El Molo Indigenous community leader

## Recommendations to companies:

- ➔ Implement robust human rights due diligence processes throughout the business cycle and supply chain, built on safe and inclusive engagement with workers, communities and [human rights defenders](#).
- ➔ Develop and publish detailed procedures on access to information, consultation, respect for Free, Prior and Informed Consent (FPIC), fair resettlement processes, and grievance mechanisms.
- ➔ Promote equity models, including benefit-sharing and co-ownership practices, to build trust with communities.
- ➔ Support capacity building and fair workers' treatment: promote knowledge transfer, local employment, workers' health and safety, fair living wage and zero tolerance to abuses and attacks.

## Recommendations to governments:

- ➔ Protect local and Indigenous communities' rights in mining and energy transition projects: land rights, right to consultation, FPIC, fair relocation mechanisms, legal support, access to information and fair compensation.
- ➔ Promote enabling conditions for co-benefit, co-ownership and co-management models to ensure shared prosperity and cooperative investment environments.
- ➔ Mandate robust corporate human rights and environmental due diligence throughout the renewable energy value chain.





## Business & Human Rights Resource Centre

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**Business & Human Rights Resource Centre** is an international NGO which tracks the human rights impacts of over 10,000 companies in over 180 countries, making information available on our 10-language website.

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