

Kipeto Wind Energy Project

A case study on best practice in community engagement in energy projects



Kanyinke Sena

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1. Background to the Kipeto Wind Power Project

The Kipeto Wind Power Project in Kajiado County, Kenya hopes to inject 100 MW of clean, efficient and renewable energy to the national grid at full operational capacity in 2019. Covering approximately 70 km² of Maasai territory, the project is the second largest wind energy project in Kenya after the 300 MW Lake Turkana Wind Power project in northern Kenya. Kipeto Energy Limited (KEL), a partnership between African Infrastructure Investment Fund 2, International Finance Corporation and Craftskills Wind Energy International Limited is developing the project with financing from the Overseas Private Investment Corporation (OPIC). The project is slated to become fully operational in late 2019.

According to the Sustainable Energy for All initiative,¹ only 36% of Kenya's population of 41.6 million (2001 census) had access to energy. In its overview of Kenya, the Climate Investment Funds² attributes this low energy access to the high costs of connectivity and insufficient supply. Given these challenges, the government has prioritized improving access to adequate and affordable energy supply to ensure that at least 65 % of the country's population has access to energy by 2023 and 100% of the population by 2030. The Kipeto Wind Power Project will therefore take Kenya a step further towards meeting its energy access goals.

To pursue its energy access objectives, the government committed to promote electricity generation from Renewable Energy Sources (RES)³ and adopted a *Feed-in-Tariffs Policy on Wind, Biomass, Small Hydro, Geothermal, Biogas and Solar resource generated electricity*⁴ in 2008. Under this policy, independent power producers such as KEL are encouraged to invest in renewable energy generation, through a guaranteed market at a pre-determined tariff for a given period of time. Consequently, KEL has entered into a 20-year Power Purchase Agreement (PPA) with Kenya Power Ltd, a government-controlled electricity transmission and distribution monopoly, to supply 100 Mw to the national grid.

In 2009, KEL was awarded a concession license to undertake feasibility studies and subsequently generate electricity through wind energy in Kipeto, Kajiado County, southwest of Nairobi. In developing such projects, investors are required by law and both international and national human rights standards to ensure stakeholder participation and benefits to the communities in the project area. Noting that communities in Kenya and other parts of the world have raised serious concerns about the negative impacts of such projects on their land rights, livelihoods and cultures, this case study demonstrates the value of complaint

¹ See <http://www.se4all.org/initiatives>

² See <https://www.climateinvestmentfunds.org>

³ See *Sessional Paper No. 4 of 2004 on Energy* at http://www.renewableenergy.go.ke/downloads/policy-docs/sessional_paper_4_on_energy_2004.pdf

⁴ See http://www.renewableenergy.go.ke/downloads/policy-docs/Feed_in_Tariff_Policy_2012.pdf

mechanisms and community engagement for new large scale constructions to increase energy generation.

2. Methodology

The Kipeto Wind Power Project emerged as a potential good practice case study for stakeholder engagement following an informal assessment of the renewable energy sector in Kenya. The assessment involved desktop reviews of available information on stakeholder engagement and informal consultations with indigenous rights activists in the respective energy projects areas. The informal assessment revealed few complaints about KEL compared with other energy projects in Kenya. In other large-scale new energy generation projects, communities have either gone to court or utilized other grievance mechanisms such as the World Bank Inspection panel. Some investors in the more contentious cases have abandoned their project due to community complaints.

Findings of this case study derive from desk review of project documents, email correspondence with company officials, a series of site visits and face-to-face interviews. The interviewees included senior company officials, landowners and other community members, local leaders and relevant officials of the Kajiado County government and were undertaken in Nairobi, Kajiado and Esilanke areas. At the community level in Kipeto, research was



MAASAI WOMEN WAITING FOR THE OPENING OF KEL REHABILITATED LOYANGALANI HEALTH CENTRE

undertaken with the help of a local assistant and the research methods included one group meeting, with both male and female land owners, visits to 15 homesteads belonging to both landowners who are part of the project and those who are not part of the project, and random interviews with persons grazing or travelling through the project site.

3. The Maasai of Kipeto

The Kipeto Wind Power Project area is inhabited by the Maasai, a semi nomadic indigenous community whose main livelihood system is livestock keeping. Between 1970 and 1996, the Maasai subdivided their group ranch and issued individual members with freehold title deeds. The individual land holdings vary in size from 50 acres for small

landowners to more than 1000 acres for large-scale landowners. The Kajiado county government land zoning regulations restrict land ownership in the Kipeto area to at least 30 acres. The land zoning laws are a strategy by the Kajiado County government to control spiraling land sales in the County.

Among the Maasai, land holding is paternal. Most title deeds in Kipeto are therefore in the name of husbands/fathers. But as a result of changing national inheritance laws and increasing gender awareness among the Maasai of Kipeto, women also increasingly own land in the area. Currently, about 60 landowners including 10 women are part of the Kipeto wind power project footprint. Of these, about 31 landowners will host the turbines together with the supporting infrastructure like cables; roads etc, while the remaining 30 landowners will host the transmission line evacuating the power out of site to the Isinya Government of Kenya substation. The parcels of land were selected based on wind capacity for power generation and their proximity to neighbouring lands not part of the project. Though only 31 landowners will host turbines, the company will retain a reserve interest in the lands that will not host turbines but fall within the project buffer zone, thus becoming part of the project footprint.

Though, on the face of it, the Maasai of Kipeto have agreed to transform their land from a purely grazing ground into an industrial wind park, the Kajiado County government has not insisted on community compliance with land use regulation that would have required government approval for a change of land use from agriculture to commercial purposes. A change of use would have had significant impact on the land rates payable by the landowners to the County government. To the benefit of the community, the County government considers the project temporary as it has a lifespan of only 30-years, occupies only less than 20% of the community land and is does not anticipate that it will dramatically alter the livelihood system of the landowners. However, the County government requires the landowners participating in the project to extend their land use to include energy production. KEL is supporting the community to finalize the legal process for extension of land use. The extension of use will not affect the development of the project.

However, the landowners and broader Maasai community in Kipeto acknowledge some livelihood changes once the project is fully operational. Since the landowners started receiving lease payments, for example, the landscape has been slowly changing. A landowner observed that since the project commenced, they now see participating landowners fencing off their parcels of land and also building tin-roofed houses. Many are now also able to send their kids to school within and outside Kajiado. “The project is and will accelerate modernity in Kipeto. But we don’t know whether it will be for the good or bad,” an adjacent landowner concludes.

“Money has a way of changing people. It will remove you from your house and take you far. It will tell you to marry additional wives, get a new car or move away from your village. It will even change your language. What we will need is extensive training in change management” – Ole Karu Landowner

“We know there will be change. But the company cannot give you money and tell you how to spend it. It is not the company’s responsibility. Rather, it is the role that NGO’s and other social actors can play” Onchera Maiko,

There is a very thin line between the conceptualization of development and modernity in Kipeto, like in many other areas in Kenya. The Maasai of Kipeto want modern houses, educated children driving cars, tarmacked roads, well equipped hospitals, TVs, phones among others. The Maasai of Kipeto are aware that modernity is driven by access to financial resources that will be at their disposal once the project becomes operational. “What will be needed is extensive capacity building on financial management and managing change generally,” says Ole Kusero, an indigenous rights activist from the area.

4. The legal framework for community engagement in Kenya



A SON OF A LANDOWNER IN ESILANKE

New installations for large-scale energy production are subject to various national and international human rights obligations as well as environmental and social standards of funding agencies and other financiers. Stakeholder engagement is fundamental in the promotion and fulfillment of human rights. As a sovereign state, the government of Kenya has the primary duty to promote, secure fulfillment of, ensure respect of and protect human rights in general and citizen participation in particular. Kenya currently has no law that guides the interactions between businesses and human rights. Regardless, Kenya still has a duty to promote, protect and ensure the fulfillment of human rights in its territory and/or jurisdiction by third parties, including business enterprises. However, Kenya is currently in the processes of designing a National Action Plan on Business and Human Rights that will enable businesses, regardless of size or operational context, to incorporate human rights in their business activities.

For any project, including large-scale energy projects, to promote and fulfill human rights, investors have the responsibility to adhere to constitutional provisions on human rights generally and citizen participation in particular. The Constitution of Kenya 2010 enshrines public participation, inclusiveness, good governance, integrity, transparency and accountability as part of the national values and principles of governance. Such projects must also conform to national land and environmental laws. These include the Land Act 2012, The Environment Management and Coordination Act, 2009, Environmental Management and Coordination (Noise and Excessive Vibration Pollution) (Control) Regulations, 2009 and the County Government Act, 2012 that provides for citizen participation, public communication and access to information and civic education among others. Further, all international laws including international human rights laws ratified by Kenya form part of Kenyan law.

For the Kipeto wind project, applicable standards include the funder's - US-based Overseas Private Investment Corporation Environmental and Social Policy Statement⁵ and the International Finance Corporation's Performance Standards on Environmental and Social Sustainability.⁶ IFC standards recognize stakeholder engagement as the basis for building strong, constructive, and responsive relationships that are essential for the successful management of a project's environmental and social impacts. The Standards further recognize that stakeholder engagement is an ongoing process that may involve, in varying degrees, stakeholder analysis and planning, disclosure and dissemination of information, consultation and participation, grievance mechanism, and ongoing reporting to affected communities. IFC performance standard seven specifically provides for engagement with on indigenous communities like the Maasai. KEL also has a Health and Safety policy and Environmental and Social policy that further guide its operations.

5. Entry into the community

The mode of entry into a community determines the success or failure of any project. There are several community entry methods. An investor could, for example, simply walk into the project site upon grant of license/permit by the government and start work without informing the local community. It could also be introduced to the community at the project site by third parties that include government officials. For example, upon grant of an exploration permit by the government, the Chairman of the KEL Board reached out to a family he knew in Kipeto. The head of the family, a trusted community leader, then took him from homestead to homestead, introducing him and the proposed project. The approach ensured community buy-in from the onset.

"The company must be ready to heavily invest in social capital for a project to succeed. It is costly in the short run but beneficial in the long term"

- Mr Onchera Maiko, CEO Kipeto Energy Limited

⁵ See [https://www.opic.gov/sites/default/files/files/final%20revised%20ESPS%2001132017\(1\).pdf](https://www.opic.gov/sites/default/files/files/final%20revised%20ESPS%2001132017(1).pdf)

⁶https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES

6. Community engagement: consultations, negotiations and decision making



A LANDOWNER CONSULTING WITH THE COMPANY DIRECTORS AND CEO IN LOYANGALANI

The IFC performance standards and international human rights law, including the UN Declaration on the Rights of Indigenous Peoples, require the free, prior and informed consent of indigenous communities in the design and implementation of projects in their territories. The Constitution of Kenya requires consultation with communities affected by such projects. Full and effective consultations enable such projects to secure rights while ensuring benefits for communities. According to KEL's Environment, Social and Governance Manager, independent of the legal requirements, KEL understood that investing in social capital by fully and effectively engaging the community

would be the only way the company would succeed. To KEL, full and effective consultation with the community is not just a legal duty but also a moral duty. KEL top management, including the chair of the board, visited the community regularly establishing rapport and participating in community consultations.

For the Kipeto wind power project, consultations were complicated, time consuming and required heavy financial investment. This is because land in Kipeto has been privatized to the household level rather than communal. As such, the company had to negotiate with each landowner individually, then collectively as a community. This complicates project design and development if a landowner opts out of the project at any stage. For the turbines to be linked, non-participating landowners must also be consulted to allow the power lines to pass through their lands. The CEO of KEL emphasizes that for any consultations with the community to succeed, all parties must be honest and participate in good faith. Parties should engage voluntarily and everyone potentially affected by the project must be invited to participate.

During the consultations, legal support for the community is critical. However, such legal support is normally absent in most projects. Recognizing this problem, KEL contracted a Maasai lawyer to help the community understand the legal issues involved. This was motivated by several factors. First, considering the high legal fees that the poor landowners could not afford, most of them did not want legal representation. Secondly, community members perceived conflicting messages due to different levels of understanding of the project details. Consultation between the company and the community resulted in the hiring of a Maasai lawyer from Kajiado. Initially, the company was not to pay for the lawyer but after further consultations with the community, it was agreed that the legal fees could be

deducted from the land leasing fees. This arrangement later changed when some of the landowners opposed the deductions and the company decided to pay for the lawyer anyway. While some landowners were satisfied to proceed this way, a few able landowners still opted to retain their own lawyers. To ensure that the community lawyer paid for by the company is not biased against the community; consultations with the community have been public with the lawyers hired by the individual landowners in attendance, thus providing alternative legal support for the community.

Decisions regarding the leasehold negotiations are then made at various levels that include the household level, the family level in case of multi-household families, village elders and a community implementation committee (CIC) comprised of landowners, elders, women, youth, provincial administration and representatives of the company. KEL has community liaison officers from within the community to engage with their peers.

Consultations and negotiations consume immense time and resources but are necessary. For example, it took over a year of engagement for the community to agree to the leases, and then continued for at least seven years after the leases were signed. Most community members interviewed are satisfied with the consultations, negotiations and continued engagement with the company. For example, in all the 15 homes visited and in the random interviews undertaken, most had met or knew of a Mr. Namunje, the chair of the board of KEL.

Despite the protracted engagement, some of the community members do not yet fully understand the project implications on land rights. For example, some landowners are afraid that the turbines might each occupy over 500 meters of actual physical space when erected, making that portion of their land inaccessible. The company has clarified that while national noise regulations require a 500-metre buffer zone from each turbine, the community can graze and grow crops within the buffer zone but cannot build houses or any structures. However, during the 2-year construction period, there will be further restrictions on grazing and crop production within 250 meters of wind turbine construction site for safety reasons.

Beyond meetings with community members, consultations also involved the Kajiado County government, environmental NGOs and other stakeholders. The consultations began over eight years ago during the project feasibility study and are continuing to date. KEL has spent over KES. 14 million on the consultations.

7. Land leases, shareholding and Community Trust

Both the law and good business sense dictate that the operations of any business entity benefit the community in its area of operation. Besides pursuing profits for its shareholders, KEL's management understood that investing in social capital is critical to the wind energy project's success. KEL in consultation with the community therefore opted to put in place inclusive benefit sharing structures that included the company leasing rather than purchasing or compulsorily acquiring the land.

“Just imagine how difficult it is to entrust anyone with your vehicle logbook. How about a land title deed then?” – James Maroa, Environment, Social and Governance Manager, KEL

The Kipeto wind power project area is located on private homesteads. Though the law provides for compulsory acquisition of private land for a public purpose project like power generation, an option the company initially considered, KEL opted to bow to community pressure and lease the land from the landowners instead. This approach establishes a partnership between the investor and the community and guarantees community buy-in from the onset of the project. The partnership approach guarantees community land rights and generates the good will necessary for the success of the project. In the case of Kipeto, the leasing approach model has generated so much goodwill that in consultations with the company, the landowners have temporarily deposited their land title deeds with the company to enable it register the leases and wayleave with the ministry of land. Land leasing instead of outright purchase or compulsory acquisition therefore ensures stability of the investment, secures community land rights while the state gets an additional 100 MW to the national grid – a win-win for all.

The community and KEL negotiated and agreed on an annual lease rate payable during the project’s feasibility period and after the project is operationalized. During the feasibility period that has lasted 7 years, and runs until actual construction, KEL has been paying landowners an annual lease rate that varies with the acreage. Those who own 1–50 acres receive KES. 100 000 (US\$ 1000), those with 51–100 acres KES. 150 000 (US\$1500), and KES 250 000 (US\$2500) for those with 101 acres and above. The leases attract an incremental value of 5 % per annum. KEL has been paying the leases even though the project is yet to be operationalized. These are standard rates negotiated directly with the community.

Through the lease agreements, the landowners can invest in other projects or approach banks for loans to undertake their own individual projects in Kajiado, Kitengela or even Nairobi. This way, the community strengthens and expands its wealth base.

Once the project is operational, each landowner will receive 1.4% of the gross annual revenue generated by the project for each wind turbine located in his/her land. This translates to KES 1.2 million (USD\$12 000) annually for each wind turbine.

According to Ole Serpepi, a landowner, some landowners will receive in excess of KES. 20 million (USD\$200 000) annually for 20 years without selling an inch of their land.

In most projects, investors do not share profits with the local community other than through corporate social responsibility (CSR) programs and supply of locally available materials in

“Project proponents should see such arrangements as investments rather than a waste of money” – Dr. Namunje, Chair of the Board, KEL

some very rare instances. Kenya also does not currently have a law that governs how communities benefit from investments in their territories. Despite absence of such a law, KEL opted to allocate to the landowners a 5% share of the company to secure community goodwill. Shareholding ensures that the community receives a share of the revenue generated from the sale of power from the project. The community did not contribute any equity towards KEL.

According to Dr. Namunje, Chairman of the Board, the company knew that the community could not raise their 5% equity and would be unwilling to contribute their land as equity. KEL decided to include them as shareholders anyway to generate the necessary goodwill.

To determine the 5% community share, the company took several factors into consideration. This included what the community could be reasonably expected to contribute and the losses that the company will make in the first few years of the project, among other considerations. The 5% translates to KES 100 million (US\$ 1 million) annually-- an additional income for the community, besides the land lease payments, which they will continue to receive. According to KEL CEO Mr. Onchera Maiko, such strong social capital approach requires a philosophical shift in the minds of project proponents from purely focusing on profits to embracing other interests. Pastor Saitaga, KEL community liaison officer who is also from the community in Kipeto and six landowners (including three women) concur, indicating in interviews that the allocation of company shares to the community is a good model that should be embraced by all investors. The model secures the investment while safeguarding the future for the community.

The 5% revenue share the community will receive once the project becomes operational will

The discussion that needs to happen next is how the community will expand its wealth-base from the proceeds of the revenue.

be channeled through a Community Trust, the governance of which is still under development at the time of publication (August 2017). Consultations on the structure and composition of the Trust are ongoing. However, there is agreement that once established, the objectives of the Trust will be linked with the community development plan and the larger Kajiado County

Integrated Development Plan (CIDP). Among the options under consideration is whether funds from the Trust will be directed towards projects in Kipeto alone or whether a percentage will be channeled to the Kajiado County government to support other projects within Kajiado County. Community members are aware that KES. 100 million annually for 20 years will be a substantial sum of money for a small community like that of Kipeto. They are therefore willing, in the spirit of Maasai culture, to share a portion of their 5% revenue with the wider Kajiado County.

8. Community energy access in Kipeto

Though the Kipeto Wind Power project will inject 100 Mw to the national grid, KEL will not directly connect electricity to the Maasai of Kipeto. KEL has no mandate to connect consumers to power. This is a monopoly of Kenya Power Ltd. As an independent power producer, KEL role is to evacuate generated power from the site to a government step down/up substation where KETRACO ltd, a government owned power distribution monopoly, injects into the distribution line. Landowners can only access energy once Kenya Power distributes it back to their villages. However having understood the economic situation of the land owners, the project has provided for solar power to the new houses that

it will construct for the land owners who will be relocated. This in itself is a win as there will be no standing monthly electricity charges for the solar power.

9. Relocation of affected homeowners

In most projects requiring relocation, communities are completely moved to an entirely new location away from their land. Though KEL will relocate landowners whose homesteads will be directly affected by the wind turbines, the relocation will be within the landowner's land, in an area that will not be required/affected by the wind turbines. KEL has set aside KES 400 million for the construction of 80 modern houses for the 15 homesteads that will be relocated. As the relocation agreement was as result of intense negotiations, interviews with community indicate a high acceptance of the new houses by those who will directly benefit.

10. Company's CSR programs

Corporate Social Responsibility programs are the vehicles through which investors mainly share benefits with communities in their project areas. Such programs should be informed by community needs as well as the broader development goals of the state and not necessarily by the company's priorities. CSR programs should be developed and prioritized in consultation with the community, noting there is some debate on whether it is the sole duty of the state to provide for the health and education of its citizens.



KEL undertakes CSR programs for the benefit of the community around the project site and Kajiado County generally. KEL has, for example, invested KES. 5 million (US\$ 50 000) into improving a local health center. Future CSR programs will be aligned with the CIDP (county development plan), which was developed through a consultative process that included people from the Kipeto area. The CIDP guided KEL project development in the Kipeto area. KEL then established a committee at the community level to come up with an area needs assessment in the context of the CIDP planned projects in Kipeto. Consequently, a community development plan and a prioritized annual development scheme have been developed. KEL also reached out to local NGOs operating in the project area, as they will be potential partners in the design and implementation of the CSR programs specific to Kipeto. This will also guide the activities of the Trust, once established.

11. Lease vs. Purchase: Land Integrity and Financial Trade-offs

Maasai in Kajiado County are notorious for selling land on a willing seller – willing buyer basis. The selling of land has rendered many Maasai families landless and is even threatening the nearby Nairobi National Park as some of the land is sold as wildlife migratory corridors to the park. According to a 2014 baseline report on *Effective Land Ownership, Management and Transfer in the Context of Rapid Urbanization and Change among the Maasai of Kajiado County*, the quest for a short-lived modern and leisure life among the Maasai community is to blame for the uncontrolled sale of land in Kajiado. This has resulted in conflicts arising from multiple claims over the same land. The conflicts sometimes end up in loss of life, destruction of property, displacements and disharmony among the different ethnic groups.

In infrastructure projects, communities typically receive payments in lump sum either as a form of compensation for their land or other negotiated compensation. For communities that may not have handled large amounts of money prior to the payments, the results are often devastating: alcohol and drugs, prostitution, HIV/AIDS, domestic violence and other social ills. Many end up poorer than before the payments. In this case, the adoption of annual leases and annual revenue mitigates the risk of wastage and builds financial responsibility among the community members. The lease payments support the school fees for landowners' children, fencing, new house and weddings. According to a female landowner, some might have wasted the first one or two lease payments. However, they are now wiser in financial expenditure. Home improvements resulting from the lease payments are evident throughout the project area. She is positive that greater things will come once they start receiving revenue from the project. While this was not a deliberate arrangement, the net impact of phased payments seems to work for the long-term benefit of the community.

As result of the leases, KEL holds the landowners' title deeds. The lease agreements contain a subdivision clause that requires consultations and approval by KEL of any subdivisions so as not to interfere with the project footprint. Therefore, subdivision of the project land is not easy. The lease and subsequent revenue money also motivates the landowners to hold onto their land.

While lease payments have already generated significant revenue, some of the landowners enter into debt in anticipation of the lease payments. To meet immediate needs, some landowners also ask the company to advance them money to be offset in the following years' lease payments. While the structured lease payments are generally more beneficial than outright purchase, the leases nevertheless have created an unintended financial dependency on the company by the landowners. Ole Karu and other landowners interviewed suggest monthly payments of the lease rates would be ideal.

As the Maasai in Kipeto are a paternal society, men receive the payments except in a few instances where recipients are widows. Some married women have raised concerns about how their men utilize the payments and therefore suggest that KEL could put in place measures to ensure that women receive part of the payments and/or establish a fund to support women-led enterprises in Kipeto.

For the project to truly benefit the community in the long term, there is evidently need to train the community on financial literacy. Though it is not the responsibility of the investor, any social problems that may arise as a result of bad financial decisions might impact the company's bottom-line in the long term.

12. Grievance Mechanism

In any business activity and operations, a grievance mechanism serves as the formal complaint process that is used to resolve disputes, whether judicial or administrative. Beyond the national judicial system, the Kipeto Wind Power Project has two formal grievance mechanisms: one managed by the company at the project level and one managed at the lenders level. Community members may avail themselves of these as interested.

Kipeto Energy Limited has put in place a bottom-up grievance mechanism that starts at the household level, where members of household discuss an issue concerning the project with the assistance of the company's community liaison officer. Should the issue fail to be resolved at the household level, a family meeting is called to resolve the issue. In one instance, for example, a family took a vote to decide whether to be part of the project. By a vote of 22 to 8, the family opted out of the project even though the family could have earned up to KES 12 million (US\$ 120 000) annually, for twenty years, as direct revenue from the 10 wind turbines that could have been constructed on their land.

Significantly, KEL has designed its project-level grievance mechanism to build from existing family and community dispute resolution processes. For disputes at the family level or between two or more families, village elders are then called upon to resolve the conflict. Failure by the village elders will result in a multi-stakeholder community implementation committee (CIC) hearing and determination of a dispute, before Company's Senior management is called. The next level in dispute resolution is to engage the local representative of the lenders for a determination. If all else fails, the dispute can be formally addressed in Court.

These dispute resolution processes have been tested repeatedly at the family and village level. Many of the conflicts revolved around whether to commit family land to the project, distribution of benefits and whether women could be landowners. The CIC and company decided on the conflicts on the basis of national law, and principles of justice and equity. To date, these dispute resolution methods have been successful enough to avoid escalation to the level of approaching the courts for dispute resolution, an expensive and time-consuming process.

Most of the landlords interviewed feel that intergenerational conflicts might be a problem in the no- so-distant future. As the project picks up, the elders will be growing older. Their children on the other hand will be more educated and westernized and will want to take greater control of the resources from the company.

An additional probable source of future conflict is the potential clash between the socio-economic rights of the community and environmental concerns. Environmentalists are already raising concerns of the potential threat of the wind turbines on two colonies of endangered vultures and other birds around the project site. To conserve the vultures, environmental groups want the project stopped. KEL and the environmental groups are still consulting on the issue but the community is yet to be involved in the consultations. For a community that is becoming increasingly dependent on the company and is looking forward to a financially secure future, it remains uncertain how they might react to the vulture issue. However, this is an issue that must be resolved sooner rather than later in a manner that secures the needs of the community and environmental concerns.

Key lessons

- Investing in social capital is necessary for the company even in the absence of express legal requirements. To effectively secure an investment and advance community rights, investors, communities, government and other stakeholders should pursue interest-based approaches, which reflects an assumption of rational choice by all the agents involved, leading to a regime that reflects the interests of all. This approach promotes win-win investments that secure both the investor interests and community rights.
- Involvement and commitment of the company's top most person(s) to secure community rights help ensure project success. The company should therefore be committed to secure social capital at its highest decision-making level.
- To secure indigenous peoples rights, it is critical that investor's should lease rather compulsorily acquire or purchase indigenous communities lands. Leasing benefits the project and the people.
- Negotiations with the community must be carried out in good faith, in an open and transparent environment. Community engagement is not a one-off event but a continuous process that must address every aspect of community rights and interests, including inter-generational interests within the community. The community consultation process is expensive in terms of both time and money but important for project success in the long term. A company must therefore be prepared to invest significant resources and focus on long-term financial sustainability instead of short-lived gains as it consolidates the social goodwill.
- A robust grievance mechanism—particularly one that incorporates traditional dispute resolution processes—helps address conflicts in a timely manner and avoids expensive, lengthy delays and uncertain outcomes through the judicial system.