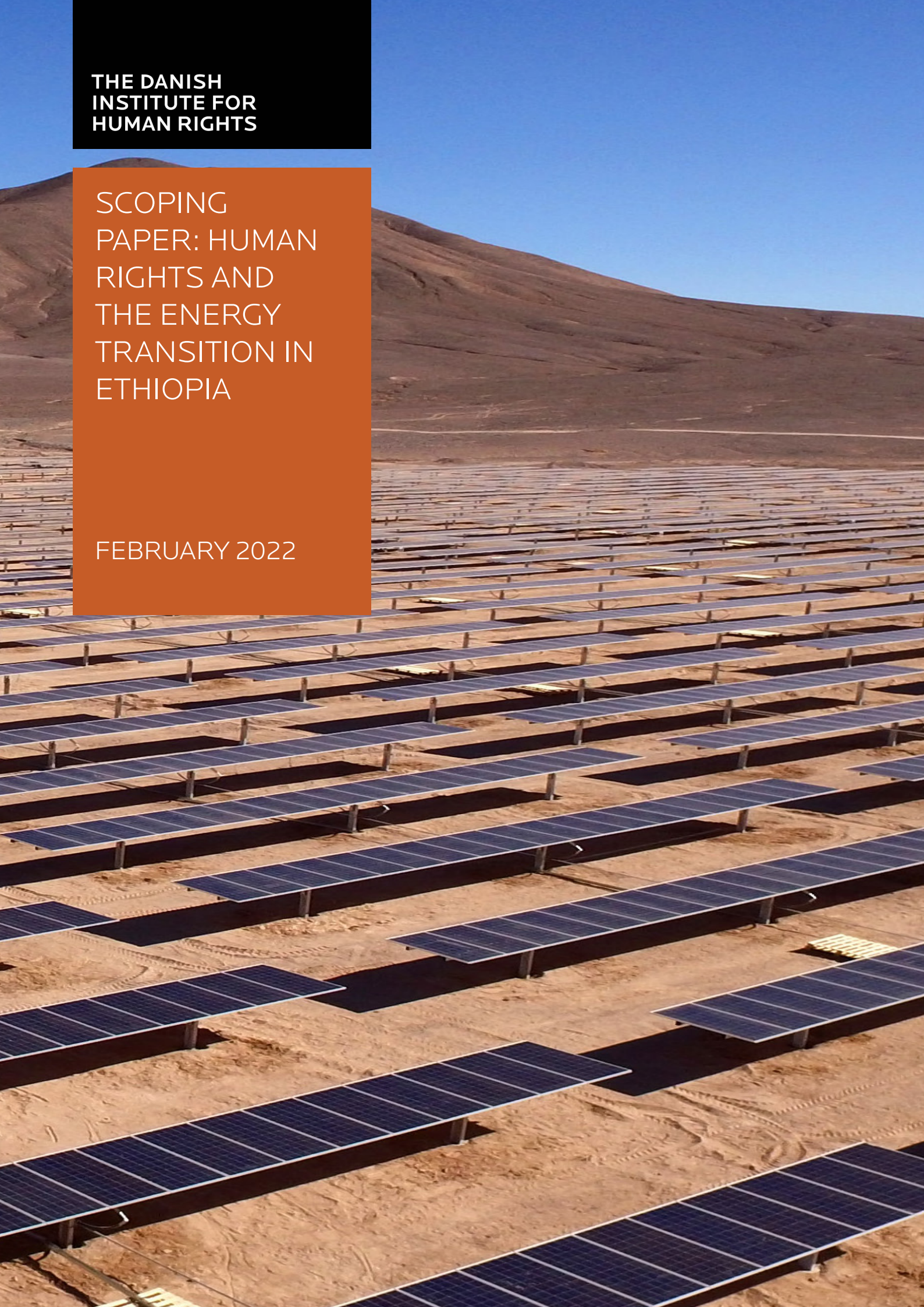


THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

SCOPING
PAPER: HUMAN
RIGHTS AND
THE ENERGY
TRANSITION IN
ETHIOPIA

FEBRUARY 2022



Acknowledgments: This publication is part of the Responsible Business Conduct in Sub-Saharan Africa project, made possible thanks to the support from the Permanent Mission of Denmark to the United Nations in Geneva. Responsibility for the content rests entirely with the Danish Institute for Human Rights.

This scoping paper was compiled by Ojot Miru Ojulu, Kayla Winarsky Green, Mathilde Dicalou and Nora Götzmann. The paper draws on background research conducted for the project by Synergy Global Consulting, including preliminary interviews conducted by Holle Wlokas and Xoliswa Khumalo. We would also like to thank Kenassa Bato for assistance with subsequent in-person stakeholder interviews. We would like to thank the Ethiopian Human Rights Commission (EHRC) for their support for the in-person interviews.

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You can read more about the Responsible Business Conduct in Sub-Saharan Africa project here: <https://www.humanrights.dk/projects/responsible-business-conduct-sub-saharan-africa>

Graphic Design: Michael Länger & Anna Thorslund

Cover image: Antonio Garcia, Unspalsh

e-ISBN: 978-87-7570-066-0

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INTRODUCTION

This scoping paper explores some of the human rights dimensions of renewable energy and the energy transition in Ethiopia. It seeks to serve as a resource for stakeholder engagement and discussion in working towards a human rights-based energy transition in Ethiopia. As such, the briefing presents initial research and ideas, rather than comprehensive analysis.

The paper was produced through desktop research by commissioned consultants and Danish Institute for Human Rights (DIHR) staff, supplemented by in-person interviews with ten key informants from governmental institutions, business enterprises and civil society organisations (CSOs) in Ethiopia.

Situated in the Horn of Africa, and with proximity to the Middle East, Ethiopia has been gaining strategic importance across the region.¹ With more than 112 million people in 2019, the country is the second most populous nation in Africa after Nigeria, and the fastest growing economy in the region. In 2019, Ethiopia had a growth rate of 10.9%, 5% higher than the region's average, largely attributed to rising industries such as construction, and investments in the energy, health and education sectors.² While the country is considered by some as a growth miracle and has increasingly caught the attention of international investors, challenges remain in terms of achieving stability.

To date, 83% of the Ethiopian population continues to live in rural areas without access to modern energy and relies on traditional biomass energy sources.³ Topographical conditions and poor communications make access to many rural areas difficult.⁴ Rapid growth and increased living standards have led to a fast-growing energy demand from household consumers, along agricultural, industrial and service sectors. Meanwhile, Ethiopia has one of the lowest electricity consumptions per capita in Africa.⁵ As noted by an interviewee, electricity is subsidised in urban but not in rural areas in Ethiopia, and only those who can afford the high tariff are able to access electricity in rural areas. Recognising that energy access and security are crucial factors for development and poverty reduction, Ethiopia needs to cope with key challenges related to energy security and diversification of energy supply.

Responding to these challenges, the Government of Ethiopia has led considerable efforts to improve the governance of the energy sector and increase access to energy. For example, the Growth and Transformation Plan, a national five-year development plan created by the Government

of Ethiopia, aims to improve the country's economic well-being and work towards eradicating poverty; with it came rapid expansions in different sectors of the economy.⁶ The plan is anticipated to guide the country into a sustainable development path in various sectors, principally in the energy sector.⁷ Since 2011, the country developed a strategy known as the Climate Resilient Green Economy Strategy (CRGE). The strategy further commits to expanding electricity generation from renewable sources of energy for domestic and regional markets; and leapfrogging to modern and energy-efficient technologies in transport, industrial sectors and buildings, with a view to reducing environmental degradation and pollution that could result due to such rapid economic growth.⁸

While such commitments reflect international commitments to increasing energy access and combatting climate change, increasing renewable energy investments is not without risks for the enjoyment of human rights as renewable energy projects, including solar and wind farms, also have the potential to contribute to human rights abuses and may exacerbate existing conflicts.⁹ Failure to consult adequately and address human rights impacts associated with renewable energy can drive community resistance to renewable energy projects and can risk creating or exacerbating adverse human rights impacts. In turn, this can contribute to project delays, as well as financial, legal and reputational penalties for companies and investors engaged in the energy transition.

PART I: STRUCTURE OF THE ENERGY SECTOR AND RENEWABLES POTENTIAL

1.1 ENERGY SECTOR

Ethiopia's power sector is large compared to neighbouring countries. The country possesses the second-highest installed generation capacity in Sub-Saharan Africa, which includes hydro, diesel, geothermal and wind power plants.¹⁰ In 2017, the generation capacity was equal to 13.3 TWh, with 89% for domestic use and 11% for export.¹¹ Despite being endowed with a comparatively large power sector, the electrification rate has remained low and did not exceed 45% in 2019.¹² The country's quality of supply ranks 118th out of 144 countries.¹³ This is because persistent excess in peak demand over supply, has prevented the government from increasing capacity and upgrading the grids to improve quality.¹⁴ Figure 1 provides an overview of Ethiopia's energy potential by different sources, demonstrating considerable renewables potential.

| Resources | Unit | Exploitable potential | Exploited amount | Percentage exploited in 2018 |
|--------------------|--------------------------------|-----------------------|------------------|------------------------------|
| Hydropower | GW | 45 | 3.18 | ~17 |
| Solar (day) | kWh/m ² | 5.2 | 0 | <1 |
| Wind | GW m/s | 1350 | 0.324 | <1 |
| Geothermal | GW | 7 | 0.0073 | <1 |
| Wood | Million T | 1120 | 560 | 50 |
| Agricultural waste | Million T | 15-20 | ~6 | 30 |
| Natural gas | Trillion m ³ (2013) | <0.1 | - | 0 |
| Coal | Million T | > 300 | - | 0 |
| Oil shale | Million T | 253 | - | 0 |
| Biogas | Household | 1-3 million | 17869 | <1 |

Figure 1: Potential and exploited sources of energy in Ethiopia¹⁵

1.1.2 RENEWABLES POTENTIAL

With a total installed capacity estimated at 4,256 MW in 2017, the main source of power generation is hydropower, accounting for 97% of the country's generated electricity.¹⁶ Yet, dependence on this source of energy can pose threats to achieving energy security. While hydropower can generate electricity without emitting greenhouse gasses, it can also cause environmental and social impacts, such as damaged wildlife habitat, harmed water quality, obstructed fish migration and diminished recreational benefits of rivers.¹⁷ The International Energy Agency has predicted that the Nile Basin countries, including Ethiopia, are likely to face greater variability in their capacity to generate hydropower because of 'increasing anomalies in climate patterns and more frequent extreme weather events',¹⁸ despite the likelihood of increased water availability.¹⁹ The agency has further warned that environmental, geopolitical and social factors, could significantly lower hydropower capacity going forward.²⁰ Currently, all dams in Ethiopia are reported to produce below capacity; renovations and optimisation measures are being assessed to improve their performance.²¹

Besides hydropower, the country has a total wind energy resource reserve of 3,030 GW and the potential exploitable quantity is 1,350 GW.²² Aysha in the Eastern part of the country has good potential with an average wind speed exceeding 8 m/s.²³ Feasibility assessments have been underway with the Ethiopian government having shown interest in exploiting the country's abundant wind resources since 2006, when they contracted the German-owned company Lahmeyer to conduct a feasibility study for wind farms.²⁴ Currently, three wind farms are connected to the grid, namely: Ashegoda, Adama I and Adama II.²⁵

Geothermal is another potential source of energy in Ethiopia.²⁶ Promising prospective areas for geothermal generation are distributed along the Ethiopian Rift Valley system running for more than 1000 km from the Afar depression at the Red Sea to the Turkana depression Derbew. A total of 16 geothermal resource areas have been identified by various studies. These resource zones are all located within the Rift Valley system (Aluto Langano, Tullu Moyo Tendaho, Danakil Depression).²⁷

1.1.3 ENERGY ACCESS

Despite strong government commitments to reach full access before 2030, energy access remains a challenge in Ethiopia. According to a World Bank-led global Multi-Tier Framework Review surveying household access to electricity and clean cooking conducted in 2018, 57% of Ethiopian households had

access to at least one source of electricity: 33.1% was grid-based, while 23.9% was provided by means of off-grid solutions.²⁸ However, only 44.3% of all Ethiopian households have access to a basic electricity supply. The remaining 55.7% have no access to any electricity source, rely on dry-cell batteries or have a supply that does not provide basic energy services.²⁹

Consistent with electrification rates globally, and in light of the fact that electricity in the rural areas is not subsidised, the urban electrification rate is much higher than in the rural areas of the country. In Ethiopia, 99.9% of households in the capital Addis Ababa are connected to the grid, whereas smaller cities and more rural areas are more dependent on off-grid solutions like solar lighting systems (SLSs) and solar home systems (SHSs).³⁰

While nearly 40% of unelectrified households are within seven kilometres of the national grid, administrative barriers or delay in connection prevent effective outreach.³¹ Nonetheless, significant potential lies in the affordability of electricity; electricity is deemed affordable for the majority of households and 96% of households are willing to pay for a grid connection.³²

1.1.4 ELECTRICITY EXPORTS AND REVENUE

The Ethiopian electric power system is currently interconnected with Sudan and Djibouti for a total of 300 MW net transfer capacity. An additional interconnection with Kenya (2,000 MW HVDC link) is in an advanced stage of construction and a new Ethiopia-Sudan interconnection is expected to be implemented (3,000 MW).³³

The export figures for renewable energy electricity exports have increased over the past years and are expected to grow further.³⁴ Currently, Ethiopia earns about 80 million dollars of revenue annually by selling about 100 MW of energy to Sudan and 80 MW of energy to Djibouti – this is estimated to have the potential to increase to as much as US\$500 million per annum by the end of the decade.³⁵ Together with domestic network expansion, increased exports to Sudan, Djibouti and Kenya in the coming years could boost the country's export revenue potential.

As part of the government's ambitions to become a significant exporter of clean and affordable renewable energies, big interconnection projects are foreseen in the future.³⁶ A regional transmission connection is expected to be underway by 2021 between countries of the Southern African Power Pool.³⁷

1.2 GOVERNANCE FRAMEWORKS AND ACTORS

1.2.1 FUTURE ENERGY VISION AND SCENARIOS

Considering increasing energy demands and the disruptive threats of climate change, increased access to energy and diversification of the energy mix are key issues.³⁸ Diversifying sources, locations and temporal availability of energy streams has become a paramount priority for a dependable future power supply in the country.³⁹

In 2017, the Ethiopian government established the National Electrification Program (NEP) setting the goal to achieve national access to electricity through the densification of grid and off-grid technologies by 2025.⁴⁰ The programme aims to scale up energy access by providing grids solutions to 65% of households by 2025.

Led by the Prime Minister's Office, the Environmental Protection Authority and the Ethiopian Development Research Institute, the CRGE further commits to expanding electricity generation from renewable sources of energy for domestic and regional markets; and leapfrogging to modern and energy-efficient technologies in transport, industrial sectors and buildings.⁴¹ A new Energy Law, promulgated in 2013, further reinforces the government's stated commitment to sustainable development practices outlined in the CRGE.⁴²

According to the government's plans, these renewable energy frameworks will contribute to achieving Ethiopia's green growth targets while also earning foreign exchange through electricity exports. It is expected that diversified renewable sources of energy such as geothermal, wind and solar form an increasing share of energy sources while household dependence on inefficient biomass energy consumption (e.g. fuel wood for cooking) is likely to decrease.⁴³

1.2.2 ENERGY SECTOR LANDSCAPE

Ethiopia's power system is a vertically integrated, single-buyer system, where power generation, sale, distribution and transmission are all managed by the state agency, Ethiopian Electric Power (EEP),⁴⁴ which is now divided into three separate entities (Ethiopian Energy Authority, Ethiopian Electric Power and Ethiopian Electric Utility).

Compared to the dominant presence of public sector actors, private sector actors have only recently started to be part of the energy landscape. While the

future energy scenario in Ethiopia seeks to improve both access to and the quality of electricity grids, by means of expanding utility-scale projects (state-owned) and independent power producers (IPPs), the country's experience with IPPs remains very new.⁴⁵

To that end, the government has started the process of modifying its existing legal and regulatory framework in order to determine whether it is capable of supporting an IPP programme; identifying any changes that should be made to the legal and regulatory framework to facilitate the development of a successful IPP programme; and considering how best to approach the development of such a programme.⁴⁶ Additionally, numerous incentives were set out to diversify project investors and stakeholders. These include tax breaks, facilitated investment authorisations and ease of access to currency.⁴⁷

The current energy landscape, with its abundant scope for renewable energy projects, ambitious electrification targets and numerous incentives, make it an increasingly appealing choice for private investors. In particular China is playing a significant role in the financing of projects in the renewable energy sector in Ethiopia. Many of the engineering, procurement and construction companies in renewable energy projects are Chinese-owned companies, which are also responsible for (temporary or permanent) operations and maintenance and/or project sponsors.⁴⁸

Attempts to attract large IPPs in Ethiopia has not been as successful as envisaged to date. As previously discussed, private sector energy investment into hydro and geothermal has a poor track record, with protracted negotiations and failed project plans (e.g. 150 MW Gojeb hydropower project, 1 GW Corbetti and Tulu Moyo geothermal projects).⁴⁹ More recently, utility-scale solar procurement has commenced, with financial close not being reached in any of the approved bids (e.g. 100 MW Metehara solar project, 125 MW Gad solar project, 125 MW Dicheto solar project).⁵⁰

Research indicates that currently most IPPs are financed through offshore financial institutions (banks and development banks), export agencies, grants given by development organisations and some private investors as well.⁵¹ Unlike other countries on the continent, foreign banks can lend to a company organised under the laws of Ethiopia only if they obtain an authorisation from the National Bank of Ethiopia, and only if the Ethiopian company cannot find adequate funding from Ethiopian banks.⁵²

PART II: THE HUMAN RIGHTS IMPLICATIONS OF THE ENERGY TRANSITION

In this section, based on the secondary data and complemented by the in-person interviews, some of the salient human rights implications of the energy transition and renewable energy projects in Ethiopia will be discussed. The first part focuses on some of the rights-holders at risk of human rights abuses associated with renewable energy projects and the second part focuses on illustrative human rights issues in the energy transition.

2.1 RIGHTS-HOLDERS AT RISK

2.1.1 PEASANTS AND PEOPLE LIVING IN RURAL AREAS

Peasants and people living in rural areas in general are among the most vulnerable to human rights abuses related to large-scale renewable energy projects. According to the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, a peasant is defined as ‘any person who engages or who seeks to engage, alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land.’⁵³

Over 78% of the Ethiopian population live in rural areas and are dependent on rain-fed agriculture for subsistence.⁵⁴ Agriculture and rural development are key elements of Ethiopia’s economic growth and poverty reduction strategy. Traditionally, the Ethiopian economy has been characterised by subsistence farming that largely relies on rainfall and is therefore vulnerable to climate-related shocks. A large number of the people in the country have long suffered from great poverty and tenacious food crises. The level of vulnerability and food insecurity is to a great extent associated with access to land and agricultural activities.⁵⁵ As a result, large-scale energy projects that require significant amounts of land, and may be associated with the displacement of rural communities or changes in rural land use, can have serious implications for rural household food security and the enjoyment of

other human rights such as right to health, right to water or right to a clean environment. This was illustrated by interviewees, who noted that contribution to climate change is also another risk that large-scale energy projects can bring because of the destruction of forests, ecosystems and CO² emissions into the atmosphere. This in turn can make life very difficult for farming communities who depend on rain-fed agriculture for their livelihoods. Regular flooding, invasive species and frequent droughts in the country were also associated with climate change by some of the interviewees.

2.1.2 WOMEN AND GIRLS

Experiences of rural poverty and vulnerability in Ethiopia are gendered.⁵⁶ Women play an important role in the agricultural sector but experience unequal access to resources.⁵⁷ Female-headed households are more vulnerable to household-level shocks including drought, illness, job loss, flooding, and loss or death of livestock. For most rural women in Ethiopia, land tenure is complicated, with access and ownership often layered with barriers attributable to discriminatory social norms, unresponsive legal systems, lack of economic opportunities and exclusion from decision-making. Yet, policy reforms, land management and development programmes often disregard these factors in their interventions, which ultimately maintains and increases land tenure insecurity for rural women.⁵⁸

In the case of land tenure, legislative changes (starting with land reforms in March 1997) have resulted in significant changes in women's ability to secure land tenure in their own right, although the implementation of these changes has varied notably across regional states.⁵⁹ Nonetheless, women's ownership rights are still limited, as most customary land ownership practices normally recognise only the head of household – typically a man – as landowner. Women who separate from their spouse are likely to lose their property and accommodation. Furthermore, widows who are childless face the very likely possibility of being expelled from their deceased spouse's home.⁶⁰ Furthermore, the cultural division of labour affects women's access to natural resources. Frequently, the degradation of natural resources affects women disproportionately, since they participate in the collection of firewood, water for household consumption and feed for their livestock, which often requires travelling long distances.⁶¹ Given such existing discriminatory practices towards women in access to land, renewable energy projects that require the appropriation of land from rural communities carry higher risk of disproportionately affecting women and therefore exacerbating gender inequality in rural areas.

2.1.3 PASTORALISTS AND INDIGENOUS PEOPLES

There are 90 distinct ethnic groups⁶² in Ethiopia and more than 80 languages are spoken, with the greatest diversity in the southwest. Two-thirds of the population speak Amharic, Oromo, Tigrinya and Somali. The Indigenous population is estimated at around 15 million people which constitutes nearly 15% of the country's estimated population.⁶³ About 15% of Indigenous Peoples are sedentary pastoralists and farmers living across the country but particularly in the Ethiopian lowland regions of Afar, Beneshangul-Gumuz, Gambella and Somali, which constitute some 61% of the country's total landmass.⁶⁴

To date, Ethiopia has not ratified International Labour Organization (ILO) Convention 169 on Indigenous and Tribal Peoples (1989). Reportedly, the state's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination remain unfulfilled.⁶⁵ The country has also not put in place national legislation that protects Indigenous Peoples. Besides the lack of effective legal protection, Indigenous communities have recently come under intense pressure because of the government's large-scale commercial agricultural investment policy, the construction of irrigation dams and the villagisation programme. Reportedly, all of these have led to widespread land dispossession and land grabbing.⁶⁶ Indigenous Peoples in the Gambella regions and the lower Omo valley, in particular, have been affected by the impacts of the commercial agricultural investment policy. Moreover, Indigenous Peoples in these areas were forced to relocate from their traditional farming and grazing lands due to the villagisation programme. This policy and infrastructure projects have substantial adverse effects on communities' culture, identity and autonomy. For example, infrastructure projects involving irrigation dams have resulted in a diverted water flow and reduced water volume, which in turn, has led to a reduction in fish stocks and grazing land.⁶⁷ The access of relocated communities to medical care, as well as to primary and secondary education, remains inadequate.⁶⁸

A 2019 report by the Oakland Institute touches upon the Omo River and its floods' importance for many Indigenous groups.⁶⁹ It allows them to maintain traditional agricultural practices and upkeep of cattle, which are an integral part of both survival and societal practices. The report focuses on the negative impacts of the Gibe III Dam construction and sugarcane plantations development. These projects required land allocation, raised major environmental concerns, and reportedly led to human rights abuses, including forced evictions and crop destruction. The report shows that there had been no floods since the dam first started producing energy in 2015. This allegedly resulted in immediate and measurable harm to Mursi communities, such as intense hunger and limited access to schooling and healthcare as a result of displacement. Currently, the Gibe IV and V Dam projects are underway,

threatening to further harm Indigenous communities of the Omo Valley.⁷⁰ Similar human rights impacts are documented by human rights groups, academics, researchers and the media in the remote regions of Gambella and Benishangul-Gumuz, close to Ethiopia's international borders with South Sudan, Kenya and Sudan. Indigenous Peoples in these areas are largely dependent on forests, land and water. Therefore, any loss of territory endangers their livelihoods, food security, sovereignty, the environment and human security.⁷¹

Adding to the volatility of the country, ethnic tensions and violent conflicts have taken place nationwide, involving major or minor groups across the country, and this has also had a significant impact on Indigenous Peoples. These conflicts reportedly involved murders, homes destruction, massive displacement and the re-awakening of the racial divide between highlanders and lowlanders.⁷² Given the significant shifts involved in energy development, renewable energy projects risk contributing to or exacerbating such conflicts with disproportionate impact on pastoralists and Indigenous Peoples. Interviewees noted, for example, that when such projects are implemented Indigenous populations are often not consulted, despite being most affected by these projects. Moreover, when there are job opportunities Indigenous communities are not hired because companies import skilled workers from urban areas. This carries the risk of communal conflict between the local Indigenous communities and those workers that come from other parts of the country.

2.1.4 CHILDREN AND YOUTH

Child labour is a pervasive problem in Ethiopia. Although precise and reliable data are lacking, large numbers of children are thought to be engaged in the worst forms of child labour, including child prostitution and exploitative domestic work, many of them being victims of internal trafficking.⁷³ A national Child Labour Survey conducted in 2001 with ILO assistance indicated that 52% of children aged 5 to 17 years old were economically active.⁷⁴ A further 33% were engaged in non-economic housekeeping activities, with half of them not attending school. Overall, 85% of children aged 5 to 17 were involved in economic or housekeeping activities that prevented or impeded school attendance or performance. The need for labour assistance of children in family businesses and the desire to supplement household income are the two most important reasons that drive child labour. The majority (89%) of children living in rural areas and engaged in productive activities were working in elementary agricultural and related activities, such as herding cattle and helping adults in farming. In urban areas, 52% of the children were engaged in elementary occupations, like street-vending, shoe-shining, messenger services, construction, manufacturing and transport activity. The remaining

48% were working as service, shop and market sales workers (26%), craft and related trade workers (19%), and other occupations. Most of the children work long hours and in harsh and exploitative conditions.⁷⁵ Given this experience with child labour, renewable energy projects carry the risk of contributing to child labour if adequate protection measures are not put in place. Many of the interviewees explained that although the Ethiopian labour laws clearly prohibit child labour, most often this is not strictly enforced so child labour could also be another risk for renewable energy projects.

2.1.5 ENVIRONMENTAL AND HUMAN RIGHTS DEFENDERS

In 2019, a countrywide network of individuals and organisations aimed at working together to create a safe and enabling working environment for human rights defenders (HRDs) in Ethiopia was launched. The group noted with satisfaction the role played by similar groups from all the regions in Ethiopia, supporting and strengthening the work of HRDs in Ethiopia. However, that same group criticised 'attacks mainly from state and non-state actors and a restrictive legislative and policy environment that impacts the security and the work of HRDs.'⁷⁶ The group also cited 'waves of repression that affected most CSOs and HRDs in Ethiopia over the last three decades, and the urgent necessity to largely rebuild a robust and effective CSOs movement, allowing for significant cooperation with regional and international actors through capacity-building, technical advice, joint projects, and collaboration to strengthen the capacity of local HRDs.'⁷⁷ Given that threats against human rights defenders in the context of energy projects are not uncommon, how the rights of HRDs are protected in the context of renewable energy projects in Ethiopia is therefore a point for attention.

2.2 ILLUSTRATIVE HUMAN RIGHTS ISSUES AT RISK

2.2.1 LAND RIGHTS

In Ethiopia all land is per definition owned by the state. The Federal Democratic Republic of Ethiopia Constitution states that all land belongs to the state and the peoples of Ethiopia and it shall not be subject to sale or to other means of exchange.⁷⁸ The right to use land under the Constitution states that Ethiopian farmers and pastoralists have the right to obtain land without payment for farming and grazing as well as the right not to be displaced from their lands. In addition, the Constitution ensures the right of private investors to the use of land on the basis of prior payment arrangements established by law.⁷⁹ Furthermore, the Federal Land Administration and Land Use Proclamation No. 456/2005 states that farmers have a perpetual use

right on their agricultural holdings, and this right will be strengthened by issuance of certificates and keeping registers.⁸⁰ The Government of Ethiopia has regulations and guidelines that stipulate the processes on how land is taken over from communities, as well as on compensation. However, the Ethiopian land administration system is so devolved that there are many differences between the various land policies of different regional states. In order to understand the overall land legal framework, laws and policies must be gathered from federal laws, together with laws and directives developed by regional and municipal governments. In other cases, there is confusion on the applicability of laws. In addition, some land administration issues are determined by unpublished administrative directives that usually change quickly and without public notice. For instance, there is no clear system of land valuation. There are no consistent regulations for access to land and research indicates that in practice some actors have better access than others, mainly due to connections with the political elites. 'The political economy of Large Scale Land Acquisitions tells us that the deals are not occurring in a predominantly economic manner; rather, extra-economic state intervention clears the way for, facilitates, and ensures sustained accumulation. This political intervention is "unlocking" and making the lowland resources accessible and extractable by the state.'⁸¹ Therefore, renewable energy projects need to recognise existing gaps in land regulatory and governance frameworks and work towards mitigating associated human rights risks, including risks of corruption in dealings with both urban and rural lands.

2.2.2 RIGHT TO HEALTH AND RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT

Environmental degradation is a key risk associated with energy projects, especially large-scale projects that require land and may involve deforestation. According to the Ethiopian Energy Authority (EEA), the regulatory body for electricity and energy efficiency, environmental impact assessment is a mandatory requirement for companies seeking investment in Ethiopia. As explained by interviewees, before the commencement of projects, there is a requirement that companies conduct pre-feasibility studies to see if the project is environmentally, socially, technically and financially feasible. This includes site feasibility evaluation, where questions related to environment are looked into. However, EEA capacity limitations were also identified. Interviewees noted, for instance, that companies are free to hire any consultant to conduct environmental impact assessments as there is no standard requirement from EEA as to the competencies of the consultants engaged.

2.2.3 LABOUR RIGHTS

Although Ethiopia has its labour laws and safety regulations,⁸² enforcement of the laws remains weak and there is no minimum wage, meaning labour exploitation is likely to happen, particularly of vulnerable groups.⁸³ In one of its recent reports, UNICEF highlighted the lack of awareness on laws pertinent to prohibition of child labour and recommended that '[o]ne important step to eliminate child labour is to create awareness of its negative effects. Policymakers should further focus on law enforcement and provide more services for children exposed to child labour to help them cope with its consequences. Since poverty is one of the main reasons why children engage in child labour, the government and NGOs should provide support to families to meet their most basic needs.'⁸⁴ Combined with the tax incentives for foreign investors,⁸⁵ which undermine 'a State's ability to mobilize resources for the delivery of services essential for the realization of economic, social and cultural rights',⁸⁶ it appears that there are significant gaps in terms of the state duty to protect as enshrined in Pillar I of the United Nations Guiding Principles on Business and Human Rights (UNGPs).

2.2.4 SECURITY AND CONFLICT CONTEXT

Ethnic tensions and violent conflicts are taking place nationwide, involving both major and minor groups across the country. War between the federal and Tigray regional governments broke out in the northern region of Tigray in late 2020 as these tensions came to the fore. In late 2021 the conflict expanded into the neighbouring Afar and Amhara regions.⁸⁷ Fearing for their lives and the lives of their families, thousands of children, women and men have been forced to flee their homes.⁸⁸ A joint investigation by the Ethiopian Human Rights Commission and the UN Human Rights Office has found that there are reasonable grounds to believe that all parties to the conflict in Tigray have, to varying degrees, committed violations of international human rights, humanitarian and refugee law, some of which may amount to war crimes and crimes against humanity. The report details a series of violations and abuses, including unlawful killings and extra-judicial executions, torture, sexual and gender-based violence, violations against refugees and forced displacement of civilians.⁸⁹ Considering the conflict situation, renewable energy projects need to conduct political and human rights risk assessment to avoid and mitigate adverse impacts of their operations.

PART III: OPPORTUNITIES TO STRENGTHEN HUMAN RIGHTS PROTECTION IN THE ENERGY TRANSITION

As guided by the UNGPs, states have duties and businesses responsibilities to ensure that the energy transition in Ethiopia effectively accounts for human rights. Ultimately, the energy transition should benefit workers and communities. To that end, principles such as transparency, stakeholder participation and accountability are the cornerstone of a human rights compliant energy sector.

To contribute to engagement and discussion in working towards a sustainable energy transition, this section of the scoping paper outlines possible state, business and investor pathways to mitigate risks of human rights abuse in the context of energy investments as well as opportunities for contributing towards an energy transition that is respectful and supportive of human rights.

UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS⁹⁰

Unanimously endorsed by the Human Rights Council in 2011, the UNGPs present the authoritative international framework for government and business responsibilities vis-à-vis human rights along three inter-related pillars:

Pillar 1: The state duty to protect human rights:

- States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.
- States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

Pillar 2: The corporate responsibility to respect human rights:

- Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

- The responsibility of business enterprises to respect human rights refers to internationally recognised human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO’s Declaration on Fundamental Principles and Rights at Work.
- The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure.
- In order to meet their responsibility to respect human rights, business enterprises should have in place policies, human rights due diligence processes and remedy mechanisms appropriate to their size and circumstances.

Pillar 3: Access to remedy:

- Which requires both states and businesses to ensure greater access by victims of business-related human rights abuses to effective remedy, both judicial and non-judicial.
- A remedy process should restore the rights-holder to the status they held preceding the harm and should be agreed upon and discussed with affected rights-holders.

3.1 CONSIDERATIONS FOR GOVERNMENT

Government human rights due diligence requirements

Embedding human rights requirements and human rights due diligence processes within the governance frameworks for energy project development is a key way by which the government can demonstrate commitment to its international human rights obligations. Sound project preparation should always follow domestic laws and regulations and allow sufficient time for project preparation before construction. Preparations should also take into account the ethnic tensions and violent conflicts that are taking place nationwide, to ensure that planned projects do not exacerbate these tensions. Adherence to the safeguard policies of international development banks may also contribute to the protection of affected people.

As Ethiopia continues to develop its approach to private investment, making human rights due diligence part of investment requirements and incentives could be a way to build human rights respect into projects from the start. Including human rights due diligence considerations in scaling up its endeavours in the renewable energy auction programmes is a further key opportunity. As Ethiopia continues to conduct feasibility assessments of certain sources (e.g. wind) it is also essential that such assessments consider salient human rights issues.

Strengthening human rights capacity of governance actors

Given the likelihood of continued prevalence of utility-scale projects and IPPs, it is important for related actors to build their human rights capacity and include human rights and human rights due diligence in their screening processes, particularly as these relate to vulnerable groups. Engaging with financial institutions to strengthen human rights requirements for supported projects could foster such engagement; as well as collaboration with international donors supporting technical capacity and finance to development of the governance of the energy sector. Such endeavours could also be supported financially through revenues generated through energy exports.

Strengthening rights-holder and stakeholder engagement

Given the gaps towards gender parity and the noted issues facing vulnerable groups, it is important to include gender and vulnerable groups considerations in energy sector governance. For example, environmental and social impact assessments for renewables projects could be required to pay particular attention to vulnerability analysis, Indigenous Peoples rights and gender. Public participation guidelines can also be updated to incorporate a human rights-based approach to stakeholder engagement. Rights-holder engagement and involvement in energy sector planning, development and implementation could also be enhanced through further involving civil society in the development and implementation of energy sector governance frameworks, such as the Growth and Transformation Plan, the Climate Resilience and Green Economy strategy, Solar Programme etc.; risk assessment; and integrating human rights in relevant policies and regulations such as the Growth and Transformation Plan.

Fostering transparency and increasing disclosure of environmental and social impact assessments

Publishing and disclosing impact assessment studies and making these easily available to the general public, including in the form of non-technical summaries, can make an invaluable contribution towards the dialogue and knowledge sharing necessary to ensure human rights are protected and respected in the development of energy projects. It is also an important accountability avenue whereby citizens and civil society can hold government and companies accountable for adequately addressing any adverse impacts, as well as demonstrating commitment on the part of governments and companies to implement projects in a manner that is consistent with human rights expectations.

Strengthening access to remedy

As enshrined in Pillar III of the UNGPs, it is essential to ensure that adequate remedy is available for aggrieved parties in cases of business-related human rights abuse. To this end, resources could be devoted to promoting the

existence of such mechanisms to rights-holders and communities. Parallel to this, rights-holders might be supported in accessing remedy, including through the further promotion of free legal aid systems and other rights-holder support structures and resources. As such, stronger investments should be made to promote legal aid services.

Addressing human rights risks and impacts associated with hydropower

The Ethiopian power generation system is largely dependent on hydropower and a very high exploitation of water for the electricity sector will continue in the future.⁹¹ In this context, both long-lasting climatic changes and extreme natural events, which are becoming more frequent in the last decades, may affect the demand, production and transmission of electricity; and more generally the security of supply.⁹²

As such, the possible human rights implications of reliance on hydropower and the interplay with diversification objectives could be usefully further analysed. Findings from such a study could inform the diversification strategy and hydropower management. In terms of due diligence management relating to hydropower, this might draw on the World Commission on Dams and specifically address conflict risks associated with reliance on hydropower and current hydropower developments.

Grid expansion/construction risks

Ethiopia's plans to build 114 new transmission substations presents an ideal opportunity to conduct human rights analysis of the human rights risk factors. Specifically, due diligence could include an emphasis on land rights, participation and resettlement. Rights-holder engagement in developing a plan for the new transmission substations and ethnic tensions should be taken into account. The due diligence should further take into account Ethiopia's rural/urban divide – particularly due to the fact that the urban electrification rate is much higher than the rest of the country, with the rural areas more dependent on off-grid solutions – and issues related to energy access.

Resources for domestic energy needs and river basin health

Ethiopia is investing to expand its domestic grid. It has also taken some steps to address the overuse of wood and charcoal, which contributes to deforestation, respiratory problems, river basin degradation and other problems related to right to health and a healthy environment. Sufficient resources should therefore be allocated to ensure that modern energy services (besides electricity) benefit Ethiopia's rural communities. It appears that programmes such as the distribution of improved cooking stoves and afforestation efforts, as well as other investments to improve watershed health and prolong the life of dam reservoirs are underexplored.⁹³

3.2 CONSIDERATIONS FOR BUSINESSES AND INVESTORS

Increased awareness of and adherence to international standards and benchmarks

Companies' policy frameworks and business strategy need to align with internationally recognised standards and goals such as the human rights due diligence expectations outlined in the UNGPs. Depending on the geography of planned project sites and procurement design (e.g. land preparation by the government or bidding companies), it might be possible to collaborate and leverage economies of scale when carrying out feasibility assessments and environmental and social impact assessments. Dialogue and consultation with communities that could be affected by operations could be further prioritised and conducted in a more transparent and accessible manner. Consultations should take place prior to the development of projects and continue throughout the project life cycle, including to address unforeseen consequences.⁹⁴ Businesses and investors can make such requirements an integral part of their operations to ensure human rights compliance.

Indigenous Peoples' rights

As described above, there are several risks pertaining to Indigenous Peoples' rights in Ethiopia, including that the government can legally lease land that may be considered communally owned. In light of this, business actors should seek to respect the land rights of Indigenous Peoples by conducting thorough due diligence to ensure that land has not been unlawfully expropriated prior to investment.

Relatedly, companies should commit to respecting Indigenous Peoples' rights and ensure free, prior and informed consent in a manner that respects all individual and collective rights of Indigenous Peoples and should take a broad approach to recognising Indigenous People.⁹⁵

Respecting the rights of workers in operations and value chains

Renewable energy companies in Ethiopia should adopt strong safety standards and labour rights practices in line with ILO Core Conventions, including on child and forced labour, freedom of association, non-discrimination and collective bargaining. Companies should additionally adopt strong protections for human rights defenders in operations and incorporate human rights throughout security provisions as per the Voluntary Principles on Security and Human Rights⁹⁶ and seek to ensure that activist groups are not the target of attacks.

Strengthening access to remedy

Renewable energy projects, whether owned and/or operated by the state or private companies should offer efficient and easily accessible grievance mechanisms to receive complaints or concerns from workers and the general

public, which should be compatible with the effectiveness criteria and expectations outlined in UNGP 31.

Scaling up investor respect for human rights

Prior to investing in renewables ventures in Ethiopia, investors should make sure that human rights policies and commitments are in place and that human rights due diligence is performed as per the UNGPs as a condition for investing. Moreover, investors can structure investments to increase the ability to influence respect for human rights. During the investment, investors should observe the human rights performance of investments and engage with companies to uplift respect for the rights of workers and communities as per the UNGPs, for instance by monitoring allegations of abuse and their resolution.

At all times, investors should engage with companies and asset managers with particular questions on human rights applicable to the sector and country-specific context and take action to verify information; as well as engage with governments, trade unions, civil society, communities and others to uplift community-led best practices for renewable energy that respects human rights.

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