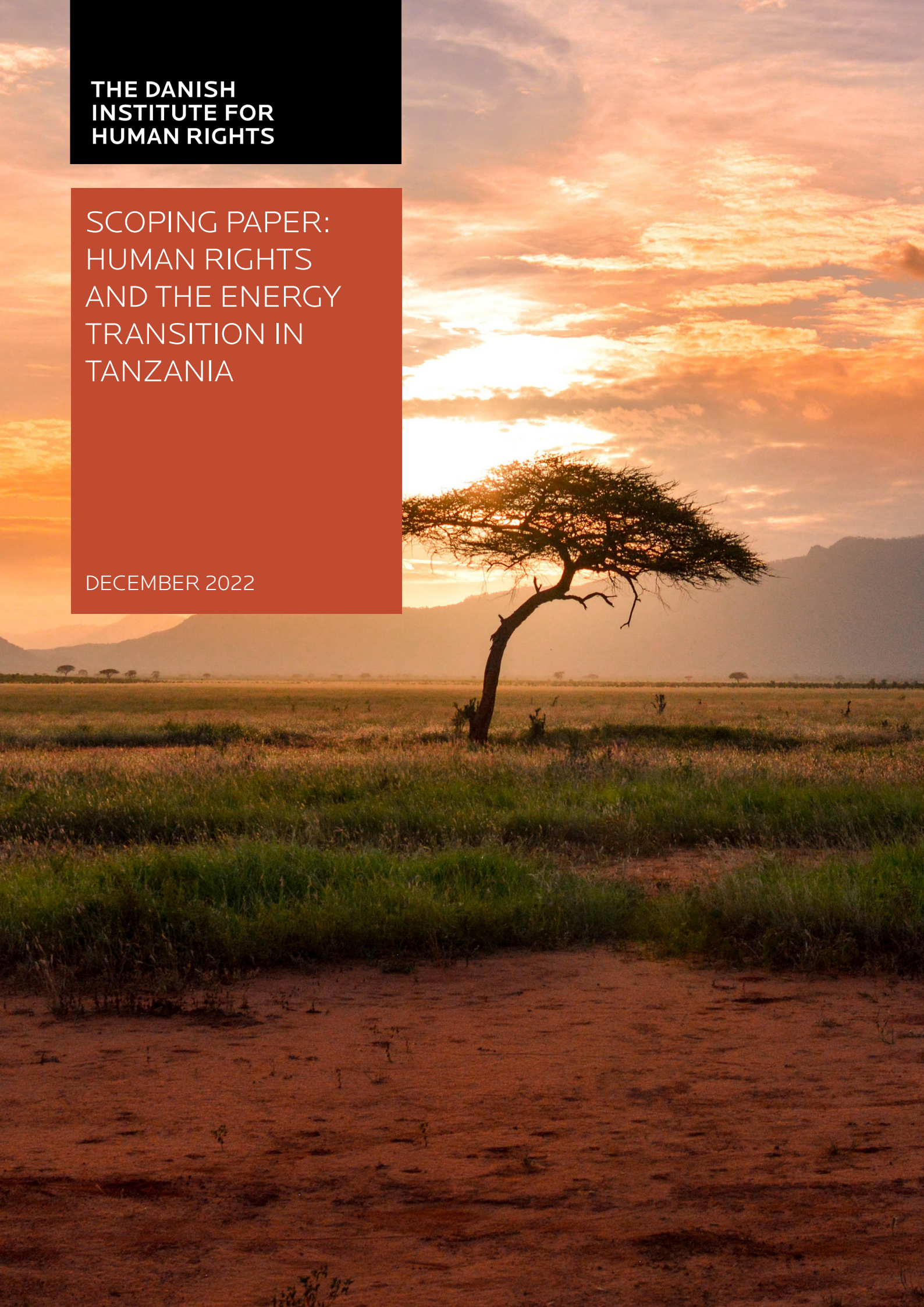


**THE DANISH
INSTITUTE FOR
HUMAN RIGHTS**

SCOPING PAPER:
HUMAN RIGHTS
AND THE ENERGY
TRANSITION IN
TANZANIA

DECEMBER 2022



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CONTENTS

LIST OF ABBREVIATIONS	4
INTRODUCTION	5
1 PART I: STRUCTURE OF THE ENERGY SECTOR AND RENEWABLES POTENTIAL	7
1.1 ENERGY SECTOR	7
1.1.1 Hydropower	8
1.1.2 Geothermal	8
1.1.3 Wind	9
1.1.4 Solar	9
1.2 REGULATORY AND INSTITUTIONAL FRAMEWORKS IN RENEWABLE ENERGY IN TANZANIA	10
1.2.1 Energy policy in Tanzania	10
1.2.2 Incentives for renewable investments	12
1.2.3 Energy industry structure and actors	13
2 PART II: THE HUMAN RIGHTS CONTEXT OF THE ENERGY TRANSITION	16
2.1 ILLUSTRATIVE HUMAN RIGHTS ISSUES AT RISK	16
2.1.1 Poverty	16
2.2.2 Land rights	16
2.2.3 Civic space and freedom of expression	17
2.2.4 Women's rights	18
2.2.5 Indigenous Peoples' rights	19
2.2.6 Environmental protection	21
2.2.7 Access to remedy	21
3 PART III: OPPORTUNITIES TO STRENGTHEN HUMAN RIGHTS PROTECTION IN THE ENERGY TRANSITION	23
3.1 CONSIDERATIONS FOR GOVERNMENT	23
3.2 CONSIDERATIONS FOR BUSINESSES AND INVESTORS	26

LIST OF ABBREVIATIONS

CHRAGG	Commission for Human Rights and Good Governance
CSO	Civil society organisation
EWURA	Energy and Water Utilities Regulatory Authority
IPP	Independent Power Producer
IRENA	International Renewable Energy Agency
kWh	Kilowatt-hour
GW	Gigawatt
MW	Megawatt
NGO	Non-governmental organisation
PV	Photovoltaic
SPP	Small Power Producer
TaTEDO	Tanzania Traditional Energy Development Organisation
TANESCO	Tanzania Electric Supply Company Limited
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights
USAID	United States Agency for International Development
VAT	Value-added tax

INTRODUCTION

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

- Part I introduces the structure of the energy sector and potential for renewable energy in Tanzania.
- Part II explores the human rights context for renewable energy projects.
- Part III identifies possible state, business and investor pathways to mitigate risks of human rights abuse in the context of renewable energy investments, as well as opportunities for contributing to an energy transition that is respectful and supportive of human rights.

Tanzania has the sixth-highest population rate of the Sub-Saharan countries in Africa.¹ The discovery of offshore natural gas reserves in 2010 and abundant wind and solar potential means investment opportunities in the energy sector are increasing. In the past years, the Government of Tanzania has made commitments towards reforming the operations of the national utility, the Tanzania Electric Supply Company (TANESCO), and to meet new demand through lost-cost solutions,² commitments that have, however, been jeopardised by changes in government and the politicisation of TANESCO and energy utilities more broadly.³

Of Tanzania's population of nearly 60 million, around 38% had access to electricity in 2020, compared to 7% in 2011, making it the most rapid expansion rate in Sub-Saharan Africa.⁴ Despite this progress, large gaps in access rates persist, especially between urban and rural areas. This is in part due to the state's dependency on expensive thermal and emergency generation sources, making the energy sector inaccessible to many.⁵ Additionally, hydropower is becoming increasingly intermittent with the country experiencing load-shedding (the deliberate shutdown of part of a power source to prevent the failure of the general system), including due to frequent droughts.⁶ This means there is a need for the diversification of energy sources and for an increase in electricity access. Total primary energy continues to be dominated by biomass, whose consumption has almost doubled in the last decade,⁷ but the government has sought to expand generation capacity in a number of ways: natural gas sources, grid expansion and the issuing of new standard Power Purchase Agreements for small producers in 2017.⁸ The country has ample renewable energy potential, which could be capitalised upon as part of increasing access to sustainable energy.

However, some challenges persist in Tanzania, with the capacity to assess, develop and implement renewable energy projects within governmental institutions remaining a key challenge. This means that while there are ambitions and potential for renewables in Tanzania, such projects often do not go ahead.⁹

Over half of Tanzania's population is located geographically close to the national electricity grid, but actual connection rates are just 36%,¹⁰ and per capita domestic electricity consumption is 120 kWh per year.¹¹ It has been estimated that USD 3.5 billion of investment is required in the sector to increase the rate of rural access from 6.6% to 36.6% and the rate in urban areas from 34.2% to 75.7% by 2022.¹² While it is estimated that nearly 65% of Tanzanians live in rural areas,¹³ the size of the country coupled with low population density in most regions makes grid extension to electrify rural areas incredibly challenging.¹⁴

Tanzania has an abundance of unused energy sources, both non-renewable and renewable. These include hydropower, coal, natural gas, solar, wind and geothermal energy. The country's hydropower potential is estimated at 4.7 GW,¹⁵ and it has more than 1.6 trillion m³ of proven natural gas reserves.¹⁶ It is likely that these will be utilised to contribute to Tanzania's National Development Vision 2025.¹⁷

UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

Unanimously endorsed by the Human Rights Council in 2011, the United Nations Guiding Principles on Business and Human Rights (UNGPs) present the authoritative international framework for state and company responsibilities vis-à-vis human rights along three inter-related pillars:

- Pillar 1: The state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation and adjudication.
- Pillar 2: The corporate responsibility to respect human rights, which means that companies are expected to avoid infringing on the human rights of others and to address adverse human rights impacts with which they are involved.
- 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.

1 PART I: STRUCTURE OF THE ENERGY SECTOR AND RENEWABLES POTENTIAL

1.1 ENERGY SECTOR

Energy supply and end use structure reflects the dominance of households in energy consumption, primarily charcoal for cooking, rather than industrial and manufacturing activity.¹⁸ The country is strongly dependent on imported liquid fuels, particularly diesel, which accounts for 75% of transport fuels used in the country.¹⁹ Oil product consumption increased by over 100% between 2000 and 2012, with petroleum products comprising 8.1% of total final consumption, and electricity accounting for just 1.9%.²⁰ These numbers are expected to grow by over 400% by 2030.²¹ All of Tanzania's liquid fossil fuels are imported, which can give rise to energy security considerations.²² According to International Energy Agency statistics for Tanzania, imported oil products accounted for approximately 11% of the total energy supply for the country in 2019, gas production for 4%, coal production for 2% and the remaining 84% was covered by renewables. The renewable energy supply was covered at 99% by bioenergy and 1% by solar and wind.²³

Apart from hydropower, Tanzania's renewable energy potential has only been exploited to a limited extent to date. The International Renewable Energy Agency estimates that Tanzania's overall share of renewables in electricity production could be increased to 78% by 2030, but this would require sufficient investment from a diversity of investors.²⁴

ELECTRICITY PRODUCTION	GWh
Coal	0
Oil	1642
Natural gas	3585
Biofuel (solid biofuels)	72
Waste	0
Nuclear	0
Hydro	2477
Geothermal	0
Solar PV	89
Solar thermal	0
Wind	0
Tide	0
Other sources	0
Electricity production	7865

Figure 1: Electricity production in GWh (2019)²⁵

1.1.1 Hydropower

In 2019, the International Hydropower Association estimated that Tanzania's hydropower potential was 4,700 MW, but that only 589 MW was being exploited.²⁶ For small hydropower specifically, the International Renewable Energy Agency estimates an overall potential of 480 MW.²⁷ It is understood that the majority of the energy generated by hydropower will likely be installed on microgrids and be owned by private entities rather than TANESCO.²⁸

There are many challenges for hydropower development in Tanzania. One is the geographical distance between sites (predominantly in the southwest) and the country's major demand centres (predominantly in the north).²⁹ Another issue is that of increasingly recurring droughts intensifying intermittency, disrupting electricity supply and causing rolling blackouts.³⁰ Despite these concerns, hydropower has been greatly invested in. The Rusumo Hydropower Project (80 MW) reached 95% completion in September 2022³¹ and the government is progressing on the construction of the country's largest hydropower dam project to date, the Julius Nyerere mega-dam, located on Rufiji River.³² The dam is set to have an electricity generating capacity of 2,115 MW.³³

The National Five-Year Development Plan 2022-2026 planned for an additional three large hydropower plants and three smaller hydropower plants to be completed between 2021 and 2024, with a total capacity of 1,092 MW.³⁴ If achieved, the combined capacity of these projects would exceed the Electric Supply Industry Reform Roadmap target of reaching a total installed capacity of 2,091 MW by 2025.³⁵

One of these projects, the Malagarasi Hydropower Plant (45 MW), received funding in May 2021.³⁶ In addition to building the plant and the evacuation transmission line, the loan from the African Development Bank is expected to create 4,250 new rural electrification connections to households, schools, clinics, and small and medium-sized enterprises.

1.1.2 Geothermal

Tanzania's potential installed capacity for geothermal power is estimated at 5,000 MW.³⁷ The Tanzania Geothermal Development Company is a public company initiating domestic geothermal development and which aims to produce 200 MW of geothermal energy by 2025.³⁸ The Tanzania Geothermal Development Company's plans could concern several geothermal energy sites, including Ngozi in Mbeya, Kiejo-Mbaka in Mbeya, Natron in Arusha and Luhoi in the country's south-eastern coastal sedimentary basin.³⁹ Geothermal power generation facilities are expected to be used for domestic and industrial heating.⁴⁰

The National Five-Year Plan states that three geothermal power plants will be completed by September 2025. They include the Songwe (5 MW), Mbaka-Kejo (60 MW) and Ngozi (70 MW) power plants.⁴¹

1.1.3 Wind

Tanzania has significant untapped wind resources, especially along the coast and in escarpment areas around the Rift Valley, where it is estimated that wind speed can reach an average of six to eight metres per second.⁴² State-owned TANESCO, the Ministry of Energy and the Tanzania Traditional Energy Development Organisation (TaTEDO) have previously sponsored a programme to analyse potential wind sources and carry out an investment feasibility study, along with technical and financial support from the Denmark National Laboratory and DANIDA.⁴³ While the country's first large-scale wind power plant was supposed to be built in Singida as an Independent Power Producer (IPP) with a capacity of 100 MW, the project was finally dropped in 2017.⁴⁴ The Mwenga wind farm, Tanzania's first with a generation capacity of 2,4 MW, was completed in May 2020 in the Mufundi district of the Iringa region.⁴⁵

In December 2021, it was announced that three sites had been proposed in Singida, Makambako and Same, with a combined wind-generated power capacity of 200 MW,⁴⁶ but these are likely to have been dropped since.

1.1.4 Solar

Tanzania has significant solar power potential: its annual solar resources exceed 5 kWh/m² per day across the country,⁴⁷ with the highest insolation rates in the Lake Victoria basin and in the centre of the country.⁴⁸

Solar in Tanzania is developed primarily by the private sector. The private market has developed from an installed capacity of 300 KW in the late 1990s to just over 5 MW in small-scale installations in 2012, a figure which has likely grown exponentially since.⁴⁹ Sales have been encouraged by non-governmental organisations working on micro-grids and the formation of Tanzania's Renewable Energy Association, as well as the government's acknowledgment of the potential solar photovoltaics (PV) has in the electrification of the country, especially in regions that would take a long time to be connected to the grid.⁵⁰

There are currently no solar PV plants connected to the national grid in Tanzania, with all projects being micro-grids (75%) or meso-grids (25%), such as those in schools, healthcare centres, police stations and households.⁵¹ It is estimated that 75% of the solar market comprises of solar home systems and small-scale commercial systems.⁵²

According to Tanzania's Five-Year Plan, by September 2026, the country should be equipped with two solar power plants. A solar power plant with a generating capacity of 150 MWp is planned for construction in Kishapu, in the Shinyanga region, and is expected to become the largest solar plant in the country once it is completed in March 2023.⁵³ A second plant with a generating capacity of 55 MWp is planned in the Dodoma region.⁵⁴

1.2 REGULATORY AND INSTITUTIONAL FRAMEWORKS IN RENEWABLE ENERGY IN TANZANIA

1.2.1 Energy policy in Tanzania

Since 2003, the Government of Tanzania has proposed the development of renewable energy solutions. The National Energy Policy of 2003, replaced by the 2015 Policy, aimed at decreasing dependence on fossil fuels for power supply.⁵⁵ The policy also provides for the elaboration of a Rural Electrification Master Plan, the strengthening of institutional and local capacity to facilitate the implementation of modern energy services, as well as incentives for investments by the private sector.⁵⁶ One of the objectives of the new National Energy Policy 2015 was to diversify the energy mix and strengthen institutional, legal and regulatory frameworks to develop the renewable energy sector for the country.⁵⁷ Moreover, the government introduced wide energy-sector reforms, to improve electricity supply and meet increasing demand by means of private investment development.⁵⁸

In 2013, the government presented its ambitious USD 50 million Scaling-Up Renewable Energy Programme pilot.⁵⁹ Led through a National Task Force headed by the then Ministry of Energy and Minerals with support from multilateral development banks, the programme seeks to catalyse the large-scale development of renewable energy and transform the country's energy sector to one with balanced, diversified and clean renewable energy sources.⁶⁰ Ultimately, the programme's target is to supply 75% of the population with electricity by 2035, in line with the United Nations' Sustainable Energy for All initiative.⁶¹

The country has also rolled out several roadmaps to develop the energy sector. Of note in particular, is the regularly updated flagship Power System Master Plan, which seeks to drive investment in the energy sector by 2030. The plan presents a policy shift away from large hydro, prioritising investments in thermal generation through coal and gas, as well as new hydro, wind and solar capacity.⁶²

The government has been taking steps to increase private sector investment and improve the overall investment environment.⁶³ Recent policy developments, for example the Scaling-Up Renewable Energy Programme and the Electricity Supply Industry Reform Roadmap, evince an increased focus on attracting private investments in renewable energy.⁶⁴

Tax and tariff policies are also supportive to renewable energies. For example, the government has eliminated VAT and import tax for main solar components to make solar PV more appealing for producers and less costly for final consumers.⁶⁵ Simplified procedures and eased tariffs have been applied for Small Power Producers (SPPs) generating electricity for on-grid and off-grid solutions. Private producers, both larger independent and SPPs, are expected to continue contributing to the total energy mix,⁶⁶ while strengthened private funds, through stand-alone or grid connected projects, to rural electrification.

In 2018 and 2019, TANESCO issued tender processes for wind and solar projects totalling 200MW and 150MW, respectively, across the Dodoma, Singida, Shinyanga, Mwanza, Simiyu and Iringa regions. In February 2020, ten prequalified companies submitted formal auction bids. In 2021, the government announced that it was about to begin the implementation phase and the projects are expected to be operational by 2023.⁶⁷ According to USAID, 'once completed, the auction will be a major step toward diversifying Tanzania's electricity mix and allowing private sector investment into the energy sector.'⁶⁸ Furthermore, in August 2022, Emirati state-owned energy company Masda signed a joint development agreement with TANESCO related to the development of a total of 2,000 MW of renewable energy, including solar PVs and onshore wind. The agreement envisages the creation of a co-owned joint venture company to progress the project development.⁶⁹

The National Climate Change Response Strategy, unveiled in April 2021, also creates specific targets for the promotion of renewable energy development. For example, the strategy provides for an increase of at least 50% of alternative and renewable energy sources by 2026;⁷⁰ that renewable energy sources should generate 1000 MW power by 2026;⁷¹ that there should be a 25% increase in generation of renewable energy sources by 2025;⁷² and plans for the development of 20 new mini-grids in rural areas by 2025.⁷³ Additionally, the strategy provides that the national energy budget for enhanced renewable energy and energy efficiency technologies will be increased by 25%.⁷⁴

In July 2021, Tanzania issued its Nationally Determined Contribution (five-year climate action plan to cut emissions and adapt to climate impacts under the Paris Agreement), wherein it stated that the country would promote 'clean technologies for power generation and diverse renewable sources', explore 'options for improved clean power interconnection with neighbouring countries' and promote 'climate-smart rural electrification'.⁷⁵

In February 2022, the government finally shared the National Environmental Policy 2021, in which it reiterated its commitments to promoting and developing affordable, renewable energy sources as an alternative to charcoal and firewood.⁷⁶

Moreover, with consideration for the human rights and environmental impacts of renewable energy projects (see Part 2), other existing relevant regulatory and institutional frameworks for the energy transition of interest to actors investing in such projects include the Land Act 1999, which improves procedural rights, as well as environmental and social impact assessment and other permitting processes that require meaningful stakeholder consultation and transparency. Of note in particular, while the Tanzanian government does not formally recognise the existence of Indigenous Peoples,⁷⁷ some pastoralist and other minority groups have been organising themselves as Indigenous Peoples, giving rise to the relevance of principles such as free, prior and informed consent.

Despite recent developments, the policy and regulatory framework for renewable energy remains incomplete.⁷⁸ For instance, there are no specified rules for geothermal development⁷⁹ and uncertainty around grid expansion can contribute to lack of incentive for investors to expand mini-grid projects.⁸⁰ The National Public Private Partnership Policy expects public-private partnership projects to arise from

international competitive or, mostly, unsolicited bidding. A study by the Energy and Water Utilities Regulatory Authority (EWURA) is reviewing the feed-in tariff to an extended customer base and for renewable energy specific technologies.⁸¹

Moreover, the existing regulatory frameworks do not integrate environmental and human rights considerations, despite attempts by civil society organisations (CSOs) to foster this approach and embed human rights into the content of these instruments. Currently, some CSOs are advocating for the development of national strategies relating to renewable energy and energy efficiency that would directly address environmental and human rights risks linked to the energy transition.⁸² As explored in the National Baseline Assessment on Business and Human Rights drafted in 2017 by the Commission for Human Rights and Good Governance of Tanzania (CHRAGG), it is also not clear to what extent current legislative and regulatory frameworks governing the energy transition align with international human rights standards and the expectations regarding the state duty to protect outlined in the UNGPs.⁸³

With regard to the conduct expected of businesses, the state has not produced a clear framework requiring the implementation of human rights due diligence in their operations. It is reported that businesses usually do not conduct human rights due diligence beyond environmental, health and safety due diligence when they develop energy projects.⁸⁴ Furthermore, the existence of investment incentives, as well as lax regulatory and monitoring frameworks, may also pose challenges with regard to businesses' responsibility to respect human rights. Simplified procedures for investors, especially SPPs, makes evaluating business conduct and upholding a high standard of human rights protection more difficult. Monitoring and implementation of the regulatory frameworks in place also remain weak. Environmental and human rights groups often point to a lack of capacity, resources and expertise to effectively monitor business conduct.⁸⁵

1.2.2 Incentives for renewable investments

There are several incentives in place to encourage investment in renewable energy projects. While foreign ownership of such projects is not restricted in Tanzania, foreign investors must gain approval and licences from EWURA and the Tanzania Investment Centre before investing in the energy sector.⁸⁶

The Tanzania Investment Act 1997 provides incentives to all holders of certificates comprised of:⁸⁷ 0% duty and VAT relief on all capital goods; 30% corporate tax (25% for listing company on the stock exchange); 10% withholding tax on dividends; and 10% withholding tax on interest. In 2008, a feed-in tariff scheme was put in place for SPPs but it is widely regarded to have been unsuccessful, as very few SPPs sell directly to TANESCO.⁸⁸

The Tanzania Investment Centre provides investors in projects worth over USD 20 million with a certificate of incentives and strategic investor status. Incentives include: access to the Tanzania Investment Centre's 'one stop facilitation centre'⁸⁹ services related to permits, licences and approvals; recognition of private property and protection against any non-commercial risks; East African Community customs and

excise duties exemption on solar energy system parts; introduction of a 'pay and refund scheme' for excess duty paid on fuel purchased by eligible companies participating in renewable energy projects; and VAT deferment granted on project capital goods such as plant and machinery.⁹⁰

The Rural Energy Fund, run by the Rural Energy Agency, provides grants and subsidies to developers of rural energy projects as well as VAT, customs and excise duties exemption on PV and solar energy system parts.⁹¹

The National Five-Year Plan 2021-2026 also provides that Tanzania will work towards simplifying investment even further.⁹²

1.2.3 Energy industry structure and actors

Government institutions and schemes dominate Tanzania's energy landscape, which historically did not make it an attractive choice for private sector operators. At the industry level, Tanzania's electricity market is hybrid.⁹³ The parastatal energy company TANESCO remains the major energy sector stakeholder, covering 78% of electric generation in 2019,⁹⁴ while the financial sector's limited exposure to renewables complicates money borrowing for private actors.⁹⁵ Still, the number of private sector operators (including emergency power producers, IPPs, and SPPs) entering the energy sector is increasing. In 2019, IPPs and SPPs covered 20% and 0.8% of generation, respectively.⁹⁶

TYPES OF PRIVATE INVESTORS

Emergency power producers and IPPs are private investors owning power plants of more than 10 MW.

SPPs are private companies operating small renewable energy projects (up to 10 MW) under an SPP Agreement to sell power to TANESCO or directly to customers. SPPs are power plants that exist independently from the grid and help maintain base load when the grid faces intermittency issues. They are managed under the Electricity (Development of Small Power Projects) Rules of 2019.⁹⁷

Embedded/Roof-top solar PV energy companies: most of them are organised under the Tanzania Renewable Energy Association but work independently in solar PV installation, importing and selling solar PV products.⁹⁸

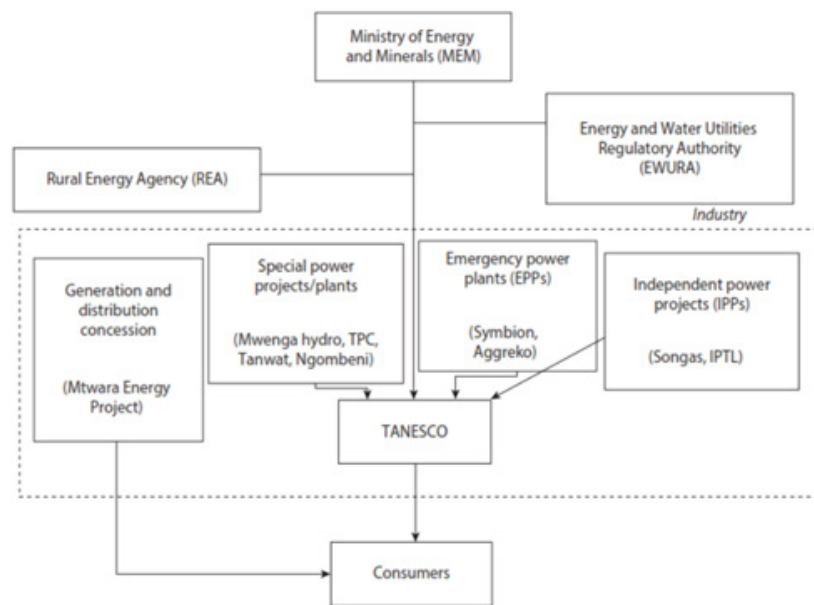


Figure 2: Tanzania's Electricity Sector, with examples (2016)⁹⁹

In line with the vision of the National Energy Policy, the government is trying to incentivise private sector involvement in renewable energy, but barriers affecting private investments remain, including: (1) difficulty of obtaining investment loans; (2) high cost of borrowing; (3) the financial sector's limited knowledge of renewables, with most domestic banks unable to facilitate such projects because they lack the capacity to plan, structure and appraise projects suitably.¹⁰⁰ It has also been reported that, despite memoranda of understanding signed with the government, several projects do not materialise due to a lack of capacity to assess and support these projects within the government to bring them to completion.¹⁰¹

According to predictions, Tanzania needs private operators to reach its energy goals. As anticipated, the country will require USD 11.4 billion of investment in generation and USD 6.7 billion in transmission and distribution between 2013 and 2030.¹⁰² However, Bloomberg New Energy Finance stated that investment in the renewable energy sector came to only USD 88 million in 2014, mainly provided through debt financing.¹⁰³ Tanzania's Nationally Determined Contribution of July 2021 estimated that the country would require approximately USD 160 billion in investments for 'mitigation activities aimed at achieving 100% renewable energy for electricity, buildings, and industry by 2050.'¹⁰⁴

In this context and in light of the above information, it is therefore crucial that the actors investing and developing renewable energy projects consider the potential and actual impacts that such developments may have on people, communities and the environment in the short-, medium-, and long-term. Understanding the human rights issues associated with the energy transition is critical to ensure that the development objectives associated with this transition are met without causing any harm or, if such harms are identified as already being caused, that they are mitigated and remediated using all appropriate available remedy avenues, as shows the text box below.

EXAMPLES OF REMEDY AVENUES

While growth in the renewable energy sector is traditionally perceived as only creating positive impacts for energy users, communities neighbouring energy infrastructure and the environment, there can also be adverse impacts linked to the development of renewables. In those cases, it is fundamental that victims have access to effective remedy mechanisms. In this context, the institutions listed below represent key actors in the transition to renewable energy.

Ministry of Energy: Has developed a legal branch to provide guidance and expertise on, inter alia, renewable and non-renewable energy sources. It functions as a grievance mechanism by assisting in mediation and arbitration of disputes related to the Ministry and liaising with the Attorney General Chambers on the litigation of civil cases.¹⁰⁵

Commissioner for Minerals & Zonal Mining Offices: Has the authority to issue orders and remedies in support of its decision, and then file them with the nearby court of law for enforcement.¹⁰⁶ The orders may include 'compensation as may be reasonable.'¹⁰⁷ However, community members have criticised the Commissioner for being difficult to access in the past, due to operational ineffectiveness which is largely a consequence of a lack of funds.¹⁰⁸

CHRAGG: Works to promote and protect human rights in Tanzania, including in the context of business activities, for example, through dealing with complaints and conducting investigations. For instance, CHRAGG has made efforts to support the residents of the Katoma and Nyakabale villages in the Geita district when they claimed to have been forcefully evicted from their land to pave the way for mineral extraction.¹⁰⁹ CHRAGG also assisted in reaching a negotiated settlement on compensation between artisanal miners and the holders of a special mining licence (large-scale miners), in the Kilindi District, Tanga Region.¹¹⁰

TANESCO: Has a legal branch business unit which holds the company accountable by ensuring that it complies with national and institutional principles of good governance.¹¹¹ The company also has a complaint structure which is available on their website.¹¹² However, TANESCO has been criticised for their lengthy response times to customers.¹¹³ According to another study, nearly 73% of respondents graded the level of TANESCO's customer service as low or very low.¹¹⁴

EWURA: Is responsible for licensing, tariff review, monitoring performance and standards with regard to quality, safety, health and environment. EWURA is vested with authority to consider complaints and disputes against suppliers of regulated goods or services in relation to their supply, possible supply or proposed supply.¹¹⁵ This mechanism aims at ensuring protection of consumers' rights, amicable settlement of disputes and an efficient and less bureaucratic dispute settlement procedure.¹¹⁶ However, a study conducted on the dispute settlement mechanism at EWURA showed that very few people in Tanzania are aware of this mechanism, making it difficult to access.¹¹⁷

Tanzania Private Sector Foundation: has established an online complaints and feedback platform that has begun operating in 2021 in cooperation with the government.¹¹⁸

2 PART II: THE HUMAN RIGHTS CONTEXT OF THE ENERGY TRANSITION

2.1 ILLUSTRATIVE HUMAN RIGHTS ISSUES AT RISK

2.1.1 Poverty

Despite continued government-led efforts to eradicate poverty, economic hardship remains a key challenge in Tanzania, particularly weighing on women, Indigenous Peoples and rural communities. According to the World Bank, the rate of persons living in poverty, based on the international extreme poverty line, rose from 49.3% in 2019 to 50.4% in 2020.¹¹⁹ Despite electricity and energy being integral for human rights realisation, 90% of the population still relies on traditional biomass such as wood fuel for cooking as they cannot afford the cost of electricity.¹²⁰ Poverty and low household affordability are barriers for rural electrification through small-scale renewables (off-grid mini-grids or Solar Home Systems). Those living below the poverty line as well as other marginalised groups are also at risk of being disproportionately impacted by the shortcomings in regulation and policy governing renewable energy infrastructure, a phenomenon commonly referred to as 'energy poverty'.¹²¹ A direct consequence of energy poverty is having to rely on unsafe, costly and environmentally harmful energy sources, as well as unsafe connections to the national electricity grid.¹²² Economic hardship may also pressure local communities to accept resettlement and selling their land to energy companies, even if the level of compensation is inadequate or means that not all members of the household have been consulted, thereby contributing to the cycle of poverty and vulnerability.¹²³ Additionally, climate change further impacts poor households as it increases the burden of unpaid domestic work.¹²⁴

2.2.2 Land rights

Land rights are governed by the Land Acquisition Act 1967, the Village Land Act 1999, the Land Act 1999 and the Resettlement Policy Framework 2014 which address losses of land, houses, businesses, economic immovable assets and community assets like water, as well as associated compensation requirements.¹²⁵

While the local or central government initiates the process of land acquisition for public use and valuation of the land can be done either by the government or private companies, the central government must give approval.¹²⁶ Research indicates that this could contribute to gaps in how land acquisition is approved, particularly when the local and central government are not in agreement, and can lead to potential issues for landowners and rights-holders.¹²⁷ These issues most often concern delayed and/or unfair compensation; poor communication and non-involvement of landowners and poor governance involving a lack of transparency and practices of exclusion.¹²⁸ Marginalised groups, including Indigenous pastoralists, have often expressed that the local authorities meant to represent their views did not act in their best interest.¹²⁹ The absence of land titles is also an issue that disproportionately negatively affects women, especially in rural Tanzania.¹³⁰

For example, the construction of the Julius Nyerere hydropower dam led to the diversion of the water from the Rufiji River, which could have significant effects on the local communities' ability to farm the land, thereby affecting their livelihoods and the tourism opportunities in the region. The construction of such projects has a direct effect on the opportunities for the local communities to make proper use of their land and can lead to them being forced to resettle elsewhere.¹³¹ The dam was already highly controversial because of its adverse environmental impacts: in 2019, the government cut down 2.6 million trees ahead of the construction.¹³²

2.2.3 Civic space and freedom of expression

In past years, the lack of political will to disclose information to avoid being exposed to public scrutiny has had the consequence of fostering an unfriendly environment for CSOs, human rights defenders and other watchdog organisations.¹³³ Watchdog organisations have reported cases of harassment and threats targeting dissident voices, particularly journalists, women, land and human rights defenders. In 2019, for instance, several activists were reportedly charged with 'publishing false information' after organising protests or critiquing the conduct of elections. Similar accusations led to fines and the suspension of licences of several media sources criticising the government amidst the COVID-19 pandemic.¹³⁴ In 2020, the Tanzania Human Rights Defenders Coalition, a leading human rights group in Tanzania, had to temporarily suspend its operations, citing incessant intimidation and meddling in its activities by security forces.¹³⁵

In 2020, the United Nations (UN) Office of the High Commissioner for Human Rights called on Tanzania to 'end [the] crackdown on civic space', expressing worry about an amendment to the Basic Rights and Duties Enforcement Act 1995 which considerably restrained access to remedy and that could 'limit the ability of civil society and individuals to defend the rights of vulnerable individuals, groups and communities and violate the right to freedom of association.'¹³⁶ The amendment, adopted in 2020, prevents CSOs and human rights defenders from filing claims on the behalf of another aggrieved individual or community because the amendment requires the plaintiff to be personally affected by the behaviour or act causing the harm.¹³⁷ In Tanzania, it has been reported that many CSOs act on the behalf of communities that are not in a position to know their rights or negotiate effectively with businesses when they conduct community consultations with the view of developing renewable energy projects.¹³⁸ A 2019 report by Human Rights Watch depicted the repression faced by non-governmental organisations (NGOs) focusing on land rights and extractive issues, among others. Many human rights CSOs have faced deregistration or have been threatened by it, demonstrating the existence of a hostile environment for freedom of expression especially in opposition to the government.¹³⁹ These dynamics opposing the government and activists working on extractive issues and land rights are established and may be reproduced for CSOs' activities on renewable energy projects. Intense 'resource nationalism' in Tanzania still means that dissenting opinions can be considered treacherous.¹⁴⁰ In 2018 already, the government had made very clear that opposition to the Julius Nyerere hydropower dam project would be punished, with one minister threatening opponents with imprisonment.¹⁴¹ In another instance, human rights defender Godfrey Luena was killed in 2018 after receiving numerous threats to

stop his activism on land rights and illegal expropriation by government authorities in the Morogoro region¹⁴² – the same region that is being considered for the development of geothermal projects.

It is, however, generally reported that the country is experiencing more openness regarding freedom of expression and civic space under Samia Suluhu Hassan's new presidency.¹⁴³

2.2.4 Women's rights

In the past decade, the government has multiplied commitments in support of gender equality global frameworks such as the Beijing Declaration and Platform for Action and the UN Convention on the Elimination of All Forms of Discrimination Against Women. The government has also materialised such commitments to national agendas through the development of the National Gender Policy in the mainland, the Gender Policy of Zanzibar 2016-2020 and the Tanzania Development Vision 2025, which aims to achieve gender equality and empower women in all socioeconomic and political relations.¹⁴⁴ A result of these efforts is the increase of women's representation in decision-making spaces. In 2022, 36% women held cabinet positions¹⁴⁵ and women occupied 37% of parliamentary seats.¹⁴⁶ In 2021, Tanzania also welcomed its first female President, Samia Suluhu Hassan. Women have also gained increased access to employment in 'sectors such as manufacturing, trade, hotels and food services.'¹⁴⁷ However, women's participation in the energy workforce remains low. The latest available data on employment indicates that, in 2014, women made up 20% of employees in the energy sector.¹⁴⁸ Unofficial indicators reported by ENERGIA show that 44% of workers in the Ministry of Energy are women, 20% at TANESCO and 26% in the Renewable Energy Agency.¹⁴⁹ Difficulty in accessing higher education in science, technology, engineering and mathematics or even formal education for some marginalised pastoralist women, due to gendered socio-cultural norms, remains a barrier to higher rates of participation in the energy sector.¹⁵⁰

Severe barriers continue impeding the realisation of women's rights. Despite progress, women continue to earn less than men in vital sectors such as agriculture,¹⁵¹ where they often work as 'unpaid helpers'.¹⁵² Moreover, in comparison to men, women spend a disproportionate amount of their time on household chores, preventing them from taking up wage-earning work.¹⁵³ Violence and discrimination against women also remain systemic issues.¹⁵⁴

In the context of the energy sector, clean cooking solutions, especially in rural areas, have not been keeping pace with electrification. This is mostly due to population growth and deep-seated cultural cooking and heating norms that have a disproportionate effect on women.¹⁵⁵

A mix of legal, economic and social barriers prevent women's access to land and property. For instance, while Tanzania's Land Act 1999, revised in 2019, grants women equal rights to land, they remain less likely to claim or receive compensation for land-related wrongdoings. Within their own communities, women are more likely not to be involved in land-development planning because of social and cultural barriers to their participation.¹⁵⁶ Organisations like the Maasai Women's Development Organization

help Maasai women to form committees and advocate for their own needs in land planning.¹⁵⁷ In addition, while the Local Government (District Authorities) Act 1982 provides that at least one quarter of village council members must be women, CSOs like the Tanzanian Women Lawyers Association note that women rarely participate or are not listened to in assemblies.¹⁵⁸ It was revealed that in the 2015 Kisarawe District large-scale land acquisition by a UK-based company for the purpose of growing biofuel crops,¹⁵⁹ women had been excluded from discussions and, in some cases, were not even aware of the agreement.¹⁶⁰ In a context of increasing investment in renewable energy projects that require large portions of land, it will therefore be crucial to foster community consultations and negotiations that are inclusive of all women and mindful of the potential legal loopholes that may exclude them from the process.

In the past, large-scale land acquisition processes have tended to have a disproportionately negative impact on women and their safety. For example, the case of the acquisition of land from the Maasai of Mabwegere was marked by significant adverse human rights impacts on the Maasai women in the region.¹⁶¹ The use of sexual and gender-based violence, including intimidation and harassment, has become a tool in land-grabbing processes to affect a community's unity and ability to defend their land.¹⁶² Moreover, cultural norms often mean that, while men can travel for work, women are often left to stay at home in remote areas, where they are more vulnerable to suffering human rights violations, food scarcity, droughts and insecurity. These risks have already been documented in the extractive and non-renewable energy sectors and have proven to be even higher for nomadic, Indigenous women living in rural areas.¹⁶³ Similar risks and consequent adverse impacts may carry over into renewable energy project development.

2.2.5 Indigenous Peoples' rights

Currently 125-130 ethnic groups live in Tanzania, falling mainly into the four categories of Bantu, Cushite, Nilo-Hamite and San.¹⁶⁴ According to the International Work Group for Indigenous Affairs, four main groups have been organising around the concept of Indigenous Peoples in Tanzania: the hunter-gatherer Akie and Hadzabe, and the pastoralist Barabaig and Maasai.¹⁶⁵ Although the means of subsistence of these groups are diverse, they all share a strong attachment to the land. Insecurity of land tenure, poverty and inadequate political representation are challenges often faced by ethnic groups and contributing to their marginalisation.

While the government voted in favour of the UN Declaration on the Rights of Indigenous People in 2007, it is yet to harmonise international commitments with specific national legislation or to adopt national legislation that effectively protects the rights of Indigenous Peoples. In 2009 already, the UN Human Rights Committee called upon the Tanzanian government to institute a comprehensive legal framework guaranteeing the right to property, particularly land tenure to Indigenous communities.¹⁶⁶ The Committee also called on the government to ensure the protection of minorities against forced evictions, and recognise the rights of Indigenous Peoples, pastoralists, hunters and gatherers.¹⁶⁷ In 2021, during Tanzania's Universal Periodic Review, the Government of Finland recommended that Tanzania 'clarify land rights and safeguard indigenous culture [...] and adopt positive measures to protect them.'¹⁶⁸

Gaps in policies, strategies and programmes to effectively protect Indigenous Peoples, have rendered them particularly vulnerable to human rights abuses, and disproportionately exposed to tenure insecurity, poverty and displacement. This vulnerability was highlighted by the United Nations Inter-Agency Support Group, which stated that ‘the lack of formal State recognition of traditional tenure systems marginalizes indigenous peoples further from the dominant society and leaves them more vulnerable to rights abuses.’¹⁶⁹ In 2019, for instance, an eviction order from several villages led to the displacement of Barabaig and Maasai pastoralists and the burning of over 300 houses.¹⁷⁰ In addition, the nature of Tanzanian Indigenous groups’ land occupancy has made it easier for government authorities and companies to make claims on the land. Because pastoralists require vast areas of land for cattle grazing, the ‘development argument’ has often been used to justify the reallocation of land to activities such as crop growing, tourism and energy projects.¹⁷¹ Large-scale land deals are often accompanied by the shrinkage of customary rights and loss of access to common land and waterways for traditional activities such as fishing, grazing, hunting and gathering forest products.¹⁷²

Historically, plans to develop agroforestry and renewable energy projects are precisely where the rights of Indigenous Peoples have been the most compromised. For instance, where Indigenous groups do not have official land titles, hold customary and/or seasonal rights to use the land, they may be particularly adversely affected where the government grants titles to renewable energy companies without consultation, consent or compensation.¹⁷³ This is especially true for indirectly affected persons. For example, during the development of hydropower projects, consultations are often held only with communities living at the exact location of the future dam, but not with the groups living further downstream who will also face the consequences of the project.¹⁷⁴ In such instances, communities and individuals living downstream can lose their livelihoods without actually facing relocation, and are therefore not covered by compensation schemes.¹⁷⁵

Indigenous groups also tend to have ancestral beliefs linked to land or land features such as mountains, forests and rivers. In this regard, land use for renewables projects without due free, prior and informed consent processes could lead to cultural rights violations. For example, certain groups practice a religion that is deeply attached to the land and the flora of the specific area and had buried their community members on the land that was going to be used for developing renewable energy infrastructure. In those cases, resettlement can have dramatic effects on a group’s culture and survival.¹⁷⁶ Some compensation schemes are set at market value, which fails to encompass the ‘social, cultural, or religious value of the land.’¹⁷⁷ It was only on 6 July 2022 that the first free, prior and informed consent agreement was signed in Tanzania. The agreement was signed by the East African Crude Oil Pipeline, which spreads across Tanzania and Uganda, with the Akie Community of Napilikunya in the Manyara Region, and was the product of several years of engagement with ethnic groups identifying as Indigenous Peoples.¹⁷⁸

Risks for Indigenous Peoples’ rights are especially heightened given the overlap between Maasai land and geothermal sources which could be of interest for future investment into geothermal energy.¹⁷⁹

2.2.6 Environmental protection

In direct connection with the abovementioned, renewable energy projects have been linked to concerns of environmental harm. For example, developing geothermal energy is not without risks: the exploitation of geothermal sources can lead to pollution of water sources and negatively affect air quality.¹⁸⁰ Another adverse impact is electronic waste linked to the implementation of the projects due to the absence of capacity to recycle the materials used to develop electronic devices.¹⁸¹ Expired lead-acid batteries used for rooftop solar panels and lithium batteries for solar lamps are often dumped, with dangerous chemicals leaking into groundwater and harming the people who collect materials by hand.¹⁸² Lead infiltration into the soil and water can also lead to incredibly dangerous health problems. The lack of sufficient facilities and training on how to recycle this 'e-waste' is a major issue in Tanzania's major cities. It is reported that the Msimbazi River in Dar es Salaam is already polluted from these chemicals, with levels of chromium, copper and lead that greatly exceed the World Health Organization's safety levels.¹⁸³ It is estimated that rooftop solar systems' batteries last up to eight years if properly maintained but are then dumped or burned with other trash.¹⁸⁴

Large-scale renewables infrastructure has also been linked to adverse environmental impacts. The Julius Nyerere Dam construction project took place in the Selous Game Reserve, a natural park classified as a UNESCO World Heritage Site and home to some of the rarest African animals, including the black rhinoceros and the African wild dog. While the dam is expected to create between 3,000 and 5,000 jobs and help the country's transition to renewable energy, the long-term effects of the dam are significant, with the livelihoods of some 200,000 individuals dependant on fishing put at risk, the inundation of a 'major part of the reserve and [...] a significant impact on the functioning of the Selous ecosystem.'¹⁸⁵ The International Union for Conservation of Nature called the project 'fatally flawed' for the limited scope of its environmental impact assessment.¹⁸⁶

2.2.7 Access to remedy

Under the UNGPs, states must take appropriate steps to investigate, punish and redress business-related human rights abuses within their territory and/or jurisdiction.¹⁸⁷ States have a responsibility to ensure that the provision of justice is not prevented by corruption of the judicial process, that courts are independent of economic or political pressures from other state agents and from business actors, and that the legitimate and peaceful activities of human rights defenders are not obstructed.¹⁸⁸ Research indicates that there is room for improvement in terms of creating an accessible and just path to remedy for all rights-holders impacted by the development of renewable energy in the country. Tanzania is facing a shortage of courts, magistrates and legal officers, especially in the most remote areas of the country, in addition to poor enforcement of rulings.¹⁸⁹ Traditional community grievance handling mechanisms were set up with the Courts (Land Disputes Settlements) Act 2002, the Land Act and the Village Land Act but have not been operating.¹⁹⁰

Furthermore, the UNGPs provide that states have a duty to facilitate public awareness and understanding of these mechanisms. However, it has been expressed that those procedures remain too complex for all rights-holders to easily and effectively access these mechanisms.¹⁹¹

At the company-level, it has been reported that there is a lack of awareness from communities affected by business activities on procedures and timing to seek remedy. Inadequate resources allocated to operational-level grievance mechanisms also reveal insufficient commitments from businesses.¹⁹²

As Tanzania is ramping up its investment into renewable energy, it will be crucial for the country to guarantee access to effective remedy to handle potential grievances, especially from vulnerable groups of rights-holders.

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

As guided by the UNGPs, governments have duties and businesses responsibilities to ensure that the energy transition in Tanzania effectively accounts for human rights. Ultimately, the energy transition should benefit workers, people and communities. To that end, principles such as transparency, stakeholder participation and accountability are cornerstones 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.

3.1 CONSIDERATIONS FOR GOVERNMENT

Enhancing legislation protecting human rights in the context of renewable energy projects

Existing national laws and regulations could be reviewed through the lens of key human rights risks associated with the energy transition, and recommendations made to address any gaps. This could include aligning national legislation with international standards and harmonising these with the state's international commitments. In the specific context of the energy sector, a relevant priority would be to combat any current legislative oversights linked to land ownership and rights in the context of investments in renewable energy projects, in addition to clarifying roles and linkages between different state institutions responsible for delivering permits, titles and other licences.

Given the risks weighing on environmental and human rights defenders, strengthening the protection of environmental activists and human rights defenders could be a further key opportunity. Government actors may further consider expanding the civic space by actively promoting the value of partnering with CSOs. Furthermore, provided the risks bearing on Indigenous and pastoralist groups across the country, it may be relevant for the government to consider recognising the special status of these groups and adopt regulations ensuring that free, prior and informed consent is sought before initiating any renewable energy project.

In line with the government's commitment towards promoting and achieving gender equality and realising Sustainable Development Goal 5, increased attention may be paid to tackling the gendered impact of energy access. The government could ensure that general benefits and gender equality are maximised in the design of each energy project or policy and monitor the impact of these projects with specific gender indicators.

In addition to enhancing the protection of human rights, government actors could focus on creating awareness of existing legislation to ensure its effective application and use by rights-holders.

Key ministries to implement these considerations are the Ministry of Energy of Tanzania mainland and the Ministry of Water and Energy of Zanzibar; the ministries of Constitutional and Legal Affairs for Tanzania mainland and Zanzibar; the Ministry of Lands, Housing and Human Settlements Development of Tanzania mainland and the Ministry of Lands and Housing Development of Zanzibar; the Ministry of Home Affairs for Tanzania mainland; the Ministry for Community Development, Gender, Women and Special Groups of Tanzania mainland and the Ministry of Health, Social Welfare, Gender and Children of Zanzibar. These government actors could collaborate with CHRAGG and CSOs.¹⁹³

Further specifying regulation of the energy sector

To fully benefit from energy diversification nationally, it is crucial that sufficient resources are dedicated to meet domestic energy needs and that energy outreach is extended throughout the country to the most vulnerable, including women and poor rural populations. Similarly, as Tanzania is increasingly facing a direct threat from climate change, the government may consider systematically reviewing the human rights and environmental implications of any large-scale coal and natural gas projects by means of human rights risk analysis and assessment as part of development decision-making. Such reviews should be included in the short-, medium- and long-term implementation plans for energy projects.

Relatedly, ensuring that human rights due diligence is applied from the inception of renewable energy projects and that careful screening for human rights risks is carried out prior to investment decision-making and prior to project implementation presents key opportunities to enhance human rights protection.

Human rights compliance requirements could also be added to relevant renewable energy policies, such as the Scaling-Up Renewable Energy Programme and the Electricity Supply Industry Reform Roadmap. As part of such efforts, government stakeholders may also consider conducting a sector-wide human rights assessment of the energy sector in Tanzania.

Relevant government stakeholders for implementing these considerations include the Ministry of Health, Social Welfare, Gender and Children of Zanzibar and the Ministry for Community Development, Gender, Women and Special Groups of Tanzania mainland; the Ministry of Energy of Tanzania mainland and the Ministry of Water and Energy of Zanzibar; the Ministry of Finance and Planning; and other state authorities, such as the Rural Energy Agency, EWURA and the Zanzibar Utilities Regulatory Authority. These entities could seek the support of environmental and human rights NGOs, the business community and investors, financial institutions and local communities.¹⁹⁴

Fostering transparency and increasing disclosure

Ensuring transparency in the development of the energy transition is critical. A step could be to strengthen the capacity of the Prevention and Combating of Corruption Bureau, which could play an active role in monitoring corruption risks linked to upcoming energy projects. Parallel to this, steps could be taken to address information

asymmetries linked to renewable energy projects. For example, by strengthening and multiplying accountability mechanisms, and materialising commitments to transparency by posting relevant financial and non-financial information linked to biddings, awards and investor relations on TANESCO's website. Such commitment to transparency may also extend to disclosing gender disaggregated wage statistics, along with occupational safety and health information on the relevant energy projects.

In the context of energy projects, the role of civic space for ensuring transparency and awareness is crucial: government actors should ensure that watchdog organisations are not unfairly targeted by censorship.¹⁹⁵

Relevant government actors for implementing these recommendations include the Ministry of Energy of Tanzania mainland and the Ministry of Water and Energy of Zanzibar; the Ministry for Constitutional and Legal Affairs of Tanzania mainland and the Ministry of State for the Constitution and Good Governance of Zanzibar; Parliament; the Prevention and Combating of Corruption Bureau; the Public Procurement Regulatory Authority; the Public Accounts Committee and the Local Authorities Account Committee. To implement these considerations, government actors may seek to engage with local communities and organisations that specialise in the sector, such as the Tanzania Extractive Industries Transparency Initiative.¹⁹⁶

Safeguarding responsible investments

In continued efforts to diversify the energy mix, including by means of boosting private actor involvement and attracting investors, strong safeguards are needed to ensure the protection of human rights to ensure that the rise in private investment contributes to sustainable development and does not undermine fulfilment of the state's human rights duties. This may include, for instance, carefully assessing the impact of tax exemptions and other financial incentives granted to foreign companies on the state's ability to generate revenues that may be utilised for human rights protection.

The inclusion of human rights considerations in the screening of foreign investors as part of investment decision-making could be a key opportunity for ensuring human rights compliance is part of the procurement process of awarding new foreign direct investment. Human rights policies and requirements can also be integrated into the governance of state-owned power plants and their tendering processes. Monitoring the issues related to the misuse of tax exemptions provided by the government should also be a priority.

Relevant government actors for implementing these recommendations include both the Ministry of Energy of Tanzania mainland and the Ministry of Water and Energy of Zanzibar, given their regulating and monitoring role and their privileged position to conduct meaningful stakeholder engagement. The Ministry of Finance and Planning and the Tanzania Revenue Authority are also key actors for this specific topic. Other relevant actors include the Tanzania Investment Centre; EWURA; the Ministry for Community Development, Gender, Women and Special Groups of Tanzania mainland and the Ministry of Health, Social Welfare, Gender and Children of Zanzibar.¹⁹⁷

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, further investments are needed to revive the role of existing, yet dormant grievance mechanisms. Resources can equally be devoted to promoting the existence of such mechanisms to rights-holders and communities in clear and accessible language.

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.

3.2 CONSIDERATIONS FOR BUSINESSES AND INVESTORS

Vigilance and human rights due diligence

In line with the UNGPs, national and international companies in the energy sector carry the responsibility to identify and address any human rights impacts linked to their operations. They are required to carry out and publicly account for effective human rights due diligence to prevent, mitigate and address human rights risks and impacts associated with their operations. Companies operating in Tanzania should invest in the necessary local and regional expertise to develop and implement context-based human rights due diligence that is responsive to local rights-holders and their operating context.

To obtain support in undertaking human rights due diligence, businesses and investors may consider approaching CHRAGG, local government authorities, the Ministry of Investment, Industry and Trade of Tanzania mainland and the Ministry of Trade and Industrial Development of Zanzibar, as well as regulatory authorities such as the National Environment Management Council or the Zanzibar Environmental Management Authority, and the Occupational Safety and Health Authority.¹⁹⁸

Strengthening stakeholder consultation

As part of exercising human rights due diligence effectively, energy companies with operations in Tanzania should ensure that effective mechanisms of engagement and transparent channels of dialogue with workers and communities impacted by their activities are in place. Such engagement should be carried from the inception of the project and continue afterwards, and involve all stakeholders, including women and vulnerable communities.

Companies may also explore shared ownership models with communities; and incorporate benefit sharing with communities as a core component of projects, with priorities and activities being defined by the affected communities.

Companies should also ensure that engagement takes place in accordance with the principle of free, prior and informed consent in a manner that respects all individual and collective rights of Indigenous Peoples.

Identifying and addressing salient human rights issues

As part of exercising human rights due diligence, businesses engaged in the energy transition should identify and address salient high-risk issues pertaining to land rights, environmental rights and labour rights.

For example, renewable energy companies in Tanzania should adopt strong labour rights policies in line with the International Labour Organization's Core Conventions, including on child and forced labour, freedom of association, discrimination and collective bargaining. Given the rising threats to environmental defenders, companies should adopt strong policies to protect human rights defenders and account for security concerns in high-risk areas. They may, for example, adhere to the Voluntary Principles on Security and Human Rights and seek to ensure that activist groups are not penalised.

Finally, international companies can play a powerful role to use their influence in ensuring that workers part of their value chains, fully enjoy their fundamental rights.

To implement this consideration, businesses could engage with CHRAGG, CSOs, unions such as the Trade Union Congress of Tanzania and the Tanzania Mine Workers Union, as well as government stakeholders such as the Ministry for Community Development, Gender, Women and Special Groups of Tanzania mainland or the Ministry of Health, Social Welfare, Gender and Children of Zanzibar.¹⁹⁹

Strengthening access to remedy

Renewable energy companies, whether privately or publicly owned, should have in place and promote effective and easily accessible grievance mechanisms in line with the UNGPs' effectiveness criteria (UNGP 31), monitored with communities and workers.

Setting human rights requirements

All institutional investors have a responsibility to respect human rights in line with the UNGPs. Investors need to know the risks to people connected with their investment activities and show how they take action to manage those risks. Given the rise of foreign direct investment and the increasing openness of the Tanzanian energy market, investors could play a key role in scaling up respect for human rights within the sector.

They may, for example, require energy companies, asset managers, energy purchasers and other relevant companies to answer specific questions on human rights and follow up on any red flags, to make sure human rights policies and commitments are in place and human rights due diligence is as a condition for investing. They might also structure investments to increase the ability to influence respect for human rights.

Business actors and investors may consider engaging with the National Environment Management Council, the Rural Energy Agency, TANESCO, CHRAGG, labour unions and CSOs specialised in the renewable energy sector and/or human rights issues related to energy projects. Other relevant actors to engage with would be

development partners and financial institutions, such as the World Bank and the African Development Bank.²⁰⁰

Monitoring and reporting on human rights impacts and due diligence

During the investment, investors should observe human rights performance of investments and engage with companies to uplift respect of workers' and communities' rights as per the UNPGs. For instance, by monitoring allegations of abuse and their resolutions, as well as regularly publicly reporting on human rights impacts and due diligence efforts.

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