

**THE DANISH
INSTITUTE FOR
HUMAN RIGHTS**

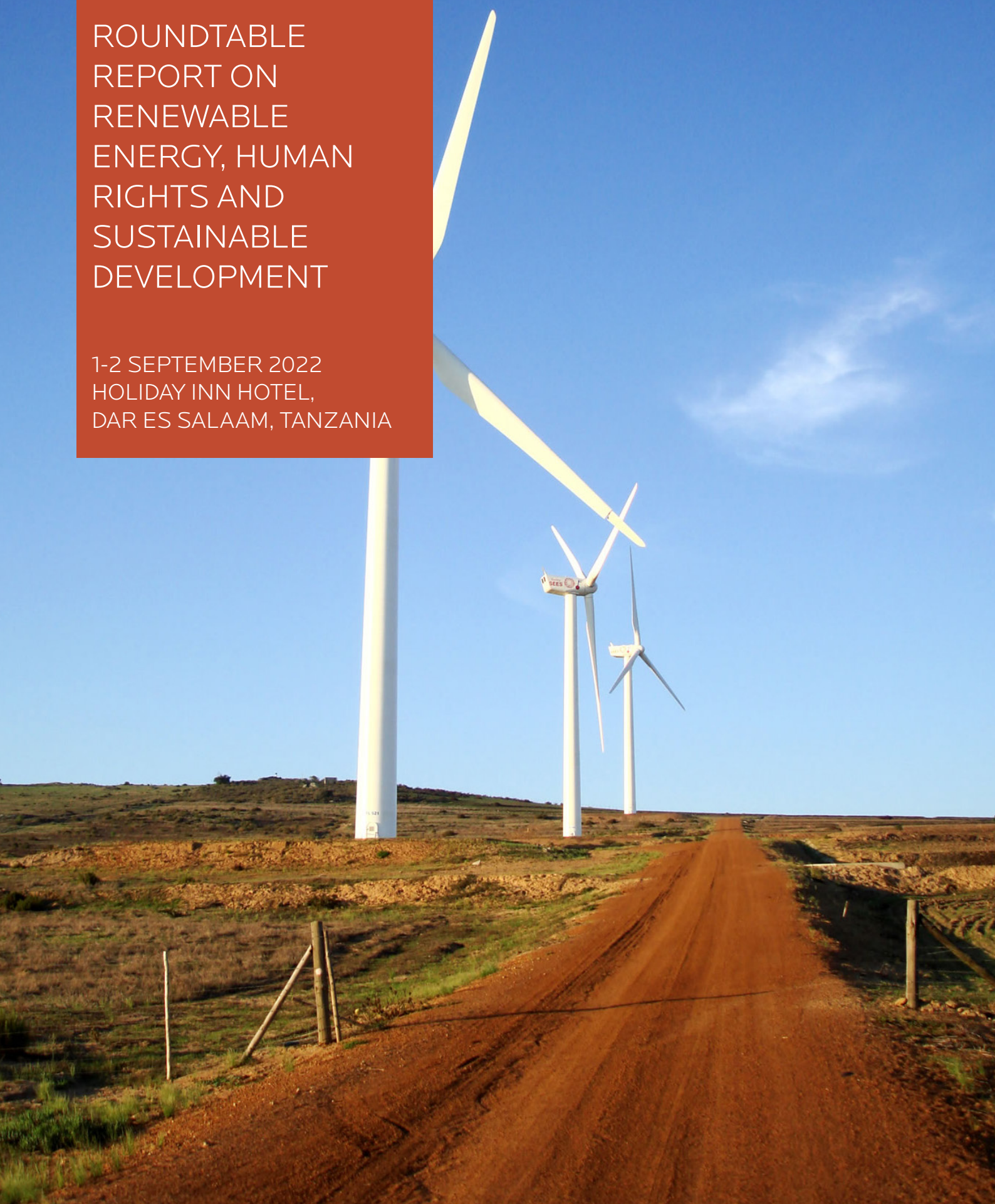
TaWoE

Tanzania Women In Energy
Network



ROUNDTABLE
REPORT ON
RENEWABLE
ENERGY, HUMAN
RIGHTS AND
SUSTAINABLE
DEVELOPMENT

1-2 SEPTEMBER 2022
HOLIDAY INN HOTEL,
DAR ES SALAAM, TANZANIA



ROUNDTABLE REPORT ON RENEWABLE ENERGY, HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT

1-2 SEPTEMBER 2022

HOLIDAY INN HOTEL, DAR ES SALAAM, TANZANIA

Acknowledgements: The roundtable on renewable energy, human rights and sustainable development was co-hosted by Tanzania Women in Energy Development (TAWoED) and the Danish Institute of Human Rights (DIHR).

This report was compiled by: Doris Kiwelu, Project Manager, TAWoED; Alice Mwiru, Gender Expert, TAWoED; Mathilde Dicalou, Adviser, DIHR; and Hussein Kiranga, independent business development consultant. We would like to thank the participants for sharing their insights and expertise. The event was held under Chatham House Rule and TAWoED and DIHR do not necessarily adhere to any of the views expressed by participants. We would also like to thank Regina Kabwogi (Research and Training Director, TAWoED), Gwaliwa Mashaka (Chairperson, TAWoED) and Nora Götzmann (Chief Adviser, DIHR) for their input and review of the report.

The roundtable was conducted as 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.

For further information, contact Nora Götzmann at nog@humanrights.dk

e-ISBN: 978-87-7570-113-1

Cover photo: warrenski, flickr.com

Layout: Michael Länger

© 2022 The Danish Institute for Human Rights
Denmark's National Human Rights Institution
Wilders Plads 8K, DK-1403 Copenhagen K
Phone +45 3269 8888
www.humanrights.dk

Provided such reproduction is for non-commercial use, this publication, or parts of it, may be reproduced if authors and source are quoted.

At the Danish Institute for Human Rights we aim to make our publications as accessible as possible. We use large font size, short (hyphen-free) lines, left-aligned text and strong contrast for maximum legibility. For further information about accessibility please click www.humanrights.dk/accessibility

CONTENTS

1	INTRODUCTION	5
2	BACKGROUND: HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT CONSIDERATIONS IN THE ENERGY TRANSITION	6
3	OPENING REMARKS	7
4	BACKGROUND PRESENTATIONS	8
4.1	ENERGY POLICY IN TANZANIA AND SUSTAINABLE DEVELOPMENT INITIATIVES	8
4.2	RELEVANCE AND BASIS FOR PROTECTION OF HUMAN RIGHTS IN THE ENERGY TRANSITION IN TANZANIA	8
4.3	HUMAN RIGHTS AND THE ENERGY TRANSITION IN TANZANIA	9
4.4	CASE STUDY: GENDER AND ENERGY STATUS IN TANZANIA	10
5	OPPORTUNITIES FOR ADDRESSING HUMAN RIGHTS CHALLENGES IN THE ENERGY TRANSITION IN TANZANIA	11
5.1	RECOMMENDATIONS TO GOVERNMENT	11
5.2	RECOMMENDATIONS TO BUSINESS AND INVESTORS	14
6	WORKING WITH HUMAN RIGHTS ISSUES IN TANZANIA	17
6.1	POVERTY	17
6.2	WOMEN'S RIGHTS	17
6.3	ENVIRONMENTAL PROTECTION	18
6.4	LAND RIGHTS	18
6.5	INDIGENOUS PEOPLES' RIGHTS	18
6.6	ACCESS TO REMEDY	19
6.7	CIVIC SPACE AND FREEDOM OF EXPRESSION	19
7	NEXT STEPS	20

ABBREVIATIONS AND ACRONYMS

CHRAGG	Commission for Human Rights and Good Governance
CSO	Civil society organisation
DIHR	Danish Institute for Human Rights
NAP	National Action Plan on Business and Human Rights
NEMC	National Environment Management Council
NGO	Non-governmental organisation
TANESCO	Tanzania Electric Supply Company
TAWoED	Tanzania Women in Energy Development
UNGP	United Nations Guiding Principles on Business and Human Rights

1 INTRODUCTION

On 1 and 2 September 2022, the Danish Institute for Human Rights (DIHR) and Tanzania Women in Energy Development (TAWoED) convened a roundtable meeting on 'Renewable energy, human rights and sustainable development'. This roundtable aimed at engaging different stakeholders from government, the private sector and civil society to reflect on key human rights risks and development opportunities associated with the renewable energy sector in Tanzania.

The meeting brought together 23 participants working in the areas of renewable energy and human rights in Tanzania, including representatives from the governments of Tanzania mainland and Zanzibar, as well as representatives from the business sector and civil society.

OBJECTIVES OF THE WORKSHOP

- To jointly reflect on the status of the development of renewable energy in Tanzania, with specific regard to policy and practice.
- To assess the responsiveness of core legislation, policies and regulations and the efficacy of related institutional functions, mandates and inter-institutional coordination relating to the energy sector and development of renewables, in addressing human rights protection and promoting sustainable development.
- To collectively identify and map key human rights opportunities and challenges relating to the development of renewable energy in Tanzania.
- To share good practices and challenges in the protection of human rights in the context of the development of renewable energy, with concrete examples and lessons from the respective work of state institutions, the business sector and civil society.
- To identify viable proposals and opportunities for enhancing the protection of human rights in the energy transition through the actions of state, business and civil society actors.

This report is a narrative summary of the workshop and a compilation of the key points taken from the discussion, for the purposes of informing future multi-stakeholder discussions about the intersections of renewable energy, human rights and sustainable development in Tanzania. The roundtable discussion has also informed a scoping paper on human rights and the energy transition in Tanzania, available here: <https://www.humanrights.dk/publications/scoping-papers-human-rights-energy-transition>

2 BACKGROUND: HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT CONSIDERATIONS IN THE ENERGY TRANSITION

Prior to the roundtable, DIHR shared a draft scoping paper on human rights and the energy transition in Tanzania as a basis to inform the roundtable discussion. The draft scoping paper outlined the policy framework in Tanzania and highlighted gaps with regard to human rights respect. In summary, Tanzania has made great strides in its vision in the energy sector which is to effectively contribute to the growth of the national economy and thereby improve the standard of living for the entire nation in a sustainable and environmentally sound manner. The 2003 Energy Policy, revised in 2015, aims to create conditions for the provision of safe, reliable, efficient, cost-effective and environmentally appropriate energy services to all sectors. The Energy Policy considers the need for improving access for the greater proportion of the population to more efficient, environmentally friendly modern energy services. This is envisaged to be achieved through a substantial share of renewable energies. The Energy Policy also recognises the importance of private sector participation in the development of the energy sector. The sector is undergoing restructuring to attract more private investment, enhance the efficient provision of energy services, expand access to electricity and promote regional trading through interconnections. For almost a decade, the role of the government has changed to that of a facilitator responsible for providing an enabling policy, institutional and legal framework and creating incentives to motivate other actors such as the private sector, non-governmental organisations (NGOs) and community-based organisations to take up the task of engaging on sustainable energy services.

Despite the government's efforts in the provision of a supportive legal framework in the sector, a number of gaps persist, in part due to an incomplete regulatory framework for renewable energy. There is also lack of clarity to what extent current legislative and regulatory frameworks governing the energy transition align with international human rights standards and expectations. There therefore exists both a need and an opportunity for state, business and civil society actors to work collectively to further promote the integration of human rights into renewable energy frameworks and practices, with a view to positively supporting Tanzania's sustainable development objectives. The roundtable provided an opportunity to contribute to furthering these discussions.

3 OPENING REMARKS

Opening remarks were provided by Mr Japhary Chinjala, Assistant Commissioner for Renewable Energy, Ministry of Energy of Tanzania. The presentation included the existing energy policies and bodies governing the policy implementation, such as the Ministry of Energy in Tanzania mainland. He stressed that the vision of the National Energy Policy is to involve the private sector in the development of the energy sector and to contribute to sustainable development with independent, affordable and reliable energy for all. The Assistant Commissioner further expressed the relevance of the Energy Policy in realising the 2030 Agenda's sustainable development goals. He closed his remarks by stressing that the roundtable's initiative is in line with the Energy Policy, which puts emphasis on participation of the private sector in renewable energy.



4 BACKGROUND PRESENTATIONS

4.1 ENERGY POLICY IN TANZANIA AND SUSTAINABLE DEVELOPMENT INITIATIVES

Mr Sayyidomar A. Idorous from the Ministry of Water and Energy of Zanzibar outlined key institutions for the energy transition in Zanzibar, such as the Ministry of Water and Energy, the Zanzibar Utility Regulatory Authority and the Zanzibar Electricity Corporation. As mentioned by the other speakers, he stressed that the Energy Policy's vision is to involve the private sector in the development of the energy sector and contribute to sustainable development with independent, affordable and reliable energy for all.

The speaker then presented renewable energy initiatives in Zanzibar, including the European Union Programme (2013-2017) focusing on wind and solar, which sought to supply and instal wind and solar measurement equipment for resource assessment. For this project, the renewable energy unit under the Department of Energy and Minerals in the Ministry of Water, Energy and Minerals involved land departments and local communities to identify the areas supported by the project, which led to the resolution of challenges with local communities who had settled there and through this also avoided the destruction of equipment. Other activities supported by the United Nations Development Programme include the promotion of low carbon energy technologies and advocacy initiatives and awareness campaigns on renewable energy in Zanzibar. Another highlighted project was a collaboration with the Zanzibar Renewable Energy Agency to develop a regulation for phasing out incandescent bulbs in Zanzibar.

The Government of Zanzibar has also engaged with the World Bank in the context of the Zanzibar Energy Sector Transformation and Access Project (2021-2027). The project will involve the construction of an 18 MW solar PV plant and will build a transmission line of 100 km from town areas to rural areas, with the aim of reducing the connection fee and increasing the electricity penetration rate by 20% by 2030. As part of preparing for this project, the Government of Zanzibar has identified affected persons who may be eligible for compensation.

4.2 RELEVANCE AND BASIS FOR PROTECTION OF HUMAN RIGHTS IN THE ENERGY TRANSITION IN TANZANIA

Ms Jovina Muchunguzi from the Commission for Human Rights and Good Governance (CHRAGG) began her presentation with a general overview of CHRAGG's mandate in Tanzania and for the energy sector. She explained the links between energy and human rights, underlining the importance of human rights due diligence. She also described potential risks which can be caused by private and public companies in the context of energy projects, including forced evictions and resettlement, lack of consultation of communities regarding land use and decision-making, environmental degradation, limited information on governance of natural resources, and inadequate environmental and social impact assessment processes. Ms Muchunguzi further emphasised the

risks citing case studies, including a study on the impact of the East African Crude Oil Pipeline on human rights and the environment and agropastoral communities in Kiteto District, Manyara region, and a study of the human rights footprint of the Regional Rusumo Falls Hydroelectric Project in Ngara District.

Ms Muchunguzi also explained that the government has tasked CHRAGG to lead the process for the development of a National Action Plan on Business and Human Rights (NAP), for which CHRAGG is currently undertaking stakeholder engagement to seek input for the NAP concept note. During the week of the roundtable, CHRAGG and DIHR co-hosted a NAP Alliance meeting and a business roundtable on the topic.

4.3 HUMAN RIGHTS AND THE ENERGY TRANSITION IN TANZANIA

Ms Nora Götzmann (DIHR) presented the findings of the draft scoping paper on the energy transition and its human rights implications. The presentation covered three main parts: (i) structure of the energy sector and potential for renewable energy in Tanzania; (ii) human rights context for renewable energy projects; and (iii) possible state, business and investor pathways to mitigate human rights risks and maximise development opportunities. The draft scoping paper reveals that while Tanzania relies heavily on imported fuel, creating energy security concerns for the country, there exists an abundance of untapped energy sources including hydropower, natural gas, solar, wind and geothermal.

The speaker then introduced the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the three pillars. The first pillar is the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation and adjudication. The second pillar is 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. The third pillar covers 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.

The scoping paper suggests that the government should consider enhancing legislation protecting human rights in the context of renewable energy projects; further specifying regulations applicable to the energy sector; fostering transparency and increasing disclosure; safeguarding responsible investments; and strengthening access to remedy. The draft scoping paper also provides recommendations for the consideration of businesses and investors, such as undertaking human rights due diligence; strengthening stakeholder consultation; identifying and addressing salient human rights issues; strengthening access to remedy; setting human rights requirements; and monitoring and reporting on human rights impacts and due diligence. Whereas initially only two participants were familiar with the UNGPs, they found the framework relevant to frame each type of stakeholder's role in ensuring that the energy transition is respectful of human rights.

4.4 CASE STUDY: GENDER AND ENERGY STATUS IN TANZANIA

Ms Regina Kabwogi (TAWoED), presented her insights on the status of gender and energy in Tanzania. The presentation first introduced current statistics on women in the energy sector, such as:

1. Employment statistics in the energy sector indicate only 20% of employees are female (data from 2014).
2. Only 20% women are part of the workforce at Tanzania Electric Supply Company (TANESCO), with about 26% at the Rural Energy Agency, and approximately 44% women in the Ministry of Energy.
3. Statistics on energy access indicate only about 8% of households in Tanzania use clean energy sources for cooking and in the 92% of the remaining households, it is mainly women who bear the burden of using inefficient technologies since they are the ones culturally responsible for cooking. However, more recent unpublished data shows that there have been some improvements in the last five years in terms of the involvement of women in the energy sector. There is also a challenge of insufficient data which results in limited evidence-based actions and informed policy-making favourable for women in the energy sector. This lack of data concerns both women's place in the energy workforce, as well as their challenges and needs regarding energy access and use.

Additional challenges faced by women were presented, including: a knowledge and skills gap; socio-cultural norms hindering access of women and girls to engineering studies; under-representation of women in the energy sector at the decision-making level; lack of finance and/or limited access to financial services, especially to entrepreneurs. During the presentation, Ms Kabwogi stressed the need to invest more in research to have more data on women working in the energy sector. Another area that warrants investing in is capacity building, particularly through training, mentorship (between women in energy who are already successful and girls and women in universities and other related endeavours aspiring to contribute to energy sector growth), good practices and knowledge sharing and fostering innovation hubs to promote women's participation in the energy sector. Partnership building by developing a strategic partnership mechanism was suggested as another area for improvement. Another suggestion was to increase women's participation in employment and leadership roles to increase the impact of various programmes designed in favour of women.

5 OPPORTUNITIES FOR ADDRESSING HUMAN RIGHTS CHALLENGES IN THE ENERGY TRANSITION IN TANZANIA

This session was organised to identify the existing opportunities for addressing human rights through viable channels for influencing policy and practice in Tanzania. The participants were divided into small groups and provided with recommendations to state actors, businesses and investors. The participants were then asked to identify key challenges and roles and responsibilities of each stakeholder group in ensuring the protection and respect of human rights in the energy transition. Presented below is the summary of the discussions.

5.1 RECOMMENDATIONS TO GOVERNMENT

ENHANCING LEGISLATION AND PROTECTING HUMAN RIGHTS IN THE CONTEXT OF RENEWABLE ENERGY PROJECTS

The scoping paper included several recommendations pertaining to legislative protection. Existing national laws and regulations could, for example, 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.

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 also consider expanding the civic space by actively promoting the value of partnering with civil society organisations (CSOs).

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.

Participants viewed these recommendations positively and suggested that laws and regulations should be reviewed to be made more accessible. Advocacy activities involving different types of stakeholders could be an effective way to implement these considerations. Participants also stressed that gender should be a key point addressed in energy legislation.

Among the key stakeholders that need to come together and act upon these suggestions are the Ministry of Energy, Ministry of Constitutional and Legal Affairs, Ministry of Land, Tanzania Investment Centre, Zanzibar Investment and Promotion Authority, CSOs, Ministry of Health, Ministry of Finance, Ministry of Health, Community Development, Gender, Elderly and Children and CHRAGG.

As first steps for implementation of these recommendations, the participants suggested a mapping of stakeholders and a need to set priorities and key entry points.

FURTHER SPECIFYING REGULATION OF THE ENERGY SECTOR

To fully benefit from energy diversification nationally, it was suggested in the scoping paper that 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.

Relatedly, ensuring that human rights due diligence is applied from the inception of hydropower projects and that careful screening for human rights risks is carried out prior to investment decision-making and 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 renewable energy sector in Tanzania.

In addition to the abovementioned recommendations, participants suggested that energy issues need to be included in the country's short-, medium- and long-term plans to enable successful improvements. Human rights should be considered during implementation of any large-scale project. Also, full due diligence should be conducted to assess all potential risks involved, including human right risks, to come up with proper mitigation measures before making final decisions to implement the projects.

Participants identified financial challenges in meeting these recommendations and therefore suggested solutions like government systematically planning and budgeting, seeking funding from donors and other development partners, as well as private sector involvement. Lack of clear renewable energy policies can be solved by speeding up the ongoing process of developing the policy and strategies of renewable energy. Political will can be solved by creating awareness among political leaders. Financial and technical constraints can also be addressed by increasing awareness and engagement at the local level. Energy diversification was also noted as important, in particular for groups that may be vulnerable, such as women and poor rural populations. Participants

also pointed to the need for human rights risk assessment in big projects such as hydropower and coal mining projects, as well as conducting a wide range of human rights assessments of the energy sector.

The participants suggested that the key players responsible for these suggestions include government actors such as the Ministry of Finance, government programmes such as the Tanzania Social Action Fund, development partners, the business community, financial institutions, investors, CSOs, local communities and the media.

FOSTERING TRANSPARENCY AND INCREASING DISCLOSURE

It was identified in the scoping paper that ensuring transparency in the development of the energy transition is critical. The paper suggested that 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. The paper further suggested that commitment to transparency may also extend to disclosing gender disaggregated wage statistics, along with occupational safety and health information on the relevant energy projects.

While participants accepted the above suggestions from the draft scoping paper, they insisted that stakeholders should be informed and engaged in all decisions at all levels. Disclosure should be broad and, beyond bidding and gender, it should cover contract disclosure, social initiatives, local content, investment costs, foreign direct investment and tax.



According to the participants, some of the challenges in the implementation phase of these recommendations include a lack of political will to act transparently and a lack of independence of public authorities to enforce these laws when they are not complied with. Participants also highlight that, while the agenda of transparency and accountability is an institutionalised discussion among the executive, it is not the case for the other branches of government.

The participants suggested that key stakeholders to be involved in the implementation are the Ministry of Energy, the Ministry of Constitutional and Legal Affairs, Parliament, the Political Action Committee, the Local Authority Accounts Committee, the Prevention and Combating of Corruption Bureau, the Public Procurement Regulatory Authority and communities.

Regarding next steps towards implementation, participants suggested that these should include an in-depth analysis of the effectiveness of the legal and policy framework for renewable energy to effectively integrate transparency, accountability and human rights considerations. The second step would be to conduct advocacy on enactment of regulations on renewable energy and enhancing inclusion and participatory dialogue on renewable energy developments.

SAFEGUARDING RESPONSIBLE INVESTMENTS

The scoping paper suggested that in continued efforts to diversify its 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 as 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.

Considering the above suggestions from the draft scoping paper, participants remarked that exempting all taxes to the private sector does not necessarily mean promoting human rights. They informed that government currently provides exemptions on solar home systems except for batteries. They added that government can also provide grants to some of the activities as part of supporting private sector investment. Some tax cuts can be agreed upon based on agreements made by the government with other players. Some of the challenges cited by the participants on implementation included the need to coordinate as tax exemptions are not the product of unilateral decisions – here, participants cited the role of the rules for the East African Community, the Southern African Development Community, and other international and regional agreements. On the same note, participants suggested that government should promote instructions to make a special statement on observing human rights with or without tax exemptions. Another challenge brought up during the discussions was the misuse of tax exemptions, which can decrease revenue for the government. It was further noted that there is a lack of adequate human rights screening applied to investors for renewable energy projects due to insufficient capacity from the state.

A key stakeholder, as suggested by participants, is the Ministry of Energy because of its role in proposing legislation, policy setting and facilitating stakeholder engagement

in the sector. Other stakeholders concerned here are the Ministry of Finance and Planning, Tanzania Revenue Authority, the Tanzania Investment Centre, the Ministry of Constitutional and Legal Affairs, and the Energy and Water Utilities Regulatory Agency. These stakeholders can work together in embedding human rights into the Energy Policy and upcoming renewable energy developments. Participants also suggested that these actors should ensure that investors and companies conduct human rights impact assessment and that the government strengthen institutional capacity for follow-up on adherence to human rights across the value chain.

5.2 RECOMMENDATIONS TO BUSINESS AND INVESTORS

VIGILANCE AND HUMAN RIGHTS DUE DILIGENCE

In line with the UNGPs, the draft scoping paper had suggested that 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.

The participants stressed that building capacity on human rights due diligence should be a priority.

According to the participants, stakeholders to be engaged on this point, in addition to businesses and investors, include the Ministry of Industry, Investments and Trade, Local Government Authorities and regulatory authorities, such as NEMC, the Zanzibar Environmental Management Authority, and the Occupational Safety and Health Administration Authority.

STRENGTHENING STAKEHOLDER CONSULTATION

As part of exercising human rights due diligence effectively, the draft scoping paper had suggested that 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. Participants generally agreed with this recommendation, adding that 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.

Participants noted that a clear ownership model and funding would be key in implementing this suggestion. The ownership model should consider marketing forces and competition. Participants further went on to suggest looking into government priorities and ensuring that government collaborate with development partners. Key stakeholders to be involved are government, energy companies, CSOs, investors, media and local affected communities.

Participants also recommended that, to implement these considerations, there should be a practice of full human rights impact assessments, with meaningful engagement, effective complaints-handling, and a review of policies/strategies with appropriate planning and budgeting.

IDENTIFYING AND ADDRESSING SALIENT HUMAN RIGHTS ISSUES

As part of exercising human rights due diligence, the draft scoping paper suggested that businesses engaged in the renewable energy sector 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, particularly 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 in their value chains fully enjoy their fundamental rights.

While participants accepted the suggestions, they added that the UNGPs should be contextualised and transposed into laws at the domestic level. Participants highlighted that issues arise when actors from the private sector do not understand the responsibility to respect human rights but the challenge can be addressed by effective engagement of all stakeholders in the process.

Participants suggested that businesses and investors could consider engaging with CSOs, CHRAGG, the Ministry for Community Development, Gender and Children, the Parliamentary Committee for Social Services and Community Development, the Tanzania Union Congress of Tanzania and the National Union of Mineworkers of Tanzania.

SETTING HUMAN RIGHTS REQUIREMENTS

All institutional investors have a responsibility to respect human rights in line with the UNGPs. Based on this, the draft scoping paper suggested that 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 a condition for investing, and structure investments to increase the ability to influence respect for human rights.

During the discussions, participants agreed that the role of businesses and investors is key but that the regulatory and policy environment compelling these actors to respect human rights remains the responsibility of the domestic legislative authorities. It was noted that building the capacity of investors and businesses in understanding national energy policies and the links to human rights remains a challenge and should become a priority.

Participants then determined that relevant stakeholders that businesses and investors could engage with are private sector associations, NEMC, labour unions, Minister of State in the Prime Minister's Office for Labour, Employment, Youth and Persons with Disabilities, CSOs specialising in human rights and gender, development partners and international finance institutions (including the World Bank and the African Development Bank), the Rural Energy Agency and TANESCO. They should ensure the creation of a multi-stakeholder platform on human rights in the energy sector for learning, awareness raising and capacity building. All investors should establish human rights policies, procedures and reporting mechanisms for feedback.



6 WORKING WITH HUMAN RIGHTS ISSUES IN TANZANIA

The draft scoping paper that was presented during the roundtable dedicates a section to scoping human rights issues related to the energy transition. To assess their relevance in the Tanzanian context, the participants were asked to walk around human rights 'stations' and reflect on the research findings for each of the seven key human rights issues. This section summarises the participant contributions.

6.1 POVERTY

The draft scoping paper first highlights poverty as a human rights issue since energy governance frameworks and policies have not remedied challenges related to unequal access to energy and affordability, leading more marginalised communities to rely on unsafe energy sources. The participants agreed that poverty remained a significant challenge for a just energy transition and remains one of the main obstacles for the switch to renewable energy. Participants suggested that the Tanzania Social Action Fund's cash transfer system could support poor and vulnerable families in accessing energy. Furthermore, underlining challenges faced by poor and marginalised women, the participants suggested that the Tanzania National Bureau of Statistics, the Ministry of Energy and CSOs could focus on increasing the availability of gender-disaggregated data on renewable energy. The participants also noted that the lack of adequate access to innovative technologies, which are needed to increase the productivity of renewable energy sources, remained an obstacle.

6.2 WOMEN'S RIGHTS

The Tanzanian government has made commitments to supporting gender equality and adopting global frameworks to achieving this aim. Despite these efforts, the paper also identified some barriers that impede the full realisation of women's rights in different sectors in comparison to men, with additional inequalities related to geography and indigenous status. In view of this, participants suggested there is a need to strengthen collaboration of the government ministries and departments to work closely with CSOs, development partners and other relevant stakeholders. The government should create programmes to raise general awareness of existing policies on matters related to human rights, sustainable development and the energy transition. One of the participants indicated that the government was in the process of reviewing the Gender Policy, which currently has a section on energy but not renewable energy specifically; the participant mentioned that advocacy activities could be conducted to advocate for the inclusion of renewable energy in the review phase that allows stakeholders to provide input to the document. The participants also stressed that there is a need for more gender disaggregated data, echoing points made during the presentations. In addition, improvements to the Tanzania Social Action Fund programmes could ensure human rights, gender and energy are considered. There should be provision of financial services to women, especially in rural areas. Trainings that involve innovative technologies should

be provided to women. Participants recommended that government actors work with the private sector to recruit more women in the energy sector.

6.3 ENVIRONMENTAL PROTECTION

Paradoxically, renewable energy projects can be linked to environmental harm, as highlighted in the draft scoping paper. In order to minimise environmental harm, participants suggested that making the linkage between sustainable development, environmental protection and basic human rights (including the right to life and other subsistence rights) clear will ensure that these are safeguarded in the development of renewable energy projects. Responding to the background research on the issue of e-waste, participants stated that Tanzania has begun developing e-waste management facilities. It was also noted that the new Environmental Policy addresses the use of renewable energy towards better environmental protection.

6.4 LAND RIGHTS

Land rights are governed by the 1967 Land Acquisition Act and the 2014 Resettlement Policy Framework which address losses of land, houses, businesses, economic immovable assets and community assets like water, as well as associated compensation requirements. Scoping research indicates there could be a gap in how land acquisition is approved, especially when the local and central government are not in agreement, which can lead to potential landowner and rights-holder conflict. In addition, participants indicated challenges such as lack of accountability among duty-bearers and decision-makers, as well as the issue of politicisation of land conflicts, with some politicians making promises over the same area of land to different people to obtain support. Participants therefore stressed the importance of dispute resolution mechanisms at all levels to ensure effective access to remedy and avoid further escalation of conflicts. Raising awareness of land rights for members of local communities affected by renewable energy projects should also be a priority for government and CSOs. This would allow the communities to be more engaged in processes, which should involve them effectively at all stages of the project design. Furthermore, participants proposed a review of the 1982 Land Acquisition Act.

6.5 INDIGENOUS PEOPLES' RIGHTS

Currently 125-130 ethnic groups live in Tanzania, with four main groups organising around the concept of indigenous peoples in Tanzania: the hunter-gatherer Akie and Hadzabe, and the pastoralist Barabaig and Maasai. 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. Participants added that cultural interference must be considered. They stressed that local communities must be in agreement before starting a project. As for the point on project ownership, participants suggested that proponents of projects should raise awareness to local communities. They further advised that civil society actors should raise awareness on collective and community land rights. Regarding business owners, participants suggested they should become good corporate citizens and engage community

members in critical processes of project implementation. Additionally, participants advised that government should enhance dispute resolution mechanisms and create awareness of collective or community land rights.

6.6 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. In line with the suggestion, participants added that judicial and non-judicial remedy mechanisms should be looked into when considering the lack of awareness about the procedures for handling complaints. They highlighted that there is a need to empower victims. Participants also shared that informal mechanisms do not have a good understanding of human rights. They indicated a problem at the company level, where there is either an absence of operational-level grievance mechanisms or a lack of policy commitment to human rights. Participants further added that government should make policies that are clear, understandable and clearly address human rights to empower victims. With regard to the role of businesses, participants suggested that these should make policy commitments within their human rights departments and create company-level grievance mechanisms that allow for direct communication with affected persons and local communities. On the issues of subsidiaries at the country or local level, participants suggested that these should comply with the mother company policies. Lastly, participants stated that civil society should perform advocacy, create awareness and represent victims.

6.7 CIVIC SPACE AND FREEDOM OF EXPRESSION

Research on recent years in Tanzania has demonstrated that civic space and freedom of expression has shrunk, with reports of threats and attacks on dissident voices, journalists and human rights defenders. In view of this, the participants indicated that government should make policy commitments to ensure that the watchdog role of CSOs is protected. The participants noted more government tolerance of dissenting opinions would enhance the protection of human rights in the energy transition. Participants further suggested that business actors should effectively comply with the UNGPs and international standards to foster transparency and not impede freedom of expression.

7 NEXT STEPS

The purpose of the roundtable was to collectively engage with the key human rights issues, challenges and opportunities arising from the energy transition in Tanzania. It is clear from the discussions and group work that there exist many opportunities for stakeholders in government, business and civil society to engage further on the topic and collaborate to ensure that the energy transition is one that is respectful of human rights and the environment. DIHR and TAWoED are looking forward to continuing dialogue and engagement in this space.



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

TaWoE

Tanzania Women In Energy
Network

