African Journal of
Climate Law
and Justice
(AJCLJ) 2026

AL Fagoyinbo 'Just transition for whom? Unmasking the unjust energy transition and the burdens of Africa's host communities' (2026) 1
African Journal of Climate Law and Justice 16-39
https://doi.org/10.29053/ajclj.v3i1.0002

Just transition for whom? Unmasking the unjust energy transition and the burdens of Africa's host communities

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Abstract: Drawing on the frameworks of energy justice and international human rights law, and through a comparative analysis of Nigeria and Kenya, the article examines the human rights impacts of energy projects on host communities and evaluates the implementation of the obligations of states and corporate actors. The article argues that while emerging regional and international frameworks establish normative standards for a human rights-centred transition, their weak implementation establishes the gap in delivering justice for affected communities. It calls for reconceptualising 'just transition' as a legal obligation, not a policy aspiration, anchored on participation, equitable benefit-sharing, and environmental remediation for host communities. Therefore, the article establishes that the energy future of Africa demands accountability, redistribution, and recognition to achieve a just energy transition.

Key words: energy justice; host communities; international human rights law; just transition

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1 Introduction

The language of just transition has rapidly ascended from the margins of labour advocacy into the core of climate and energy governance, reflecting its growing prominence in global climate policy and development discourse.[1] Governments, international financial institutions and development partners increasingly adopt the concept to frame pathways towards decarbonisation, green growth and sustainable development, particularly in the context of climate finance and net-zero commitments.[2]

In policy documents, national energy strategies and climate finance agreements, just transition is portrayed as a bridge between environmental imperatives and social equity, one that promises cleaner energy systems without reproducing poverty, inequality or exclusion.[3] Yet, behind this hopeful narrative lies a troubling reality. Africa's energy transitions, repeatedly labelled as 'just', continue to impose serious social, environmental and economic burdens on the communities that host energy projects, particularly Kenya, which is described as the 'African clean energy superpower country'.[4]

This paradox is not new. Africa's energy landscape, particularly in countries such as Nigeria, has long been shaped by fossil fuel extraction and large-scale energy infrastructure, frequently accompanied by environmental degradation, land dispossession, labour exploitation and the systematic marginalisation of local communities.[5] Despite expectations that renewable energy would provide a more equitable model of development, findings from Kenya's geothermal and wind projects establish persistent challenges relating to land acquisition, community participation and livelihood protection.[6] Geothermal developments

1 D McCauley & RJ Heffron 'Just transition: Integrating climate, energy and environmental justice' (2018) 119 *Energy Policy* 1; RJ Heffron 'What is the 'just transition'?' in RJ Heffron & D McCauley (eds) *Achieving a just transition to a low-carbon economy* (2022) 9.

2 International Labour Organisation 'ILO adopts guidelines on sustainable development, decent work and green jobs', https://www.ilo.org/resource/news/ilo-adopts-guidelines-sustainable-development-decent-work-and-green-jobs (accessed 15 January 2026); African Union 'Africa speaks with unified voice as AU Executive Council adopts African common position on energy access and just energy transition', https://au.int/en/pressreleases/20220722/africa-speaks-unified-voice-au-executive-council-adopts-african-common (accessed 15 January 2026).

3 BK Sovacool 'What are we doing here? Analysing fifteen years of energy scholarship and proposing a social science research agenda' (2014) 1 *Energy Research & Social Science* 1; Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) Preamble; art 4.

4 Rapid Transition Alliance *'Doing development differently: How Kenya is rapidly emerging as Africa's renewable energy superpower'* 17 November 2022, https://rapidtransition.org/stories/doing-development-differently-how-kenya-is-rapidly-emerging-as-africas-renewable-energy-superpower/ (accessed 14 July 2026).

5 United Nations Environment Programme 'Environmental assessment of Ogoniland' (UNEP 2021), https://www.unep.org/topics/disasters-and-conflicts/country-presence/nigeria/environmental-assessment-ogoniland-report' (accessed 15 January 2026); N Healy, JC Stephens & SA Malin 'Embodied energy injustices: Unveiling and politicising the transboundary harms of fossil fuel extractivism and fossil fuel supply chains' (2019) 48 *Energy Research & Social Science* 219.

6 N Simberg-Koulumies 'Just sustainabilities: Lessons from the Lake Turkana Wind Power Project in Kenya' (2024) 29 *Local Environment* 40.

have displaced local communities, wind energy projects have disrupted pastoral livelihoods, and affected host communities have often been excluded from decisions that profoundly reshape their land, environment and future.[7]

Existing scholarship has made significant contributions to understanding just transition, energy justice and the human rights implications of energy development. The just transition literature has primarily examined the social dimensions of decarbonisation, including climate policy, labour protection and sustainable development,[8] while energy justice scholarship has focused on the distribution of benefits and burdens, procedural justice and the recognition of affected communities within energy systems.[9] Human rights scholarship has similarly examined the obligations of states and corporate actors in relation to environmental protection, business and human rights and natural resource governance. Although recent scholarship has increasingly recognised the relationship between energy justice and human rights in advancing a just energy transition, comparatively little attention has been devoted to integrating these perspectives to evaluate whether legal and governance frameworks adequately protect the human rights of host communities throughout the transition from fossil fuel extraction to renewable energy development.[10]

This article addresses that gap by undertaking a comparative analysis of Nigeria and Kenya through the framework of energy justice and international human rights law. Nigeria and Kenya provide contrasting but complementary case studies because they represent different phases of Africa's energy transition. Nigeria is one of Africa's longest-established fossil fuel economies, where host communities in the Niger Delta have experienced decades of environmental degradation, land dispossession and weak regulatory enforcement.[11] Kenya, by contrast, has emerged as a regional leader in renewable energy through large-scale geothermal and wind developments, particularly in Olkaria and Lake Turkana.[12] Examining these jurisdictions together enables an assessment of whether the legal

7 International Work Group for Indigenous Affairs 'Impact of renewable energy projects on indigenous communities in Kenya' 3 February 2020, https://iwgia.org/en/kenya/3534-impact-of-renewable-energy-projects-on-indigenous-communities-in-kenya.html (accessed 15 January 2026).

8 Heffron (n 1).

9 K Jenkins and others 'Energy justice: A conceptual review' (2016) *Energy Research & Social Science* 174; DA McCauley and others 'Advancing energy justice: The triumvirate of tenets' (2013) 32 *International Energy Law Review* 107.

10 D Olawuyi and others 'Beyond just transition: Advancing responsible and rights-based business practices in the energy and extractives sector' (2025) 10 *Business and Human Rights Journal* 1; CV Basil & RJ Heffron 'A systematic review of the intersection between energy justice and human rights' (2025) 221 *Renewable and Sustainable Energy Reviews* 115892; O Abe 'Towards a human rights-based approach to energy transition in Africa' (2025) 10 *Business and Human Rights Journal* 11; GA Agbaitoro & EO Ekhator 'Just energy transition in Africa: Towards social inclusion and environmental rights-based imperatives' (2025) 10 *Business and Human Rights Journal* 34.

11 United Nations Environment Programme (n 5); Bayelsa State Oil and Environmental Commission 'An environmental genocide: Counting the human and environmental cost of oil in Bayelsa, Nigeria' (2023).

12 International Energy Agency 'Executive summary Kenya 2024', https://www.iea.org/reports/kenya-2024/executive-summary (accessed 1 July 2026).

and governance frameworks governing the transition from fossil fuel extraction to renewable energy development have transformed or reproduced patterns of procedural exclusion, distributive inequity, and inadequate recognition of the human rights of host communities. Based on that international human rights law, the African Charter on Human and Peoples' Rights (African Charter) and domestic legal frameworks, this article examines the human rights impacts of energy projects on host communities and evaluates the implementation of the obligations of states and corporate actors in energy-transition governance. It argues that the principal challenge lies not in the absence of legal standards, but in their inconsistent implementation.

The article is divided into seven parts. Following this introduction, part 2 examines the relationship between just transition, energy justice and human rights. Part 3 analyses the obligations of states to achieve a just energy transition through the lens of international and African human rights frameworks. Part 4 engages with fossil fuel development and its impacts on host communities in Nigeria, while part 5 focuses on Kenya's renewable energy development and host communities. Part 6 undertakes a comparative analysis of Nigeria and Kenya to assess whether the transition to renewable energy has addressed the injustices associated with conventional energy development. In part 7, the article concludes by examining the implications for rights-based energy governance and the policy measures necessary to achieve a just energy transition in Africa.

2 Integrating just transition, energy justice and human rights

Although just transition, energy justice and international human rights law have developed as distinct bodies of scholarship, they each address different dimensions of justice in energy governance. This part argues that none of these approaches, considered in isolation, provides a sufficient basis for evaluating whether energy-transition governance adequately protects host communities. Their integration provides the conceptual and legal foundation for the analysis in this article.

2.1 Just transition beyond policy rhetoric

The concept of a just transition originated within labour movements seeking to protect workers and communities from the social and economic consequences of environmental regulation and industrial restructuring.[13] In its original conception, it emphasised employment protection, retraining, social dialogue and compensation for workers adversely affected by the transition to environmentally sustainable economies.[14] As the concept gained prominence within climate and energy governance, it expanded beyond labour concerns to encompass broader

13 X Wang & K Lo 'Just transition: A conceptual review' (2021) 82 *Energy Research & Social Science* 102291.
14 Wang & Lo (n 13).

objectives relating to decarbonisation, sustainable development, climate justice and the equitable distribution of the costs and benefits of the energy transition.[15]

This evolution is reflected in international climate governance. The Preamble to the Paris Agreement recognises the importance of ensuring 'a just transition of the workforce and the creation of decent work and quality jobs', while the International Labour Organisation (ILO)'s Guidelines for a Just Transition towards Environmentally Sustainable Economies and Societies for All provide policy guidance for achieving socially inclusive transitions.[16] These developments have elevated just transition from a labour policy objective to a guiding principle of climate governance. Nevertheless, they do not establish a comprehensive legal framework governing the rights of host communities affected by energy projects. As a result, the practical implementation of a just transition remains largely dependent on domestic legal and institutional arrangements.

The limitations of this policy-oriented approach are particularly evident in Africa. Although the language of just transition increasingly informs national energy strategies and international climate finance initiatives,[17] disputes over land acquisition, community participation, benefit sharing and livelihood protection continue to arise in both fossil-fuel and renewable energy projects. The experience of geothermal and wind energy developments in Kenya indicates that the transition to renewable energy does not automatically alter the governance structures that have historically marginalised host communities. Rather, it demonstrates that decarbonisation and justice are not synonymous; without legally enforceable safeguards, renewable energy projects may reproduce the same procedural exclusion, distributive inequities, and failures of recognition associated with earlier forms of resource development.[18] Accordingly, the effectiveness of a just transition cannot be assessed solely by the achievement of climate or energy objectives. It must also be evaluated by the extent to which legal and institutional frameworks ensure meaningful participation, equitable benefit sharing, accountability and the protection of the rights of host communities. In the absence of such safeguards, the concept of a just transition risks functioning as a policy aspiration rather than a legally enforceable standard capable of addressing the structural injustices associated with energy development.

15 McCauley & Heffron (n 1).
16 Paris Agreement (n 3) Preamble; International Labour Organisation Guidelines for a Just Transition towards Environmentally Sustainable Economies and Societies for All (ILO 2015).
17 A Karg, J Gupta & Y Chen 'Just energy transition partnerships: An inclusive climate finance approach?' (2025) 125 *Energy Research & Social Science* 104103.
18 J Shaa 'Renewable energy, indigenous peoples, and just transition: Human rights implications and pathways for equity', https://www.ncdg-ke.org/renewable-energy-indigenous-peoples-and-just-transition-human-rights-implications-and-pathways-fo (accessed 9 July 2026).

2.2 Energy justice as an analytical lens

Energy justice provides the analytical lens for evaluating the human rights implications of energy-transition governance for host communities. Rather than assessing the success of energy transition solely by reference to decarbonisation or increased renewable energy deployment, it examines whether energy systems distribute benefits and burdens fairly, facilitate meaningful participation, and recognise the rights and interests of affected communities.[19] To bridge the gap between energy justice and human rights, particularly in the era of energy transition, it is essential to integrate human rights throughout the energy life cycle processes by defining the rights and responsibilities of states, corporate actors and affected communities within energy governance.[20] Although energy justice has evolved beyond its original three tenets to include restorative and cosmopolitan justice,[21] this article adopts the original dimensions of procedural, distributive and recognition justice because they provide the most appropriate basis for evaluating the legal protection of host communities in Nigeria and Kenya.

Procedural justice concerns the fairness of decision-making processes. It requires access to information, meaningful participation, transparency, accountability and effective avenues for redress.[22] However, where host communities are excluded from consultations, denied meaningful participation, or confronted with decisions that have already been finalised, participation becomes a procedural formality rather than a genuine opportunity to influence decision making. Distributive justice evaluates whether the benefits and burdens of energy transition projects are allocated equitably. It therefore requires consideration not only of who bears the environmental, social and economic costs of energy development, but also whether those communities share fairly in its benefits.[23] Persistent disparities between those who experience displacement, livelihood disruption and environmental degradation, and those who benefit from energy development, reveal structural inequalities that endure despite renewable energy expansion.

Recognition justice addresses the underlying social and institutional conditions that determine whose interests are acknowledged within energy governance. It requires legal and institutional recognition of the identities, customary land tenure systems, knowledge and cultural relationships of affected communities, particularly indigenous peoples and local communities whose relationship with

19 Jenkins and others (n 8); McCauley and others (n 8).
20 RJ Heffron 'Applying energy justice into the energy transition' (2022) 156 *Renewable and Sustainable Energy Reviews* 111936; Heffron (n 1).
21 RJ Heffron 'Energy justice – The triumvirate of tenets revisited and revised' (2023) 41 *Journal of Energy & Natural Resources Law* 227.
22 McCauley and others (n 8).
23 RJ Heffron & D McCauley 'The concept of energy justice across the disciplines' (2017) 105 *Energy Policy* 658.

land extends beyond its economic value.[24] Failures of recognition, therefore, arise where legal and policy frameworks reduce land to a commercial asset while disregarding its cultural, spiritual and livelihood significance, reinforcing patterns of exclusion that shape both decision-making processes and distributional outcomes.[25]

These dimensions provide a framework for identifying the structural causes of injustice associated with energy transition projects. However, energy justice principally explains what constitutes injustice rather than how those injustices should be prevented or remedied. As Basil and Heffron argued, energy justice identifies the injustices arising from energy activities, whereas the human rights framework provides the legal obligations, accountability mechanisms, and institutional processes through which those injustices may be prevented, challenged and remedied.[26] Against this background, the article employs procedural, distributive and recognition justice as the analytical framework for evaluating whether the international, regional and domestic legal frameworks governing energy transition projects in Nigeria and Kenya adequately protect the human rights of host communities.

2.3 Human rights as the normative framework for energy justice

Energy justice provides a valuable analytical lens for identifying injustices associated with energy development. However, it does not create legally enforceable obligations. Its principles derive legal force through applicable legal rules and institutions. Among these, international human rights law provides an important normative basis by establishing legal obligations that govern the conduct of states and the responsibilities of corporate actors engaged in energy transition projects.[27]

International human rights law establishes legal standards governing the protection of rights affected by energy development. It requires states to respect, protect and fulfil internationally recognised human rights, including by regulating the conduct of private actors whose activities may interfere with the enjoyment of those rights.[28] These obligations are particularly relevant to the execution of energy projects affecting host communities because decisions concerning land acquisition, environmental protection, participation and benefit sharing directly affect the enjoyment of rights relating to property, health, culture, development,

24 NV van Uffelen 'Revisiting recognition in energy justice' (2022) 92 *Energy Research & Social Science* 102764.
25 African Charter on Human and Peoples' Rights arts 2, 17, 21, 22 & 24.
26 Basil & Heffron (n 10).
27 As above.
28 International Covenant on Civil and Political Rights arts 2, 25 & 26; International Covenant on Economic, Social and Cultural Rights arts 2, 11, 12 & 15; United Nations Guiding Principles on Business and Human Rights Principles 1, 3, 11 & 25.

livelihood and a healthy environment.[29] In Africa, these obligations are reinforced by the African Charter, which extends beyond individual rights to recognise collective rights that are particularly relevant to host communities affected by energy projects.[30] The African Charter protects rights to property, culture, natural resources, development and a satisfactory environment, reflecting the communal nature of land and resource governance in many African states, including Nigeria and Kenya.[31] This broad conception of rights is particularly significant because the adverse impacts of energy projects often extend beyond individual interests, affecting communal land tenure, shared natural resources, cultural identity and intergenerational livelihoods. Consequently, assessing energy transition projects solely through the lens of individual rights risks overlooking the collective dimensions of harm experienced by host communities.

The jurisprudence of the African Commission on Human and Peoples' Rights (African Commission) and the African Court on Human and Peoples' Rights (African Court) has interpreted these obligations by requiring that development projects affecting indigenous peoples and local communities must be implemented consistently with rights to participation, equitable benefit sharing and effective remedies.[32] Collectively, these principles demonstrate that human rights do not merely complement energy justice, but also provide the legal basis for assessing whether energy transition projects are implemented without violating the rights of host communities.

3 International human rights law and energy justice

This part examines how the dimensions of energy are reflected in international, including regional, human rights law. It considers how international and regional human rights obligations collectively require states to ensure meaningful participation, equitable distribution of the benefits and burdens of energy development, and recognition of the rights and interests of affected communities. Accordingly, the legal framework demonstrates that the core principles of energy justice are not merely normative aspirations, but are embedded in binding human rights obligations that apply to the planning, approval, implementation and operation of energy projects.

29 C Redgwell & L Rajamani 'And justice for all? Energy justice in international law' in RJ Heffron & D McCauley (eds) *Energy justice and energy law* (2020) 48-64.

30 AA Cançado Trindade & DA Gonzalez-Salzberg *International law of human rights* (2024); African Charter on Human and Peoples' Rights arts 21, 22 & 24.

31 African Charter on Human and Peoples' Rights arts 2, 14, 17, 21, 22 & 24.

32 *Social and Economic Rights Action Centre (SERAC) & Another v Nigeria* (2001) AHRLR 60 (ACHPR 2001) (*SERAC*); *Centre for Minority Rights Development (Kenya) & Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (2010) AHRLR 75 (ACHPR 2010) (*Endorois*); *African Commission on Human and Peoples' Rights v Kenya* (*Ogiek*) (2017) App 6/2012 (African Court on Human and Peoples' Rights).

3.1 Procedural obligations: Participation, information and accountability

The success of energy transition projects depends not only on their environmental or economic objectives but also on the processes through which they are planned, approved and implemented. In some African countries, including Nigeria and Kenya, disputes surrounding renewable energy projects frequently arise because affected communities are consulted only after key decisions have been taken, receive inadequate information about project impacts, or are excluded from decisions concerning land acquisition, resettlement and environmental management.[33] Procedural justice is realised through three interrelated governance components: participation in decision making, information disclosure and transparency, and access to legal processes for obtaining redress.[34] These elements ensure that energy transition projects are implemented through fair and accountable decision making rather than purely technical or economic considerations.

International human rights law addresses these concerns by requiring states to ensure that development decisions are undertaken through transparent, participatory and accountable processes. The International Covenant on Civil and Political Rights (ICCPR) protects rights relating to participation in public affairs, freedom of expression and access to information, thereby requiring states to ensure that communities affected by energy projects receive timely and adequate information and have genuine opportunities to influence decisions affecting their rights and interests.[35] The Human Rights Committee in General Comment 34: Article 19: Freedoms of Opinion and Expression, has expanded this obligation to the effect that participation must be effective rather than symbolic, requiring processes that enable individuals to influence public decision making rather than merely endorse decisions that have already been made.[36]

Therefore, participation cannot be meaningful where affected communities are denied relevant information or lack access to institutions capable of reviewing decisions and providing remedies. As Apergi and others argue, procedural justice should be assessed not merely by the existence of participatory mechanisms but by whether governance systems ensure meaningful participation, transparent disclosure of information, and effective access to redress throughout the energy transition.[37]

33 A Morocco-Clarke 'In the midst of so much injustice, can there be a seat for energy justice at the Nigerian table?' (2023) 16 *The Journal of World Energy Law & Business* 251; FA Ndi 'Justice concerns in large-scale renewable energy projects: A case study echoing the importance of procedural justice in wind energy development in Kenya' (2024) 14 *Energy, Sustainability and Society* 47.

34 MJ Apergi and others 'An energy justice index for the energy transition in the Global South' (2024) 192 *Renewable and Sustainable Energy Reviews* 114238.

35 International Covenant on Civil and Political Rights arts 19 & 25.

36 (2011) UN Doc CCPR/C/GC/34 paras 18-19; Human Rights Committee General Comment 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (1996) UN Doc CCPR/C/21/Rev.1/Add.7 paras 5-8 & 25.

37 Apergi and others (n 34).

Within energy transition governance, these obligations assume particular significance because decisions concerning project approval, environmental assessment, land acquisition and project location frequently determine how the benefits and burdens of development are ultimately distributed. Participation, therefore, performs a preventive function. It enables affected communities to identify potential risks, contribute local knowledge, and influence project design before irreversible environmental or social harm occurs. Conversely, when consultation occurs only after key decisions have been finalised, participation becomes a procedural formality rather than an effective mechanism for protecting rights.

The African human rights system reinforces these procedural obligations through the jurisprudence of the African Commission. In *Social and Economic Rights Action Centre (SERAC) & Another v Nigeria*, the Commission held that Nigeria violated the African Charter by permitting oil operations without informing affected communities, undertaking adequate environmental impact assessments, or facilitating meaningful public participation.[38] The Commission further emphasised that states have positive obligations to regulate corporate activities, disclose environmental information, and establish effective mechanisms for monitoring environmental harm.[39] Rather than treating participation as a matter of administrative discretion, *SERAC* recognises access to information, environmental assessment, and public participation as legal obligations that enable communities to influence decisions before harm occurs. The decision, therefore, establishes that procedural justice requires more than consultation; it requires participatory decision making capable of protecting the rights and interests of affected communities throughout the lifecycle of energy projects.

The African Commission's emphasis on state regulation of corporate activities is also reflected in the United Nations (UN) Guiding Principles on Business and Human Rights. The Guiding Principles require states to adopt appropriate legislative, administrative and judicial measures to prevent, investigate and remedy business-related human rights abuses, while business enterprises have an independent responsibility to respect human rights throughout the lifecycle of their operations.[40] Accordingly, meaningful participation requires more than opportunities for consultation; it depends on legal and institutional frameworks that ensure transparency, accountability and effective remedies when the procedural rights of affected stakeholders, including host communities, are infringed. As Heffron argues, integrating human rights throughout the energy lifecycle transforms the procedural principles of energy justice into enforceable legal obligations that strengthen accountability.[41]

38 *SERAC* (n 32) paras 53-58.
39 As above.
40 United Nations Guiding Principles on Business and Human Rights Principles 1, 3, 11, 13, 17 & 25.
41 Heffron (n 17).

3.2 Distributive obligations: Equitable sharing of benefits and burdens

Energy transition inevitably redistributes both the benefits and burdens associated with energy development. While renewable energy projects may generate investment, employment and infrastructure, they may also require land acquisition, disrupt livelihoods and impose environmental and social costs on host communities.[42] Under international and regional human rights law, states are required not only to mitigate the adverse impacts of energy projects, but also to ensure that affected communities share fairly in their economic and developmental benefits.

International and regional human rights law does not prohibit these impacts altogether. Rather, it requires states to ensure that the costs of development are not borne disproportionately by affected communities and that those contributing land and natural resources share equitably in the benefits of development.[43] The significance of this obligation is particularly evident in energy transition projects, where the pursuit of decarbonisation often depends on activities that place disproportionate pressures on the land, livelihoods and environmental resources of host communities.[44]

Distributive injustice is the most prevalent form of injustice in Africa's energy transition. A systematic review of renewable energy projects across 11 African countries found that distributive injustices accounted for 58 per cent of all documented injustices, principally arising from land acquisition, resource conflicts, unequal distribution of project benefits and livelihood disruption.[45] Rather than representing isolated implementation failures, these findings suggest that inequitable distribution remains a structural feature of many renewable energy projects in majors parts of Africa.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the principal international framework for distributive justice. By protecting rights to an adequate standard of living, health, work, and an adequate means of subsistence, ICESCR requires states to regulate development activities that may foreseeably interfere with the enjoyment of these rights.[46] These rights require states not only to prevent foreseeable harm arising from

42 KE Lonergan & G Sansavini 'Considering distributive justice as a planning principle helps navigate a diversity of future energy infrastructure designs' (2025) 16 *Nature Communications* 10509.

43 International Covenant on Economic, Social and Cultural Rights arts 2, 6, 11 & 12; Committee on Economic, Social and Cultural Rights General Comment 26: Land and Economic, Social and Cultural Rights (22 December 2022) UN Doc E/C.12/GC/26 paras 8-13 & 49-54.

44 Ndi (n 33).

45 Apergi and others (n 34).

46 International Covenant on Economic, Social and Cultural Rights arts 6, 11 & 12; Committee on Economic, Social and Cultural Rights General Comment 14: The Right to the Highest Attainable Standard of Health (2000) UN Doc E/C.12/2000/4 paras 11-15; Committee on Economic, Social and Cultural Rights General Comment 26 on Land and Economic, Social and Cultural Rights (2022) UN Doc E/C.12/GC/26 paras 1-10, 49-54.

development activities, but also to ensure that development contributes to the welfare of affected communities. Accordingly, distributive justice requires more than compensation after displacement or environmental harm has occurred. It requires legal and institutional arrangements capable of protecting livelihoods, promoting the fair allocation of benefits generated by development, and ensuring that host communities participate in the developmental gains from projects undertaken on their land.

The African Charter reinforces these obligations by recognising collective rights to natural resources, development and a satisfactory environment.[47] Unlike many international human rights instruments, the African Charter explicitly links resource exploitation with the welfare of people, requiring development to advance rather than undermine the interests of affected communities. The African Commission emphasised these principles in *Centre for Minority Rights Development (Kenya) & Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (*Endorois*), holding that Kenya violated articles 21 and 22 of the African Charter by dispossessing the Endorois community of their ancestral land without ensuring equitable benefit-sharing or respecting their right to development.[48] Based on this decision, it is argued that the Commission recognised that communities contributing land and natural resources to development are entitled not merely to compensation but to a fair share of its economic and social benefits. *Endorois* consequently shifts distributive justice beyond financial compensation towards substantive equity in development. The state's obligation to regulate business enterprises also has important distributive implications. Inadequate regulation frequently results in governments and private investors receiving the economic benefits of energy development, while host communities bear a disproportionate share of its environmental, social and economic costs.[49]

The jurisprudence of international and regional human rights legal frameworks confirms that distributive justice constitutes a substantive legal obligation governing the design, implementation and regulation of energy transition projects. Compliance therefore requires states to protect livelihoods, secure equitable benefit sharing and prevent the unequal distribution of environmental and socio-economic burdens among host communities.

3.3 Recognition obligations: Equality, culture and community rights

One of the recurring challenges in energy transition governance is the failure to recognise the distinct identities, customary land tenure systems and cultural relationships that many host communities maintain with their land and natural

47 African Charter on Human and Peoples' Rights arts 21, 22 & 24.
48 *Endorois* (n 32) paras 277-281, 291-298 & 298.
49 United Nations Guiding Principles on Business and Human Rights (n 40) Principles 1, 3, 11, 13, 17 & 25.

resources.[50] Recognition aligns with the human rights principles of equality, non-discrimination and respect for human dignity, which require states to ensure that development does not exclude or disadvantage particular individuals or communities because of their identity, status or customary way of life.[51]

The principle of equality requires that all individuals enjoy equal protection of the law and equal access to the benefits of development.[52] Closely connected to this is the principle of non-discrimination, which prohibits distinctions that have the purpose or effect of denying the equal enjoyment of human rights. In the context of energy transition, these principles require states to identify and address the disproportionate impacts of energy projects on indigenous peoples, local communities, women, persons with disabilities and other marginalised groups. Accordingly, recognition justice requires governance frameworks to recognise the distinct circumstances, identities and vulnerabilities of communities whose rights and interests are most likely to be affected by energy development.[53]

Recognition justice also encompasses the protection of collective rights. For many host communities, particularly indigenous peoples, land represents more than an economic resource; it forms the basis of cultural identity, social organisation and spiritual life. Consequently, the protection of community land, customary tenure and cultural heritage constitutes an essential component of equitable energy governance. Recognition justice, therefore, requires states not only to respect individual rights but also to acknowledge the collective rights through which communities maintain their relationship with ancestral lands, natural resources and traditional institutions.[54]

ICCPR protects the rights to equality before the law, freedom from discrimination and the rights of minorities to enjoy their culture.[55] Similarly, ICESCR requires states to guarantee rights without discrimination while protecting everyone's right to participate in cultural life.[56] Therefore, the international human rights obligates states to ensure that development policies do not undermine the cultural identity or equal dignity of communities affected by energy projects.

50 A Schiffer and others 'Renewable energy and land use barriers to just transition in the Global South' (2023), https://www.researchgate.net/publication/376198835_Renewable_energy_land_use_barriers_to_just_transition_in_the_Global_South (accessed 11 July 2026).
51 Basil & Heffron (n 10).
52 United Nations and the Rule of Law 'Equality and non-discrimination', https://www.un.org/ruleoflaw/thematic-areas/human-rights/equality-and-non-discrimination/ (accessed 11 July 2026).
53 International Covenant on Civil and Political Rights arts 2, 26 & 27; International Covenant on Economic, Social and Cultural Rights art 2(2); Convention on the Elimination of All Forms of Discrimination against Women arts 2 & 14; Convention on the Rights of Persons with Disabilities arts 5 & 9.
54 Uffelen (n 24); Agbaitoro & Ekhator (n 10).
55 International Covenant on Civil and Political Rights arts 2, 26 & 27; Human Rights Committee General Comment 23: The Rights of Minorities (Article 27) (8 April 1994) UN Doc CCPR/C/21/Rev.1/Add.5 paras 3.2 & 7.
56 International Covenant on Economic, Social and Cultural Rights arts 2(2) & 15.

Regionally, the African Charter protects rights to culture, property, natural resources and development, thereby acknowledging that communities possess collective interests that are capable of legal protection.[57] The African Charter recognised that the identity and welfare of peoples are intrinsically connected to their land, culture and natural resources. Furthermore, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) further develops these principles by recognising indigenous peoples' rights to self-determination, traditional lands, territories and resources, cultural integrity and participation in decisions affecting them.[58] Although the UNDRIP is not legally binding, it provides an important interpretative framework for understanding the content of existing human rights obligations concerning indigenous and local communities.

In *African Commission on Human and Peoples' Rights v Republic of Kenya* (*Ogiek*), the African Court held that Kenya violated the Ogiek community's rights under articles 2, 8, 14, 17, 21 and 22 of the African Charter by evicting them from their ancestral lands without recognising their customary land rights or cultural relationship with the Mau Forest.[59] The *Ogiek* judgment, therefore, demonstrates that recognition justice is not merely a question of representation or consultation but a legally enforceable obligation requiring states to recognise and protect the identities, cultures and collective rights of communities affected by development projects.

By requiring equality, non-discrimination and respect for collective rights, international and regional human rights law ensures that host communities are recognised as rights holders whose identities, cultures and customary relationships with land must inform the governance of energy transition projects. However, notwithstanding these obligations, their implementation in energy development remains contested. The following part examines the impacts of fossil fuel development in Nigeria and renewable energy projects in Kenya to evaluate whether the transition to low-carbon energy has alleviated or replicated the injustices experienced by host communities.

4 Nigeria: Fossil fuel development and its impacts on host communities

Crude oil was first discovered in Oloibiri, present-day Bayelsa State, in 1956 by Shell D'Arcy Petroleum, a joint venture between Royal Dutch Shell and British Petroleum in Nigeria. Since commercial oil production commenced in 1958, petroleum extraction has made Nigeria one of Africa's largest oil-producing states

57 African Charter on Human and Peoples' Rights arts 2, 17, 21 & 22.
58 United Nations Declaration on the Rights of Indigenous Peoples arts 3, 8, 25, 26, 27, 32 & 33.
59 Application 6/2012) [2017] AfCHPR 38 paras 128-131, 173-214.

while imposing profound environmental, social and economic costs on host communities in the Niger Delta region.[60]

The region comprises more than 40 ethnic groups and over 3 000 communities across nine oil-producing states, with Ogoniland, comprising the communities of Bori, Bodo, Gokana, Tai, Eleme, Lubara, Sii, Banga and Sogh, representing one of the most negatively impacted communities of fossil fuel development.[61] Although petroleum production has generated substantial national revenue, its benefits have not translated into comparable improvements in the well-being of Niger Delta communities. Instead, decades of oil exploration have resulted in environmental degradation, declining agricultural productivity, contaminated water sources, loss of fisheries and persistent socio-economic marginalisation.[62] Despite constitutional and statutory safeguards governing petroleum development, host communities in the Niger Delta continue to bear the environmental, social, and economic burdens of oil extraction, reflecting persistent gaps in the implementation of these legal protections.[63]

The environmental and socio-economic consequences of petroleum extraction have fundamentally altered the lives of host communities across the Niger Delta. According to the United Nations Environment Programme (UNEP) environmental assessment of Ogoniland, decades of oil exploration and production contaminated the soil, groundwater, surface water and fisheries, creating serious risks to human health. The report further concluded that environmental restoration would require a comprehensive remediation programme extending over several decades.[64] For instance, residents in the Nsisioken Ogale community were found to be consuming water containing benzene at levels over 900 times the WHO guideline.[65] In addition, creeks across Ogoniland were contaminated with hydrocarbons from oil exploration, leaving visible layers of oil on the water surface. At Ataba-Otokroma, which borders Gokana and Andoni local government areas, severe water pollution has damaged the aquatic ecosystem, disrupting fishing, the community's primary source of livelihood.[66] Similar patterns are evident throughout the region. The Bayelsa State Oil and Environmental Commission found that more than 60 years of oil extraction have produced catastrophic environmental, human and economic

60 Bayelsa State Oil and Environmental Commission (n 11).
61 United Nations Environment Programme (n 5) 13-18; Spaces for Change 'Engaging Communities in Oil Policy Development: Mission Report' 19, https://spacesforchange.org/wp-content/uploads/2014/06/S4C.-ENGAGING-COMMUNITIES-IN-OIL-POLICY-DEVELOPMENT.AUG_.2013.pdf (accessed 12 July 2026).
62 United Nations Environment Programme (n 5).
63 Constitution of the Federal Republic of Nigeria 1999 secs 33, 34 & 44; African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 Laws of the Federation of Nigeria 2004 arts 4, 16, 21 & 24; Environmental Impact Assessment Act Cap E12 Laws of the Federation of Nigeria 2004; National Oil Spill Detection and Response Agency (Establishment) Act 2006; Petroleum Industry Act 2021 ch 3.
64 United Nations Environment Programme (n 5).
65 United Nations Environment Programme (n 5) 13.
66 United Nations Environment Programme (n 5) 9-10.

consequences for host communities.[67] Nigeria generated approximately US $1 trillion from oil production between 1970 and 2014, yet oil-producing communities continue to experience severe environmental degradation, declining livelihoods and widespread poverty.[68]

The Commission estimates that between 9 and 13 million barrels of crude oil have been spilt across the Niger Delta since commercial production began, and that approximately 40 per cent of the region's mangrove forests have been destroyed through pollution and associated industrial activities.[69] For communities whose livelihoods depend on farming, fishing and the sustainable use of natural resources, these impacts extend beyond environmental harm, threatening food security, income generation and long-term economic resilience. The margin between national economic gains and local environmental losses indicates that the burdens of fossil fuel development are mostly borne disproportionately by host communities.

The consequences of petroleum development have been exacerbated by the limited opportunities available to host communities to influence decisions affecting their land and livelihoods. Studies have shown that community consultations conducted across Ogoni, Ekpan, Kenyangbene, Batan, Egbema-Gbaramatu and Yenagoa consistently identified inadequate consultation, restricted access to environmental information, ineffective grievance mechanisms and the exclusion of host communities from petroleum decision making.[70] Members of the communities acknowledged that consultation frequently occurred only after key project decisions had been substantially determined, reducing community participation to a procedural formality rather than a process through which host communities could meaningfully influence decisions affecting their right, land, livelihoods and environment.[71]

The human rights implications of these impacts were recognised in *Jonah Gbemre v Shell Petroleum Development Company Nigeria Ltd & Others*, where the Federal High Court held that the continued gas flaring in the Iwherekan community violated the constitutional rights to life and dignity guaranteed under sections 33 and 34 of the Constitution of the Federal Republic of Nigeria 1999, read together with articles 4, 16 and 24 of the African Charter.[72] By recognising that gas flaring endangered human life, health and dignity, the decision of the Court demonstrated that the impacts of petroleum activities extend beyond environmental degradation to encompass violations of fundamental human rights. Accordingly, despite Nigeria's obligations under domestic, regional and

67 Bayelsa State Oil and Environmental Commission (n 11).
68 Bayelsa State Oil and Environmental Commission (n 11) 7-10.
69 Bayelsa State Oil and Environmental Commission (n 11).
70 Spaces for Change (n 61) 2-4, 13-15.
71 As above.
72 FHC/B/CS/53/05 (Federal High Court, Benin Judicial Division, 14 November 2005).

international human rights law, petroleum development continued to violate the rights, health, livelihoods and dignity of host communities.

Furthermore, the impacts of petroleum extraction have also disrupted the relationship between communities and their ancestral lands. Pollution of rivers, forests and agricultural land has weakened traditional farming and fishing practices, undermined customary land use and eroded the cultural and economic foundations upon which many communities depend. According to an investigation conducted by Spaces for Change, a non-governmental organisation (NGO), community members reported that the government consistently prioritised national economic interests and petroleum production over their knowledge, customary institutions and development priorities.[73]

Contemporary incidents demonstrate that the impacts of fossil fuel development remain ongoing across the Niger Delta. Oil spills affecting the Obololi community in Bayelsa State and the Ogale community in Rivers State, along with prolonged gas leaks in Bille Kingdom, indicate that host communities continue to experience significant environmental degradation and associated risks to health and livelihoods.[74] These impacts have persisted notwithstanding Shell's 2025 divestment from its onshore subsidiary, the Shell Petroleum Development Company of Nigeria Limited (SPDC), and its strategic shift towards deepwater and gas operations, which implies that changes in corporate ownership and operations do not necessarily result in the remediation of legacy environmental damage or adequate remedies for affected communities.[75] Consequently, many host communities continue to experience the environmental, social and economic consequences of petroleum extraction. They are frequently left to pursue compensation only after harm has occurred, although such compensation is often delayed, inadequate or never received. Arguably, the impacts of fossil fuel development are not confined to environmental degradation or economic loss but extend to the enjoyment of fundamental human rights, affecting the participation, livelihoods, health, dignity and relationship with land of host communities. They encompass interconnected inequalities affecting participation, the distribution of benefits and burdens, and the recognition of community rights and livelihoods. These impacts have persisted despite Nigeria's obligations under ICCPR, ICESCR and the African Charter to protect the rights to participation, health, property, livelihood and a satisfactory environment.

73 Spaces for Change (n 61) 13-15.

74 Amnesty International Global: 'Nigerian residents take Shell to UK High Court following 10-year fight for justice' 10 February 2025, https://www.amnesty.org/en/latest/news/2025/02/global-nigerian-residents-take-shell-to-uk-high-court-following-10-year-fight-for-justice/ (accessed 2 February, 2026); Amnesty International 'Nigeria: Government and oil firms must expedite investigation of gas leaks threatening to destroy Nigerian community' 6 March 2026, https://www.amnesty.org/en/latest/news/2026/03/nigeria-government-and-oil-firms-must-expedite-investigation-of-gas-leaks-threatening-to-destroy-nigerian-community/ (accessed 12 July 2026).

75 Shell plc 'Shell completes sale of SPDC' 13 March 2025, https://www.shell.com/news-and-insights/newsroom/news-and-media-releases/2025/shell-completes-sale-of-spdc.html (accessed 18 April 2026).

The situation in the Niger Delta, therefore, establishes the historical benchmark for this article by demonstrating the human rights implications of fossil fuel development for host communities. However, as states increasingly pursue renewable energy to mitigate climate change and achieve global decarbonisation objectives, an important question arises as to whether this transition has fundamentally improved the experiences of host communities or instead reproduced similar patterns of injustice. The Kenyan case studies examine this question in the context of large-scale renewable energy development.

5 Kenya: Renewable energy development and host communities

Kenya has emerged as one of Africa's leading renewable energy economies and is frequently presented as a model for low-carbon development. Renewable energy accounts for approximately 82 to 90 per cent of Kenya's electricity generation, making it one of the least carbon-intensive electricity systems in Africa.[76] Geothermal energy contributes approximately 46 per cent of electricity generation, hydropower around 39 per cent, while wind continues to expand through projects such as the Lake Turkana Wind Power Project (LTWP), the Olkaria Geothermal Development and the Menengai Geothermal Project.[77]

Despite these achievements, the rapid expansion of renewable energy has generated significant concerns regarding public participation, community land rights, livelihoods, cultural heritage, land acquisition, displacement, inadequate consultation and inequitable benefit sharing, which are among the challenges associated with renewable energy development.[78] Although Kenya has established a comprehensive constitutional and statutory framework governing environmental decision making, including protection of public participation, environmental protection and community land rights, host communities affected by large-scale renewable energy projects continue to experience significant negative impacts, as was decided in the case of *Export Processing Zone Authority & 10 Others v National Environment Management Authority & 3 Others*.[79]

In Kenya, the Lake Turkana Wind Power Project (LTWP) was commissioned in 2019. It occupies approximately 607 square kilometres (about 150 000 acres) of community land in Marsabit County, traditionally used by the Rendille,

76 'World Bank 'Kenya National Energy Compact 2025-2030: Mission 300', https://www.worldbank.org/content/dam/theworldbankgroupasset/document/2026/m300-energy-compacts/Kenya-National-Energy-Compact-Mission-300.pdf (accessed 12 July 2026).

77 International Energy Agency *Kenya Energy Profile* (2024) (n 12); World Bank Kenya Country Climate and Development Report (2023); Ministry of Energy and Petroleum *Least Cost Power Development Plan 2022-2041* (2023).

78 Danish Institute for Human Rights *Human Rights Impact Assessment Guidance and Toolbox for Renewable Energy Projects in Kenya* (2023) 15-37; Basil & Heffron (n 10).

79 Constitution of Kenya 2010 arts 10, 42, 63, 69 & 70; Environmental Management and Coordination Act 1999 secs 58 & 59; Energy Act 2019 sec 28; Community Land Act 2016 secs 5-15; Petition E021 of 2023 [2024] KESC 75 (KLR).

Samburu, Turkana and El Molo communities for pastoralism, seasonal grazing and cultural practices.[80] Although the project has substantially increased Kenya's renewable electricity generation, community representatives challenged the legality of the land allocation, arguing that customary land was leased without meaningful consultation, genuine participation or adequate compensation.[81]

Comparable concerns have arisen in Kenya's geothermal sector through the Olkaria IV Geothermal Project. Developed under the Kenya Electricity Expansion Project to expand geothermal electricity generation, the project required the acquisition of community land and the relocation of approximately 150 Maasai households from the Olo Nongot, Olo Sinyat, Cultural Centre (Emanyatta) and Olo Mayana Ndogo communities to the RAPland resettlement site.[82]

Although an Environmental and Social Impact Assessment and a Resettlement Action Plan were prepared before implementation, the project generated sustained opposition from affected communities, who argued that consultation had been inadequate and that decisions concerning relocation had been taken without their meaningful participation.[83] Accordingly, host community representatives further complained that their customary land rights, cultural heritage and traditional livelihoods had not been adequately considered during project planning and implementation.[84] Investigations by the World Bank Inspection Panel and the European Investment Bank Complaints Mechanism identified shortcomings in stakeholder engagement, information disclosure, livelihood restoration and the protection of vulnerable project-affected persons, leading to a mediation process between Kenya Electricity Generating Company (KenGen) and the affected Maasai communities.[85]

The challenges identified by the World Bank Inspection Panel aligned with the findings of Abdi and others. In a survey of 138 project-affected households,

80 African Development Bank *Kenya – Lake Turkana Wind Power Project: Environmental and Social Impact Assessment Summary*' (2013), https://www.afdb.org/sites/default/files/documents/environmental-and-social-assessments/kenya_-_lake_turkana_wind_power_project_-_esia_summary.pdf (accessed 13 July 2026).

81 I Renkens '*The impact of renewable energy projects on indigenous communities in Kenya: The cases of the Lake Turkana Wind Power Project and the Olkaria Geothermal Power Plants*' (International Work Group for Indigenous Affairs 2019), https://www.iwgia.org/images/publications/new-publications/IWGIA_report_28_The_impact_of_renewable_energy_projects_on_Indigenous_communities_in_Kenya_Dec_2019.pdf (accessed 13 July 2026).

82 AM Abdi and others 'Determinants of community acceptance of geothermal energy projects: A case study on a geothermal energy project in Kenya' (2024) 50 *Renewable Energy Focus* 100594; World Bank Inspection Panel 'Kenya: Electricity Expansion Project (P103037) Investigation Report' (2015), https://www.inspectionpanel.org/sites/default/files/ip/PanelCases/97-Inspection%20Panel%20Investigation%20Report.pdf (accessed 12 June 2026).

83 World Bank Inspection Panel *Kenya: Electricity Expansion Project* (n 82).

84 Abdi and others (n 82) 4.

85 European Investment Bank Complaints Mechanism 'Kenya Electricity Expansion Project (Olkaria I and IV): Complaints SG/E/2014/07 and SG/E/2014/08 – Conclusions Report' (2016); World Bank Inspection Panel *Kenya: Electricity Expansion Project* (n 82).

the authors found that only 50,7 per cent of respondents had participated in consultation activities, while 71 per cent reported exclusion from project decision making and 72,5 per cent experienced similar exclusion during project implementation.[86] These findings suggest that formal consultation processes did not provide affected communities with genuine opportunities to influence decisions affecting their land and livelihoods. Beyond displacement, the Olkaria geothermal project has adversely affected pastoral livelihoods through the discharge of geothermal brines, which have harmed livestock health, restricted access to grazing areas and disrupted the socio-economic and cultural practices of host communities.[87] Gas emissions, including hydrogen sulphide, have further contributed to environmental pollution and increased concerns about the health of affected communities.[88]

Land provides the foundation for cultural identity, customary governance, spiritual practices and intergenerational livelihoods for these communities.[89] However, where customary tenure and indigenous relationships with land are inadequately recognised, renewable energy development risks reproducing patterns of exclusion associated with extractive industries, as was decided in *Endorois* and *Ogiek*.[90] Despite constitutional protection of community land under article 63 of the Constitution, the Community Land Act 2016 and the obligations of the states under ICESCR, ICCPR, and the African Charter, implementation has remained uneven, especially where national development priorities compete with customary land rights.

In addition, the Menengai Geothermal Project is another renewable energy project in Kenya, developed within the Menengai Caldera in Nakuru County to expand the country's geothermal electricity generation capacity.[91] The communities of Olrongai and Arahuka, which are located closest to the project, have borne the greatest adverse impacts. Residents reported persistent noise pollution disrupting sleep and children's education, air pollution from hydrogen sulphide emissions and other pollutants, acid rain associated with open brine ponds, earth tremors during drilling operations, increased human wildlife conflict following habitat destruction, and adverse health effects, including respiratory illnesses affecting children, older persons, livestock and vegetation.[92] The impacts of these projects extended beyond the host communities to the neighbouring communities, such as Mercy Njeri and Wanyororo, which have experienced relatively limited

86 Abdi and others (n 82) 6.
87 Abdi and others (n 82) 11.
88 As above.
89 Renkens (n 81) 17, 18 & 27.
90 *Endorois* (n 32) paras 277-281, 291-298 & 298; *Ogiek* (n 32) paras 128-131, 173-214.
91 Power Technology '*Menengai Geothermal Power Project, Kenya,*' https://www.power-technology.com/projects/menengai-geothermal-power-project-kenya/?cf-view (accessed 14 July 2026).
92 The Coalition for Human Rights in Development '*Kenya: The true impact of the AfDB-funded Menengai Geothermal Project,*' https://rightsindevelopment.org/news/kenya-menengai-geothermal/ (accessed 14 July 2026).

impacts, and Maciaro, which has sought compensation and relocation due to the impacts.[93] Due to the impacts of these projects and inadequate consultation, the host communities challenged the failure of Sosian Energy Ltd to consult the host communities, set aside the environmental and social impact assessment report and a cancellation of the licence of Sosian Energy Ltd to execute the project before the Environment and Land Court in the case of *Menengai West Stakeholders Forum & 10 Others v National Environmental Management Authority & Another*.[94] The Court held that Sosian Energy Ltd should undertake a comprehensive public participation process before the project could proceed, noting that stakeholder engagement cannot be reduced to a procedural formality.[95] Therefore, despite advancing economic and climate objectives, the implementation of renewable energy projects in Kenya continues to pose significant human rights challenges for host communities, including inadequate participation, insecure customary land tenure and the unequal distribution of project benefits.

Similar to the experience of fossil fuel development in Nigeria, the Kenyan case demonstrates that the principal challenge lies not in the technology employed, but in the implementation of constitutional, regional and international human rights obligations throughout the life cycle of energy projects. Achieving a just energy transition, therefore, requires more than decarbonisation; it requires governance arrangements that place the rights and interests of host communities at the centre of energy decision making.

6 Comparative analysis: Replicating the injustices of energy development

The Nigerian and Kenyan case studies demonstrate that changing the energy source has not fundamentally altered the position of host communities within energy governance. Petroleum development in Nigeria has historically been driven by economic growth and resource extraction, whereas renewable energy development in Kenya has been promoted to advance decarbonisation, climate commitments and energy security.[96]

Despite these different policy priorities, both have generated comparable patterns of exclusion in which host communities continue to bear a disproportionate share of the environmental, social and economic costs of energy development. Scholars have argued that clean energy transitions increasingly give

93 The Coalition for Human Rights in Development (n 92).
94 [2025] KEELC 1169 (KLR) (*Menengai West Stakeholders Forum*).
95 *Menengai West Stakeholders Forum* (n 94) para 62.
96 International Energy Agency Kenya Energy Profile (2024) (n 12); World Bank *Kenya Country Climate and Development Report* (n 77); Ministry of Energy and Petroleum *Least Cost Power Development Plan 2022-2041* (n 77).

rise to social exclusion, restricted access to land and natural resources, and other human rights concerns affecting already vulnerable communities.[97]

This comparison calls into question the assumption that renewable energy development is inherently more just than fossil fuel extraction. In Nigeria, petroleum development has left a legacy of environmental degradation, declining livelihoods and persistent human rights violations.[98] In Kenya, renewable energy projects have raised similar concerns regarding environmental pollution, community land, participation, displacement and livelihood protection.[99] The transition has therefore changed the energy source without fundamentally altering the governance practices through which energy projects are planned, approved and implemented. Many of the injustices associated with Africa's energy transition stem from the failure to integrate human rights into the legal and governance frameworks of the transition, thereby allowing existing inequalities associated with fossil fuel development to be reproduced within renewable energy projects.[100]

The comparison further illustrates that the persistence of these outcomes cannot be attributed to the absence of legal protections. Both jurisdictions recognise the rights of affected communities through constitutional, statutory and regional human rights frameworks. Rather, the recurring challenges identified across the case studies reflect gaps in the implementation of those obligations. Therefore, a human rights-based energy transition requires participation, accountability, non-discrimination and access to remedies to be integrated throughout the design and implementation of energy transition laws and policies.[101] In the same vein, Agbaitoro and Ekhator have argued that achieving a just energy transition in Africa requires socially inclusive governance and the mainstreaming of environmental rights into the planning and execution of energy transition projects to prevent injustices affecting local communities.[102] The implementation of energy transition projects in Nigeria and Kenya reveals a disconnect between the rights-based aspirations of the Paris Agreement and the realities experienced by host communities. Although the Preamble to the Paris Agreement recognises that climate action should respect, promote and consider human rights, and acknowledges the imperatives of a just transition, the experiences of host communities demonstrate that decarbonisation has not consistently protected their rights and interests in Nigeria and Kenya.[103]

97 Olawuyi and others (n 10).
98 United Nations Environment Programme (n 5); Bayelsa State Oil and Environmental Commission (n 11).
99 Danish Institute for Human Rights (n 78).
100 Abe (n 10) 11-17.
101 Abe (n 10) 22-30; Olawuyi and others (n 10); Basil & Heffron (n 10).
102 Agbaitoro & Ekhator (n 10) 44-48.
103 Paris Agreement (n 3) Preamble, art 7(5).

Accordingly, a just energy transition cannot be assessed solely by the expansion of renewable energy or reductions in greenhouse gas emissions. It must also be evaluated by its ability to safeguard the rights, livelihoods and interests of the communities that host energy projects. The global pursuit of decarbonisation should therefore be matched by an equally strong commitment to protecting the host communities; otherwise, the transition risks replacing one form of energy injustice with another. Without the effective implementation of existing human rights obligations throughout the project lifecycle, renewable energy development will continue to sacrifice the rights of host communities on the altar of climate objectives and economic development.

7 Conclusion and policy implications

The transition to renewable energy presents an important opportunity for African states to pursue climate action while advancing sustainable development. However, this opportunity will remain incomplete if energy transition is evaluated solely by the expansion of renewable energy capacity or reductions in greenhouse gas emissions. As this article has shown, decarbonisation does not necessarily translate into justice for the communities upon whose land, resources and livelihoods energy projects depend. A just transition, therefore, requires equal attention to the governance of energy development and the protection of human rights. The comparative analysis of Nigeria and Kenya demonstrates that, despite fundamentally different energy pathways, both jurisdictions exhibit similar patterns of procedural exclusion, distributive inequity, and inadequate recognition of the rights and interests of host communities. The comparison further demonstrates that although international, regional and domestic human rights frameworks establish important legal obligations relating to meaningful participation, protection of community land rights, equitable benefit-sharing, accountability and effective remedies, their implementation remains inconsistent and significant governance gaps persist. In particular, existing legal and regulatory frameworks do not systematically require human rights impact assessments or establish governance arrangements that integrate human rights obligations throughout the planning, approval, implementation, operation and decommissioning of energy projects. Consequently, the persistence of these injustices reflects both shortcomings in implementation and deficiencies in the institutional and regulatory mechanisms necessary to give practical effect to existing human rights obligations. Accordingly, states should move beyond technology-centred approaches by integrating meaningful participation, the protection of community land rights, equitable benefit-sharing, accountability, effective remedies and mandatory human rights impact assessments into the planning, approval, operation and decommissioning of energy projects.

The implications extend beyond Nigeria and Kenya. As African states accelerate renewable energy development to meet their commitments under the Paris Agreement, the transition should be implemented in a manner that

respects, promotes and protects the rights of affected communities rather than treating them as passive beneficiaries of national development. Ultimately, the success of Africa's energy transition will depend not only on replacing fossil fuels with renewable energy, but on whether it transforms the governance practices that have historically marginalised host communities. Until this occurs, the transition to renewable energy is likely to replicate, rather than remedy, many of the injustices associated with conventional energy development.