

Coal mining disrupts people's livelihoods in Mui Basin, Kenya

To progress towards the targets of its 'Vision 2030' development program, the Kenyan government is keen to tap any energy source available in the country. A coal mining concession awarded to a Chinese company is threatening the livelihoods of farmers and pastoralists in the Kitui County. Women especially are affected. The community speaks out to claim their rights to water, food and a clean environment.

The Kitui County is located in a semi-arid region of eastern Kenya. One million people live in an area just a little smaller than the Netherlands. Subsistence farming (maize, beans, sorghum, cassava) and livestock keeping are people's main economic activities. Due to the arid environment, large tracts of land are essential to support these livelihood systems. 63% of the population of Kitui lives in poverty.

In 2010, the Kenyan government awarded a mining concession to the Chinese company Jung'u and its subsidiary Fenxi Mining Industry Ltd to mine coal in the Mui Basin. Initially, the community welcomed the prospect of investment in their county, hoping it would bring employment and infrastructure. However, it soon became clear that the coal mining would lead to large-scale evictions. At least 100,000 people will be forced to leave their ancestral land. This knowledge has resulted in a state of



'arrested development': communities hold back on investing in their farms or have hurriedly sold their land to brokers.

The local communities claim that the decision to sanction their land was taken without their knowledge and neither were they involved in the negotiations for their resettlement or the compensation to be paid for their loss of land.

THE IMPACTS OF MINING ON WOMEN

The coal mining project will have a disproportionate impact on women. First, as the toxic waste from mining is likely to cause water pollution, women's health will be at risk from exposure to contaminated water. Women are the ones who collect water for household use, wash the family's clothes and utensils, and bathe the children. Second, if the

► open waters and shallow wells indeed get contaminated, and no alternative wells are drilled nearby, the women will be forced to walk long distances in search of safe water for their household, which disrupts and adds a burden to their daily activities. Third, the communities worry about the temporary laborers from outside the county that will come to work at the mining site. There is a fear that they will use their payments to tempt young girls from the community into prostitution, which will disrupt family life and values and bring sexually transmitted diseases. Lastly, the developments are likely to impact women more because traditionally they have much less control over land than men. Women enjoy user rights to the land in terms of cultivation, grazing, fetching firewood and water, but they are barred from effective participation in decision-making over developments that concern the land that belongs to their households and community.

RESPONSE BY THE COMMUNITY AND CIVIL SOCIETY

The coal mining in Mui Basin will cause extensive environmental degradation and disrupt people's traditional livelihoods. This is ironic given that Vision 2030, which motivates the government to give out mining concessions, is meant 'to transform Kenya into a newly industrialising, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment.' The communities in Kitui County are making their voices heard to denounce their government's decisions and behavior. With support from among others the Law Society of Kenya and the Institute for Law and Environmental Governance, community representatives have sued the government and in particular the Ministry of Energy, the Attorney General and Venxi (the mining company), highlighting:

- the violation of their right to information and to giving Free, Prior and Informed Consent
- the potential breach of article 40 of the Constitution of Kenya based on apprehension that the government will forcibly acquire private property
- the likely violation of the right to a clean and healthy environment as stipulated in articles 42 and 70 of the Constitution
- and the threat to health contrary to article 43 of the Constitution.

The case was filed in 2012 led by Makau Musyoka and other community members. They were joined by the Liaison Committee on 2014 and others, including KHRC and the Katiba Institute. In 2015, a ruling on this case was issued in October in favor of the government. Ruling nevertheless provided conditions to the County Government, the Liaison Committee and National Governments. The conditions provided for greater participation in consultation on all matters including compensation and demanded that both county and national governments to work closely with the community to ensure the issues raised are fully addressed.

The civil society organisations that are supporting the communities in Mui Basin are doing what they can to try and secure legitimate tenure rights of the communities to their ancestral lands to avoid forced evictions, and if this were to fail, to advocate for better compensation benefits and resettlement plans.

It seems clear, however, that for the moment the right to a Clean Environment and Water of the people affected by the mine are far from a reality. If Kenya wants to make the conventions it has signed up to have a positive impact on people's lives as well as make its Vision 2030 come true a lot more work is required in the future.

This case summary is developed as part of the Upholding Human Rights: Bridging the Gender-Environment Divide project by ActionAid Netherlands, ActionAid Kenya, ActionAid South Africa, Both ENDS Netherlands (Project Coordinator), Centre for International Environmental Law (CIEL) based in Washington DC and Geneva, and India-based organisations Dhaatri (Adivasi Resource Centre for Women and Children) and Keystone Foundation.

See also

www.bothends.org/HRG
en: www.bothends.org/Upholding-human-rights

For more information about this case visit ActionAid Kenya (www.actionaid.org/kenya) or contact Arelys de Yáñez (arelys.deyanez@actionaid.org).

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