



**TERMS OF REFERENCE: CONSULTANCY TO UNDERTAKE A REGIONAL STUDY ON BENEFIT SHARING AND ITS IMPLICATIONS FOR LAND RIGHTS AND HUMAN RIGHTS IN THE EXTRACTIVE SECTOR IN EAST AFRICA**

**1. BACKGROUND & PROBLEM STATEMENT**

The extractive sector in East Africa spanning oil, gas, and mineral resources holds immense potential to drive inclusive growth and sustainable development. Yet, in many resource-rich regions, local communities remain marginalized from the benefits of extraction, instead experiencing displacement, loss of land, environmental degradation, and inadequate compensation.

In Kenya and other East African countries, benefit-sharing frameworks are either underdeveloped or poorly implemented. Even where legislation provides for community shares of extractive revenues, actual disbursements are rare, delayed, or lack transparency. Free, Prior and Informed Consent (FPIC) a cornerstone of human rights in natural resource governance is often weakly enforced or entirely absent, greatly jeopardising the right to self-determination, right to development and right to sovereignty for affected communities. This excludes them from meaningful participation in decisions that profoundly impact their human rights. This exclusion denies communities meaningful participation in decisions that profoundly impact their land, livelihoods, environment, and overall human rights.

Land rights lie at the heart of these challenges. Extractive projects frequently take place on community or ancestral lands, yet tenure security, fair compensation, and just resettlement processes remain elusive. These realities raise urgent questions about whether African states and communities truly

own and control their natural resources, as guaranteed under Article 21 of the African Charter on Human and Peoples' Rights.

The Kenya Human Rights Commission (KHRC), through the project "*From the Ground: Realizing Rights by Mobilizing Fair Extractive Sector Revenues*", seeks to address these systemic gaps by promoting community agency, advancing fiscal justice, and ensuring equitable benefit sharing in the extractive sector.

This study will align with the Africa Mining Vision (AMV), which calls for transparent, equitable, and optimal exploitation of mineral resources, and with Agenda 2063, which envisions "a prosperous Africa based on inclusive growth and sustainable development." It will also contribute directly to the mandate of the African Commission on Human and Peoples' Rights (ACHPR) Working Group on Extractive Industries, Environment, and Human Rights Violations (WGEIHR), particularly Strategic Priority 2 (Knowledge Production & Normative Tools) and Strategic Priority 3 (Visibility & Stakeholder Engagement). Importantly, this study responds to recommendations from the ACHPR Special Rapporteur on Extractive Industries, who has underscored the need for comparative research on benefit sharing, land rights, and FPIC to strengthen accountability in Africa's extractive governance.

## **2. OBJECTIVES OF THE CONSULTANCY**

### **Overall Objective:**

To produce a rapid regional study that examines benefit sharing in the extractive sector in East Africa and analyses its implications for land rights and the realization of human rights, providing actionable recommendations for advocacy at the 89th Session of the ACHPR

### **Specific Objectives: -**

Map and analyse existing legal and policy frameworks on benefit sharing in Kenya, Uganda, Tanzania, Rwanda, and the Democratic Republic of Congo (DRC), and examine how these frameworks intersect with land tenure systems and human rights standards.

- i. Assess the extent to which benefit-sharing mechanisms contribute to or undermine the right to development at the community level, and the realization of economic, social, cultural, and environmental rights.
- ii. Identify gaps and challenges where weak or absent benefit-sharing mechanisms increase land rights violations, including displacement, tenure insecurity, and inadequate resettlement or compensation.

- iii. Examine how failures in benefit sharing affect the enforcement of Free, Prior and Informed Consent (FPIC), thereby limiting communities' participation in decisions that shape their livelihoods and environment.
- iv. Compare national benefit-sharing frameworks with regional and continental commitments such as the Africa Mining Vision (AMV), Agenda 2063, and the African Charter on Human and Peoples' Rights (Articles 21 & 24).
- v. Propose regional recommendations for strengthening benefit sharing as a pathway to safeguard land rights and advance the human rights of communities affected by extractive projects.

### **3. SCOPE OF WORK**

The consultant will undertake a regional study covering five East African countries: Kenya, Uganda, Tanzania, Rwanda, and the Democratic Republic of Congo (DRC). This geographical scope is intentional, as extractive sector governance challenges cut across borders, and there is a pressing need for comparative evidence to inform regional accountability mechanisms. The findings will not only guide advocacy within the African Commission on Human and Peoples' Rights (ACHPR) but will also provide a basis for strengthening regional and continental frameworks such as the Africa Mining Vision (AMV) and Agenda 2063.

Within this regional frame, the consultant will: -

- i. Conduct a targeted desk review of laws, policies, benefit-sharing and land governance frameworks, and FPIC provisions in the five focus countries.
- ii. Assess how benefit-sharing and land tenure arrangements align (or conflict) with human rights standards and continental commitments.
- iii. Utilize existing KHRC and partner field data on revenue flows, land disputes, resettlement cases, and community participation.
- iv. Conduct virtual key informant interviews with community leaders, land rights advocates, CSOs, government officials, and extractive industry actors (KHRC to facilitate contacts).
- v. Synthesize findings into actionable insights and regional recommendations for policy and practice reforms.
- vi. Integrate a strong human rights-based approach, emphasizing land rights, FPIC, gender equality, and environmental justice.
- vii. Prepare advocacy-ready outputs for the ACHPR 89th Session, contributing to WGEIHR's Strategic Priority 2 and 3.

## **4. JUSTIFICATION AND RATIONALE**

Extractive sector governance is not only a national issue but also a regional concern, as natural resources span borders, regional markets are interconnected, and lessons from one jurisdiction often shape reforms in another. By adopting a regional scope, this study will generate comparative evidence to:

- I. Identify common trends, challenges, and best practices across East Africa.
- II. Support regional advocacy initiatives led by civil society and networks such as KHRC and its partners.
- III. Contribute to regional accountability mechanisms, including ACHPR monitoring, AU institutions, and the EAC framework.
- IV. Amplify community voices in continental conversations on benefit sharing, land rights, and FPIC.

### **Limitations of the Study**

This study will be conducted primarily as a desktop and virtual review. While the consultant will draw on existing KHRC and partner field data, as well as virtual interviews, the absence of extensive new fieldwork may limit the depth of community-level perspectives captured. In addition, differences in data availability and legal transparency across countries, particularly in fragile or conflict-affected contexts, may affect the comprehensiveness of comparative analysis. The final report will clearly acknowledge these limitations, with recommendations for future in-depth, field-based research.

## **5. DELIVERABLES**

The consultant will be engaged for a total of **15 working days**. Given the urgency of preparing for the 89th Session of the ACHPR, all outputs must be completed within this period. Deliverables will be structured as follows: -

### **a. Inception Note (Day 5)**

A 5–7-page document outlining the consultant’s understanding of the assignment, proposed methodology, key research questions, work plan, and preliminary document list to review. This deliverable should be drafted to provide KHRC with a substantive initial output for ACHPR engagement, pending the final study.

**b. Draft Regional Study Report (Day 10)**

A maximum 30-page draft report synthesising desk review findings, virtual interviews, and case examples. The draft should analyse benefit-sharing frameworks in the five focus countries (Kenya, Uganda, Tanzania, Rwanda, and DRC) and show their implications for land rights and human rights. The draft will be shared with KHRC for review and feedback.

**c. Final Deliverables (Day 15)**

Final Regional Study Report (30 pages, revised to incorporate KHRC feedback, advocacy-ready).

**6. CONSULTANT PROFILE**

- ❖ Advanced degree in Law, Land Economics, Political Science, Development Studies, Human Rights, International Relations, Public Policy, or a related field
- ❖ A human rights expert with minimum of 7 years of demonstrable experience in land policy/governance, natural resource management and should be based in Kenya
- ❖ Knowledge of FPIC principles, AMV, Agenda 2063, and African Charter obligations.
- ❖ Proven record of producing analytical, advocacy-oriented research within tight deadlines.
- ❖ Experience working with East African CSOs, communities, and public institutions.
- ❖ Strong writing, synthesis, and presentation skills in English

**7. APPLICATION PROCESS**

Interested and qualified consultants are invited to submit an application comprising:- a technical proposal outlining their understanding of the assignment, proposed methodology, and workplan; a financial proposal presented as a separate document; an up-to-date CV of the lead consultant (and key team members, if applicable); and at least one sample of similar work undertaken. All applications should be submitted electronically to [consultancy@khrc.or.ke](mailto:consultancy@khrc.or.ke) with the subject line “*Consultancy to Undertake a Regional Study on Benefit Sharing and Its Implications for Land Rights and Human Rights in the Extractive Sector in East Africa*” by **24<sup>th</sup> SEPTEMBER 2025 MIDNIGHT**.