

S

The “S” in ESG: When Environmental and Governance Disputes Reach the Community

PEOPLE • COMMUNITY • HEALTH • EDUCATION • WATER • LIVELIHOODS

JOBS

HEALTH

EDUCATION

WATER

LIVELIHOODS

COMMUNITY

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PEOPLE AT THE CENTRE

The **social pillar of ESG is often the least understood and perhaps the hardest to measure**, because its subject is people rather than tonnes of emissions or board structures. “S” covers employees, health and safety, education, access to water, livelihoods, local businesses, inclusion, human rights, community participation and the way a business affects the people living around it. One might even argue that it is the most immediately human of the three pillars: environmental protection is concerned significantly with preserving natural resources for present and future generations; governance concerns how institutions are directed, controlled and held accountable; but social impact is experienced by people and communities in their daily lives. This is also where **double materiality** becomes useful. One lens asks how the institution affects people and the community — *impact materiality*. The other asks how those social relationships and impacts can, in turn, affect the institution itself — *financial materiality*, through disruption, litigation, reputation, loss of social licence or interruption of operations.

DOUBLE MATERIALITY — TWO DIRECTIONS	
IMPACT MATERIALITY How the institution affects people and the community.	FINANCIAL MATERIALITY How social relationships and impacts can, in turn, affect the institution.

A useful Kenyan illustration is **Tata Chemicals Magadi Limited**, a soda ash manufacturer operating at Lake Magadi in Kajiado County. In its **24 October 2025 judgment**, the Court of Appeal described Tata Chemicals Magadi as **Africa’s largest soda ash manufacturer and one of Kenya’s leading exporters**. The company’s mining rights at Lake Magadi trace back to a government lease dated 20 March 1928, demonstrating just how long the company and the surrounding community have existed alongside each other. It is this long relationship — between a major industrial operation and the people around it — that makes Tata Chemicals Magadi a particularly useful case study for understanding how the **E, S and G pillars of ESG interact in practice**.

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WHEN E AND G REACH S

The clearest example appears in the Environment and Land Court ruling of **30 January 2025**. The immediate dispute concerned Kajiado County’s attempt to close Tata’s operations while the parties were fighting over land

rates — apparently a governance, regulatory and fiscal issue. Yet Tata showed the court that the consequences of closure reached far beyond the company: its operations supported a school, a Level Four hospital, a dam and boreholes, bursaries, community projects and employment for more than 1,000 people. The judge was persuaded that these were not benefits that could simply be converted into a monetary figure. She specifically recognised that education and healthcare have an **intrinsic value**, safeguard basic human rights and, if interrupted, could cause profound consequences to the community that money could not adequately compensate. The Court of Appeal judgment of **24 October 2025** provides the longer history: it records that when Tata's operations had previously been closed on **11 January 2019** in enforcement of disputed rates and royalties, more than 1,000 employees and community amenities including water, schools and hospitals were affected. The lesson is striking: what begins as a dispute about rates, royalties or regulatory powers under **G** can end with the community carrying the consequences under **S**.

The same interaction can occur between **E and S**. In *Tirishe & others v Tata Chemicals Magadi*, the ruling of **26 March 2025** concerned the River Kisamis diversion project. The petitioners alleged failures relating to environmental approvals, public notice and hearings, and claimed that the diversion had caused flooding on land used by local communities for livestock pasture and affected rights to clean and safe water and a clean and healthy environment. These are allegations still requiring proof — the court was determining a preliminary objection, not Tata's ultimate liability. Significantly, however, the court held that the matters raised factual issues requiring evidence, described the claim as **multifaceted**, and directed that the petition proceed to full hearing. That case illustrates the point without prejudging its outcome: an environmental question about water and a river can quickly become a social question about grazing, livelihoods, access to water and community rights. Likewise, when mining operations were again suspended and the matter reached the High Court on **7 August 2026**, Tata said that both it and people directly and indirectly benefiting from its operations would suffer losses. This time, however, the court observed that the nature and extent of those adverse consequences had not been sufficiently demonstrated. That difference itself carries an important ESG lesson: **social value must not merely exist — it should be capable of being measured and demonstrated.**

30 JAN 2025 Social services recognised	26 MAR 2025 E + S community claims	24 OCT 2025 Earlier closure recorded	7 AUG 2026 Impact needed evidence
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Social value must not merely exist — it should be capable of being measured and demonstrated.

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MEASURE IT. KEEP IT CURRENT. MAKE IT VISIBLE.

The materials reviewed show that Tata Chemicals has documented a longstanding social contribution around its operations. Its 2021–22 Integrated Annual Report describes employees and communities as integral to organisational resilience and identifies livelihoods, health and wellness, education, drinking water and sanitation, social inclusion and capacity-building among the areas through which it seeks to create shared value. Earlier reporting contains Magadi-specific examples: the Magadi Soda Foundation had commenced a participatory process for setting community-development priorities; Magadi Hospital extended healthcare services to local people; and TCML reported scholarships for 224 university and secondary-school students. These disclosures are consistent with the evidence placed before the Environment and Land Court on **30 January 2025**, where Tata referred to a school, a Level Four hospital, a dam and boreholes, bursaries, community projects and employment of more than 1,000 people. The Court specifically recognised that services

such as education and healthcare carry an intrinsic value that goes beyond straightforward financial compensation.

There is, however, an important reporting lesson here for businesses generally. Social impact is most useful when it is **current, measurable and easy to locate**. Tata's FY2025–26 ESG Data Sheet provides current environmental indicators through FY2025–26, while several of the workforce indicators appearing in its social/HR section are expressly identified as relating to “**TCL India Standalone**.” This does not mean that Magadi's social contribution is absent or unreported elsewhere. Rather, for a reader specifically interested in Magadi, there would be value in having the Kenya-specific social information consolidated in one easily accessible place — for example, employment and local employment, healthcare beneficiaries, bursaries, water provision, community projects, local procurement and other measurable community outcomes.

This is particularly relevant as sustainability reporting becomes more rigorous. The practical lesson is not directed at Tata alone: businesses should increasingly be able to show, with current data, **who benefits, how they benefit and whether that impact is continuing over time**. In a place such as Magadi, where employment, healthcare, education, water and community programmes are closely connected with a major industrial operation, strong social reporting can make visible something that financial accounts alone cannot capture — the value created for the people and community surrounding the business.

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NEXT TO WATCH — LAMU

NEXT TO WATCH: LAMU | 2026 → 2027

WHO PARTICIPATES? • WHO BENEFITS? • HOW IS BENEFIT MEASURED? • WHAT CHANGES FOR THE COMMUNITY?

And perhaps the next Kenyan story to watch is the Dangote East Africa Petroleum Refinery in Lamu. The project, which broke ground on 30 September 2026, is expected to create significant employment and wider economic opportunities, while Dangote has also announced plans for an engineering training school to equip local people with relevant skills. At the same time, residents and local leaders have raised important questions about public participation, land rights and compensation, local livelihoods, and the extent to which jobs and business opportunities arising from the project will benefit people in Lamu. As the project develops, it will provide another practical opportunity to see the “S” in ESG at work: who participates, who benefits, how that benefit is measured and whether the surrounding community ultimately experiences the value anticipated from such a major investment. This question becomes even more relevant as Kenya moves into mandatory IFRS S1 and S2 sustainability reporting for Public Interest Entities from accounting periods beginning on or after 1 January 2027, placing greater emphasis on credible, measurable and decision-useful sustainability information. In the end, that may be the simplest test of the social pillar — not only what is written in a sustainability report, but what changes for the people living around the project.

