

CONFLICT, SECURITY AND THE EXTRACTIVE INDUSTRIES IN TURKANA, KENYA

Emerging Issues 2012-2015



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About the Organizations



United States International University-Africa (USIU-Africa) is located in the Kasarani area, off Thika Road in the suburb of Kenya's capital city of Nairobi. The university is an independent, not-for-profit institution having around 6000 students from all over the world, from undergraduate to PhD level.



Kenya School of Government (KSG) formerly Kenya School of Administration combined together with other government training institutes is Kenya's senior-most institution training policy makers in the country. The Kenya Vision 2030 provides for the establishment of the Kenya School of Government (KSG) as one of the flagship projects to build competences for Government, develop and grow leadership in public service for improved performance in all aspects of service delivery. KSG is responsible for capacity building towards successful devolution in line with the 2010 Constitution of Kenya.

USIU-Africa and Kenya School of Government have partnered together since 2011 in running the Crime and Violence Prevention Training which has now completed 4 phases and devolved to the county level, training county level stakeholders from Vihiga and Nakuru. USIU and KSG, with the support of OSIEA and the World Bank Institute have also been involved in bringing county governors and national government administrators together in a meeting in May 2014 (at Enashipai Lodge, Naivasha), to discuss the implications of devolution on security dynamics and management.

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Executive Summary

The year 2012 marked the announcement of commercially viable quantities of oil in Turkana, Kenya, bringing excitement to Kenyans with the hope of better livelihoods as a result of revenue and employment. The state has positioned the sector to generate much needed revenue by overtly encouraging foreign direct investment. The emerging oil and gas sector together with a fast growing mining sector is anticipated to boost the Kenyan economy and help enable Kenya to realize its ambition to become a middle income country by 2030 (Vision 2030).

Africa has become strategic for the emerging and great powers mainly due to its natural resources. However, as experience from other resource rich countries such as Nigeria, Angola and DRC shows, mineral wealth may lead to a variety of impacts for countries, at national and local levels, which are to a greater extent negative. Mineral wealth often fails to translate into a reduction in poverty which is linked in part to weak institutions. Moreover, the oil industry has not been able to create many jobs as it is highly mechanized. Environmental and social impacts are often negative or even fatal. Mineral wealth can hurt the poor in several ways: by causing economic volatility; by crowding out the manufacturing and agriculture sectors; by heightening inequality; by inducing violent conflict; and by undermining democracy (since the government no longer requires taxes from the people for revenue there are no incentives to improve governance and services). This work considers the potential for violent conflict and insecurity in Turkana in relation to the extractive industry.

Turkana is a vast arid and semi-arid remote county in Kenya's north-west, bordering Uganda, South Sudan and Ethiopia and is home to just under a million Turkana pastoralist people and their livestock. The county is one of the least developed in Kenya, and suffers severe and frequent droughts. Mobility across international borders occurs as a mechanism of adaptation to climatic variability, and intercommunal conflict over water and pasture resources, together with reciprocal livestock raiding is common. Turkana pastoralists are heavily armed, owing to a thriving arms trade in the county across international borders from countries in past or present civil war. The county may be viewed as having several 'layers' of conflict or tension, from existing intercommunal conflicts, which may be commercialized or politicized, to confrontations with the state such as have occurred many times in the past and again in Kapedo in 2014, to new tensions between indigenous communities and refugees, and the subject of this work, the extractive industry.

Key Findings

Current Oil Activities

The main players in Turkana at present are Tullow PLC/Africa Oil and CEPSA. Tullow/Africa Oil have 10BA (northeast Turkana) in which exploration has currently stalled, and 10BB/13T (south Turkana) in which extraction is planned for 2017-2018. CEPSA has block 11A, where it has completed the seismic survey and plans exploratory drilling towards the latter part of 2015. A planned oil pipeline and road network known as the LAPSSET corridor will traverse Turkana and link Kenya's coast with South Sudan, Ethiopia and Uganda, connecting it with a port at Lamu, Kenya which is already under construction.

Community Impacts

Turkana is almost all communal land held in trust by the county for pastoralist communities, but the majority has been allocated as oil blocks in agreements with investors. Investment or oil installations can displace pastoralists from important grazing sites and migratory routes. During exploration, around 13 acres of land is fenced for each well. This results in real livelihood difficulties and also high levels of anxiety. It is uncertain how much land will ultimately be inaccessible to pastoralists. Communities may also be displaced from water sources, although 6 boreholes and some water tanks have been provided to communities in various parts of the county. Communities also fear environmental impacts, a valid concern given the devastating environmental impact that the oil industry has had in other parts of the world, such as the Niger Delta. Environmental impact assessments are long and complex, difficult to access and have not been made available to communities in a popular format.

The greatest cause of tension between communities and investors has been the issue of tenders and jobs, particularly where sub-contractors are concerned. Statistics provided by Tullow give a figure of around half of employees coming from Turkana, this half comprising all the unskilled posts and some semi-skilled posts. Turkana communities however, have had high expectations and say that they are being left out of opportunities that should belong to them and have requested assistance with training to meet the requirements. Unsustainability of employment together with insufficient explanation, have inflamed tensions further. In some parts of the county elites have been able to control community-company relations and mastermind the distribution of opportunities such as driving tenders to those well connected, leading to increased tensions and also inter-clan conflict, while in other parts, the community has created more representative structures through which jobs are distributed more fairly.

Socioeconomic changes are both positive and negative. Land leasing prices and hotel room prices have risen rapidly, putting them out of reach of local people, although this change is now slowing down. Several title deeds have been issued in a non-transparent manner. The demand for meat has risen, boosting some pastoralists' income, while others are abandoning pastoral livelihoods, or leaving school in the hope of new opportunities, which may subsequently not be sustained. Cultural changes are noted, such as the increase of the cash economy as opposed to the cattle economy, increased alcohol consumption, and men and women staying away from their homes to work in oil camps, which may bring new patterns of sexual networking.

Borders, Politics and the Extractive Industry

Job opportunities in the industry have fuelled inter-clan conflict within Turkana, particularly when local politicians or elites become involved in securing opportunities for their own. On a national and regional level, oil and gas have inflamed existing cross-border intercommunal rivalries and border disputes between Turkana and Toposa on Kenya-South Sudan border and the internal Turkana-Pokot border. The Turkana-Toposa conflict is a perennial source of troublesome low level insecurity while the Turkana-Pokot conflict has become increasingly deadly in recent years with several sieges of villages, burning of houses and high levels of intercommunal banditry making roads leading to extractive installations extremely insecure. Oil and gas are said to be factors in the aggression, while political incitement is taking place and is likely to increase as the 2017 elections approach. The Turkana-Dassenech conflict is also relevant, being focussed around the same part of the border and lake as oil blocks 11B and 10BA in the northeast. The presence of Kakuma refugee camp in Northern Turkana, and the plans for a second camp nearby in Kalobei is relevant as another source

of potential insecurity and competition for land with the Turkana.

Legal, Policy and Governance Issues

Most relevant legislation pursuant to the constitution of 2010 is still in parliament. Therefore policy is also lacking on the extractive sector, leading to legal loopholes, confusion amongst administrators and an ill-informed population. The most important legal documents are the Petroleum Bill 2015, which contains provisions for community rights to information/education and compensation for displacement/lost source of revenue and environmental damage. A revenue sharing formula of 20% to the county and 5% to locals is also contained within the Bill and would require a watertight policy to ensure that the benefits reach local people as intended. A constitutional requirement for affirmative action to offer jobs and opportunities to marginalized peoples is not reflected in the Bill.

The Land Act of 2012 provides for the designation of community land such as that owned collectively by pastoralists, which is to be held in trust by the county. The Community Land Bill (2015) provides detailed and complex steps for communities to register in order to secure their interests. This however, may be out of reach for many illiterate communities, or may benefit well connected elites from the communities. According to the Land Act, land may be forcibly acquired 'in accordance with the law, for a public purpose, and upon prompt payment of just compensation to the person or persons, in full', terms which are rather vague and may be easily interpreted to suit interests of the national government and investors. Compensation is not covered in any greater detail in the Community Land Bill, raising the question as to who should be compensated.

Oil has come at the same time as devolution in Kenya, giving newly created counties a massive challenge in terms of planning and administration. Turkana County is attempting to catch up from a situation whereby its predecessor was excluded from investment decisions. It has now created a Ministry of Environment and Energy and is in the process of mapping resources and issues. Turning parts of Turkana into conservancies has been suggested, but further progress has been halted by the Turkana County Assembly due to uncertainties. Community participation has not been adequate and the details of the proposal, particularly land access, are unclear.

New Challenges for Security Provision

Since 2012 to April 2015 a total of 14 demonstrations, road blockages and attacks have been witnessed in Lokichar town according to the area police records. In October 2013 violent attacks on the company's site forced them to suspend operations for 3 weeks and evacuate her non- local staff. Demonstrations have also taken place in block 10BA in Lowerengak in the first quarter of 2015, related to delayed payments by subcontractors. A complete road block lasted for 4 days.

National Police Reservists (NPRs) and Administration Police have been deployed to provide security around oil sites. This arrangement is leaving communities vulnerable and contributing to the increased insecurity on the Turkana-Pokot border. NPRs serve for only 1-2 months before being replaced, leading to livelihood difficulties and possibly banditry incidences (by the same). The arrangement may also bring conflicts of interest for state security. The NPR, a volunteer community based force, whose role is to travel with and protect their own communities, faces other challenges. There is a lack of oversight, training and professionalism, leading to misuse of state weapons. Livelihood crises lead to banditry and metamorphosis into other directions that provide a monetary income (private security work). They are also vulnerable to recruitment by politicians. However, the force is also the first line in responding to threats and conflicts, and provides vital local knowledge and a courageous defence. Lastly proper procedure is not always being followed by investors in making arrangements with state security.

Other security issues noted include the plan to create conservancies in the south of the county. It is not clear at present whether these will be armed, as in other parts of Kenya, where concerns exist about the exacerbation of localised arms races. Whilst disarmament is being attempted in the south, this is likely to be strongly resisted unless impartial state security is provided to communities, establishing trust. Lessons may be taken from Uganda where disarmament of pastoralists in the northeast has been matched by ongoing security presence to protect against cross-border armed incursions by other groups.

Key Recommendations

Closure of the legal and policy gap:

- It is urgent to pass bills which have stalled in parliament and create policy to govern the extractive sector and protect the rights of indigenous communities. These should reflect the constitutional principle of affirmative action for marginalized groups.
- There is a need for civil society to assist understanding of the law by administrators, security heads and local people and to provide technical assistance for policy development at the county level.
- County and national government need to drive the development of the sector, rather than this being done by the investor

Institutional framework:

- Strong well governed institutions are a pre-requisite for avoiding conflict over resource, which is most important when revenues start to flow.
- A clear coordination framework that includes all the actors is important to reduce tension and suspicion. This should be produced and disseminated to all stakeholders within and outside the state.
- Management of strategic resources in Kenya is vital. An independent, politically neutral agency is required to manage strategic resources and ensure that Kenya does not find itself in a resource curse. This should be led by someone who understands the ground and the changing dynamics, has skills in peacebuilding, management and security and experience with local communities in Kenya. Their decisions are critical to bringing peace or conflict. Vetting of the individual will require a new approach with an emphasis on management of strategic resources and institutions.
- Formal channels of engagement should be respected and records kept of all communications.

Local benefits:

- The government of Kenya and the county have a responsibility to ensure that revenues benefit the marginalized people of Turkana.
- The role of the county is crucial in the issue of local benefit by the oil industry, given that they are custodians of the community land.
- Civil society needs training in skills specific to the extractive industry. Civil society have a role in advising people on maintaining fallback mechanisms for livelihood (pastoralism), school attendance and the dangers of alcohol abuse and sexual networking amongst other new risks for Turkana.
- Local procurement should be emphasized and assisted and the county should, possibly in partnership with civil society and investors, train local people to make them employable (including advanced driving skills, hospitality and oil industry specialist jobs, construction, mechanics etc.) The county should look towards training its own and ending reliance upon ex-patriate skills (The former Diocese of Lodwar technical school could be revived).
- Companies should be careful to ensure that their sub-contractors honour the MOUs made with locals.

Communication, participation and civic education:

- Effective communication along with transparency and accessible information through a variety of media (possibly a roadshow format) can bring mutual respect and trust to avert conflict.
- Civil society can conduct civic education and assist communities to engage effectively with investors, translate legal documents such as EIAs and assist in creating professional MOUs which can assist to define responsibilities of sub-contractors.

Valuing pastoralism as an economic activity:

- Pastoralism should be supported as livelihood which will buffer the communities against changes in the county and avoid destitution.
- A legal framework and mechanisms for collective compensation should have been developed and are urgently needed.
- The county could invest in veterinary services with mobile clinics, abattoirs, cattle transportation and markets, introduction of better varieties of animals and secure water sources such as water

pans and water catchments.

- The national government and county should work together to reserve sufficient land for pastoralism. Maps of migratory routes and traditional grazing grounds should be available to policy makers and should be protected by law. This will need to consider the Turkana currently in Uganda (100,000 animals)
- The notion of conservancies requires detailed thinking, particularly when considering the use of armed scouts as this could inflame conflict, and issues of land access which impacts on livelihood must be clear. Full participation of community members is essential and there must be no restriction of movement for pastoralists. The Community Land Bill allows pastoralists to collectively register their land which may be preferable to the vague legal designation of conservancies.

Security for all:

- The deployment of many security personnel to guard oil sites needs to be reconsidered.
- A holistic strategy involving short and long term goals, and in partnership with other stakeholders is required. A peace ambassador and a County Policing Authority may assist in a more tailored approach to security management in Turkana
- It is clear that police need to be better resourced and supported, and that chains of command need to be clarified. From a security angle, Turkana would be less marginalized if all officers serve a term in arid areas in order to understand the challenges.
- The role and compensation of NPRs is an ongoing dilemma which requires resolution. Any decisions need to look to the future development of Turkana and the change from cattle to a cash economy.
- Increasing other private security providers (who unlike the KPR are not legally allowed to carry arms) will also complicate the current situation and is not recommended.
- The conservancy model is essentially a model to protect wildlife and not a security model. Importantly it is not a substitute for effective state security and could exacerbate local arms races in the county.
- Disarmament is likely to have limited effect in the absence of security provision; therefore community needs must be safeguarded first. Tight border security on the South Sudan and Ethiopia borders would assist here. Some lessons could be learned from the original vision of the Civil-Military Operations Centres (CMOCs) in Karamoja in bringing communities and state security together.

Capacity building for administrators:

- Administrators need to be aware of the opportunities, pitfalls, and complex legal and policy aspects of the extractive sector
- The extractive industry could be an aspect of training for all senior government officials at Kenya School of Government and for senior security officers from the National Security Intelligence Service (NSIS) and the police.
- In-house training of administrators is a potential area for donor support.

Averting and diffusing conflict:

- It is critical that the government equips its local administrators to take a conflict sensitive approach, which includes consultation and listening to local communities in keeping with the constitution.
- Elected officials and other community leaders must ensure that they are well informed and provide balanced information to those they represent.
- Civil society has an important role in education, advocacy, mediation and technical assistance to communities. Development partners may have a particular role in supporting initiatives to promote transparency, accountability and conflict sensitivity.
- Peacebuilding on the cross border areas should continue, with support for organization of meetings to break down suspicion. At the local level, local leadership can be brought together across international borders (particularly south Sudan-Kenya).

Introduction

The British oil company Tullow PLC announced the first discovery of oil in Turkana, Kenya in March, 2012. The company has since struck oil deposits in three of the four wells it has drilled, revealing vast reserves, valued at an estimated \$600 million (Tullow, 2014b). Other parts of Kenya also hold promising quantities of oil while deposits of natural gas in the Lamu basin have also been encountered by Pan-Continental Oil and Gas on a block it operates jointly with other oil companies.¹ Kenya's find joins recent discoveries in Ghana, Uganda, Mozambique, Tanzania, Putland in Somalia, and Madagascar. Together with recent finds of niobium, coal and titanium in Kwale and Taita Taveta counties, the oil discovery has brought excitement to Kenyans with the hope of better livelihoods as a result of revenue earned and employment. The state has positioned the sector to generate much needed revenue by overtly encouraging foreign direct investment. The emerging oil and gas sector together with a fast growing mining sector is anticipated to boost the Kenyan economy and help enable Kenya to realize its ambition to become a middle income country by 2030 (Vision 2030).

As experience from other resource rich countries such as Nigeria, Angola and DRC shows, however, mineral wealth may lead to a variety of often negative impacts, at national and local levels. Mineral wealth often fails to translate into a reduction in poverty (Davis and Tilton, 2005) with institutional strength or weakness playing an important role in the ability of countries to translate their resource wealth into economic growth (Mehlum et al, 2006). Moreover, the oil industry has not been able to create many jobs as it is highly mechanized. Environmental and social impacts are often negative or even fatal. There are concerns that benefits from resources may not reach Kenyans due to international trade agreements that work in favour of developed nations and to Kenya's own weak regulatory structure, making it vulnerable to exploitation and corruption both from the angle of tendering and revenue distribution.²

This paper explores the potential in Turkana for negative and positive impacts of the oil find with the aim of guiding the evolving sector in the right direction, remembering the old adage that 'failing to plan is planning to fail'. The genesis of this research was a study on the Kenya Police Reserve Force in peripheral parts of Kenya, including Turkana (Mkutu and Wandera, 2013).

¹ Omondi, G. (2013) 'Acquisition and merger deals sweep Kenya oil industry', The East African, 3 August, <http://www.theeastafrican.co.ke/news/Acquisition+and+merger+deals+sweep+Kenya+oil+industry+/-/2558/1935768/-/item/3/-/dou5ujz/-/index.html>

² Devarajan, Shanta (2011)

<http://www.theguardian.com/global-development/poverty-matters/2011/jun/29/africa-extracting-benefits-from-natural-resources>



At this time the researchers repeatedly encountered the issue of oil as a factor in the security of local communities. As a new and potentially key factor it was decided that additional research into the issue of oil was necessary. The authors conducted a wide ranging literature review, and interviewed a variety of stakeholders, including government, civil society and community members between February and May 2013 to identify existing and potential impacts of oil exploration on the local community in Turkana, with a special focus on issues of security and safety.³ In February, 2014, a stakeholder meeting was held in Lodwar which brought the county and community together to share the findings.⁴ This informed a further research in early 2015 to update the previous findings, given the speed of developments in the extractive industry in Turkana, and the evolving inter-communal conflicts in the county.

³ See Mkutu et al, 2013

⁴ Seminar on current and future potential impacts of oil development on conflict and security in Turkana, held at St Teresa Pastoral Centre in Lodwar, 27 March 2014, hosted by DDG/USIU/KSG

Background

Positive and Negative Potential of Mineral Wealth

The growth of the 'Asian tigers' (Hong Kong, Singapore, Taiwan and South Korea) in the last 4 decades and the current growth of China and India have resulted in the demand for raw materials, which is increasingly resulting in what Carmody (2011) has termed as 'the new scramble for Africa.' The European Union Commissioner for Development noted that 'there is no denying that Africa has become a sought-after continent in a short space of time, thanks to its strategic importance'. Today, Africa really matters,⁵ and has become strategic for the emerging and great powers mainly due to its natural resources.

Despite Africa's abundant resources, few African countries have done well and most have not translated the wealth into increased rates of development. This is a similar picture to that of Latin America and Asia. Gylfason (2001) argues that out of 65 resource-dependent developing countries, only four were able to generate long term investments of more than 25% cent GDP and an average of GDP growth of more than 4%.⁶ Bevan et al (1999) and Fosu (2011) note the poor performance of rich resource nations like Nigeria and DRC and compare them with the successful case of Botswana (below). While oil and gas and other extractive industries have significant growth potential, in most cases, resource producers have become worse off than those without significant natural resources. These realities have generated much academic attention surrounding 'the resource curse hypothesis' which attempts to explain this apparent contradiction (Sacks and Warner, 1995). In the Netherlands and its coastal waters, 'the Dutch Disease' is the term given to the economic, social and political problems flowing from the discovery of oil and natural gas. This was mainly related to the tendency to push up the value of the national currency with serious results. This push makes the manufacturing industry uncompetitive on the world market (Rowthorn and Wells, 1987; van de Ploeg, 2011: 370-71). By contrast, Botswana's government achieved long term sustained economic growth as a result of its diamond and other mineral reserves through its ability to avoid the common problems associated with export booms and the adoption of sound economic policies. Its main objectives were to avoid external debt, stabilize growth and to encourage economic diversification (Sarraf and Jiwaji, 2001). Ross (2003) notes that mineral wealth can particularly hurt the poor through economic volatility as noted and also by crowding out the manufacturing and agriculture sectors; by heightening

⁵ European Commissioner for Development, quoted in Holden, 2009:128

⁶ These were Botswana, Indonesia, Malaysia and Thailand



inequality; by inducing violent conflict; and by undermining democracy (since the government no longer requires taxes from the people for revenue there are no incentives to improve governance and services).

The phenomenon of resource wealth as a cause of internal conflict was brought to global attention by the film 'Blood Diamonds' in Liberia and is acknowledged in the World Development Report 2011 (World Bank, 2011).⁷ Ross (2012) notes that from 1960-2006 countries with oil faced a 3.9% annual risk of conflict compared to 2.8% risk for those without. Collier and Hoeffler (2002; 2004) commenting on quantitative literature see the 'greed' hypothesis as being the best explanation for this phenomenon, i.e. the stakes are raised for control of available wealth. 'Lootability' of resources (Snyder, 2005), resources as funding mobilization of armed forces (Collier and Hoeffler, 2004), and the role of grievance (which may be enhanced by resource wealth) in conflict (Gurr, 1970) are other important theories in the growing literature on the subject. Once established, MacKay (2012:8) notes, 'Such conflicts have a disastrous impact on development' and 'Administrative capacity is reduced along with expenditures for productive and social sectors'. Fukuda-Parr (2010) concurs that civil war hampers development, reducing GDP and government revenues.

In the Republic of South Sudan oil production in 2014 amounted to 99% of exports, 95% of government revenue and about one half of GDP (Mugisha and Nkamlue, 2015) During the oil wars from the 1990s to 2003, huge numbers of people were violently displaced from their villages in the oil regions by force and oil revenues were directly invested to wage war. Under the Khartoum government, no comprehensive social and environmental policies or laws were in place and no serious environmental impact assessments (EIAs) were carried out, the goal being to get the oil as quickly as possible. After the Comprehensive Peace Accord (CPA) in 2005, impacts were less detrimental but very little in the way of a sustainable positive effect was realized; local communities in the oil areas claim that they have not seen any benefit from the 2% state share in oil revenues. Furthermore, no in-depth environmental studies have yet been published, with some of the communities claiming that their livestock have become ill, and even that people have died from drinking polluted water. Since gaining independence in 2011, South Sudan has experienced the second highest rate of oil related conflicts. It consists of battles between the government and rebel forces, largely within the oil rich Unity State. Sudan too has been involved in similar conflicts in the oil-rich contested region of Abyei (Kishi, 2014).

Recently Madagascar's mining sector has expanded from artisanal exploitation of sapphire, ruby, aquamarines, tourmaline, topaz, amethyst and emerald to the influx of industrial mining giants. 6,000 hectares of coastal forest is expected to go and the construction of the Ehoala Port by the mining companies has led to the displacement of hundreds of traditional fishermen from their productive and safe fishing bay. Small scale miners are inadequately recognized in decision making, as is said 'If you're not at the table you're on the menu'. Oil is a new discovery and about 15 companies operate today in 24 exploration concessions, 18 off which are onshore and 6 offshore. Petroleum laws cater for the investor but fail to provide for social benefits and interests. Another major problem in Madagascar is the lack of information accessible to the local population (Association IRESA, 2012).

Nigeria receives over 90% of its income from oil, that is around 231 billion USD in profits from 1970-1999 but this has failed to have any impact on poverty (Ross, 2003). Despite exporting huge volumes of oil, it is well known that Nigeria still imports gasoline, which remains expensive with constant shortages. An Amnesty International Report (2009) indicated that 70 percent of the Delta states population live in extreme poverty. It notes the serious problems, economic, social and environmental of the oil industry, such as regular oil spills which have destroyed local farming and fishing activities, the practice of gas flaring, loss of property, inflation, the breakdown of the regions' social fabric and company community tensions. In such situations the government tends to protect the interests of the investor and brutally repress civilian protests (Baumuller et al, 2011). There have been cases of civilians being attacked and oil workers being kidnapped or held hostage (Kishi, 2014). Lastly, early in 2013, Mtwara in Tanzania made headline news as the community protested violently over a proposed pipeline to take gas to Dar es Salaam for processing and sale rather than the building of a

⁷ See also Jean and Rufin, 1996; Collier and Hoeffler, 2002a; 2004; Tshirgi, Lund and Mancini, 2010 ; Brainard and Chollet, 2007

plant in Mtwara.⁸ The protests resulted in bloodshed and large losses of property due to vandalism amounting to around a million US dollars.

Turkana

Turkana is Kenya's second largest county with an area of 77,000 square kilometres, situated in North West Kenya, bordering Uganda, Southern Sudan and Ethiopia. It has a desert to arid/semi-arid climate and fragile ecosystem best suited to pastoralism. Most of the population are pastoralist Turkana, who are closely related to the Jie and Karamojong of Uganda who number around 900,000 (GOK, 2011) and are widely dispersed and mobile according to the seasonal availability of grazing grounds and water sources. Turkana value livestock, especially, although camels and goats are more suited to the environment. Property is synonymous with stock. There is also seasonal movement of various pastoral groups with their livestock across local and international borders. Droughts have ensured that many Turkana have migrated into Uganda since 2006, with most not yet returning home. Further, droughts combined with policy failures made the Turkana perennially dependent upon relief food since colonial times. A large number of humanitarian organizations are active in the county though this has had little impact upon poverty. In a recent government survey, Turkana ranked the poorest county with 94.3 percent of the people living in poverty.⁹ Both colonial and postcolonial governments have marginalized Turkana, and pastoralist issues are not adequately articulated in national strategy. The civil society presence in Turkana is quite strong but mainly focussed on humanitarian issues and drought. The discovery of oil is a new dimension in which few are experienced.

Existing and potential oil reserves are largely across the northern and eastern parts of Kenya as well as of the Kenyan coasts. Some of these areas, like Turkana, are among the poorest, least developed and most marginalized. From a security angle, providing for difficult and scarcely populated areas has generally been low on the national government and security entities list of multiple competing priorities (Mkutu, 2008, Mkutu and Wandera, 2013, Wepundi et al, 2012). Police presence is low and Turkana relies to a greater extent on National Police Reservists (NPRs, previously known as NPRs), who are community volunteers armed by the state to protect their own localities. Local communities also rely on their own illegally armed community members. After one large raid of 700 cattle, only 30 km from the oil exploration sites in Lokichar, in which 12 people died, locals complained that formal security providers were not reachable; a local counsellor noted that he took the authority in his own hands to mobilize community members to follow the raiders and try to recover the animals.¹⁰ Community members said 'We are the security of Kenya on the borders. If we were not armed and responsive, Kenya could be in trouble.'¹¹ Some locals believed that raids are sometimes deliberately ignored because formal security providers are profiting from the raids.¹² Formal security personnel said that even where the security presence is high (such as where the General Service Unit is located), it does not prevent raids from taking place. This was attributed to lack of equipment and manpower and an expansive area to cover.¹³

The gun is inextricably linked with survival and even livelihood and is held by an estimated 1 in 3 Turkana men.¹⁴ There is a thriving arms trade with sources in Ethiopia, Somalia, Uganda, Southern Sudan and Kenya itself, civil wars and unrest have contributed to their proliferation. Communities have historical grievances against the state and a weaker sense of national identity than is the case in more central parts of Kenya (Mkutu, 2008), and have strongly resisted the heavy handed disarmament attempts by the government; large scale efforts known as Dumisha Amani I in 2003, and II in 2010 in pastoral areas of Kenya were strongly resisted and met with heavy criticism from the church and MPs regarding human rights abuses (Muhereza et al, 2011).

⁸ Mgamba, R. (2013) Paper presented at 'Africa Wide Convening on Governance of Oil and the Extractive sector: Experiences and lessons for Kenya'. 30 January-2 February 2013, Naivasha, Kenya. Organized by ILEG and OSIEA: See also <http://www.thecitizen.co.tz/News/-/1840392/1860180/-/ewg3dez/-/index.html>; <http://www.thecitizen.co.tz/News/Why-Mtwara--violence-is-beyond-gas-pipeline/-/1840392/1861170/-/ctbqen/-/index.html>.

⁹ Omari, (2011) 'Named: Kenya's richest and poorest counties' Daily Nation (Nairobi) 17 December; This definition of poverty relates to a cash economy. Many Turkana are rich in cattle.

¹⁰ Interview, local councillor, Lodwar, January 2013

¹¹ Interview, local community members, names withheld, Turkana, February, 2013

¹² Interview, local community members, names withheld, Turkana, February, 2013

¹³ Interviews, security in central and south sub-counties, February, 2013

¹⁴ Interviews, see Mkutu and Wandera, 2013

Violent intercommunal conflict over water, pasture and livestock resources affects Turkana's international and internal borders. In the north, conflict between the Dassenech/Merille from Ethiopia (and also from Ilerat in Marsabit, Kenya) focuses around both raiding of livestock and fishing conflicts on Lake Turkana. The Todenyang massacre of 2011, in which 40 or more Turkana were killed as they passed into Ethiopia to trade is the most memorable incident, but several killings and revenge attacks have occurred since that time. Notably, the Dassenech are under severe pressure from the construction of a dam and agricultural projects by foreign investors; the same dam is likely to affect the Turkana lake dwellers also. The Nyangatom (South Sudan and Ethiopia), the Toposa (South Sudan) and the Dodoth (South Sudan and Uganda) are other rivals of the Turkana in the north. Armed raids between Turkana and Toposa are frequent; every 1-2 weeks there is an incident, which may result in deaths and injuries.¹⁵ The Toposa have received modern arms from the SPLA and South Sudan government both pre- and post-secession respectively (Mkutu et al., 2015) and have also bought arms from Dinka traders.¹⁶ The civil war in South Sudan since December 2013 is an important exacerbating factor in the cross-border insecurity. Turkana's border with Uganda is largely peaceful, owing in part to peace agreements at the community level, and to a forceful disarmament strategy from 2004-2010 along with an ongoing heavy security presence along the Kenya-Uganda border (Mkutu, 2007; 2010; Mkutu et al., 2015). There continues to be ongoing reciprocal raiding between Turkana and Dodoth however, who were not disarmed.

In the south, cross-border conflict between the Pokot and Turkana is severe and an almost daily occurrence taking the forms of raiding and road banditry, besieging and burning villages (which are uncommon forms of intercommunal conflict) and killings amounting to an average of 12 per month in the first quarter of 2015 (Mkutu et al., 2015). Particular incidences include the killings of 21 police officers by bandits in Kapedo in November 2014, and a revenge attack by the Turkana on the Pokot in May 2015 in which an estimated 92 people died.¹⁷ One count revealed that over a 3 and half month period from January 2015, in southeast and south Turkana (including Loima sub-county) there were at least 30 security incidences, including raids, ambushes and banditry, in which at least 37 people died and over 11,000 animals (mostly sheep and goats) were raided. Only around a quarter of the animals were recovered.¹⁸ In February 2015, following a raid in Kapedo in which 2 people were killed, it was noted that despite a security presence in the area to enforce disarmament (2 armed trucks were noted to be collecting weapons in the area), police did not respond. 'The role of the government is diminished as the police only go to collect dead bodies instead of peace enforcement.'¹⁹ It is commonly stated that politicians are inciting and financing aggression, 'If one moves closer to the ground people tell how politicians fuel problems and fund through money and ammunition.'²⁰ A security officer and an administrator both commented that the Pokot are a well-organized fighting force.²¹ The dilapidated state of the roads is both an opportunity for bandits to ambush slowing vehicles, and a contributor to the lack of police response.

Figure 1 gives an indication of the severity of conflicts on Turkana's international borders. However, the numbers are likely to under-represent the true picture due to remoteness and poor communications.

	Incidences	Deaths	Injuries	Livestock lost	Comments
Turkana-South Sudan border	21	4	7	1586	Toposa or Dodoth
Turkana-Uganda border	13	2	1	325	Dodoth

Figure 1: Attacks on Turkana near Border Areas: Incidences in the first 3 months of 2015²²

In Baringo, which neighbours Turkana, schools have been closed in 2015 due to raiding. Boys as young as 12 are being recruited as armed fighters, as noted by County Commissioner for Baringo.

¹⁵ Civil society documentation, quoted in Mkutu et al., 2015

¹⁶ Interview with peace worker from South Sudan, KSG, Nairobi, March 2015; concurred by Eulenberger, 2005

¹⁷ Ndanyi, M (2015) 'Kenya: 92 Feared Dead in Turkana, Pokot Fighting in Baringo' The Star, 6 May, <http://allafrica.com/stories/201505060130.html>

¹⁸ Cross-border peace program for Diocese of Lodwar,

¹⁹ Interview, peace worker in south Turkana, Lokichar, 12 February, 2015

²⁰ Interview, peace worker in south Turkana, Lokichar, 12 February, 2015

²¹ Interviews January-April 2015 Turkana

²² Compiled by Diocese of Lodwar, Turkana, April 2015

Politicians and elites are involved in this recruitment, which is believed by some to be a tactic to scare people off their land which is then annexed.²³ An intelligence officer with experience in the region noted regarding the Turkana-Pokot-Baringo border ‘The area has arable land, irrigation schemes, the Turkwell river, thus water for animals; there is oil and a natural game reserve.’²⁴ He went on to note that conflict in the area is increasingly centring on the resources mentioned rather than cattle raiding.

Thus conflict in Turkana may be seen as having a number of new layers, superimposed upon old ones (figure 2). The political context is also important in bringing new sources of conflict; in addition to the challenge of an emerging extractive industry, Kenya has recently (since 2013) been enacting a devolved system of government as laid out in the new 2010 Constitution of Kenya. 47 Counties are now under the leadership of County Governments, headed by governors responsible for distribution of resources and provision of many services therein. While security remains the mandate of the national government, county governments have an indirect but nonetheless vital role in security through development and participation amongst other areas. National government representatives (known as the National Government Administration Office) retain a presence in counties, overseeing national government functions in a structure remodelled from the former provincial administration. It is hoped that devolution of both power and resources will assist to rectify current inequalities and marginalization of peripheral parts of Kenya, however there is early evidence of some power struggles, ethnic tensions, accusations of corruption and other teething problems for new county governments (Mkutu et al. 2014).

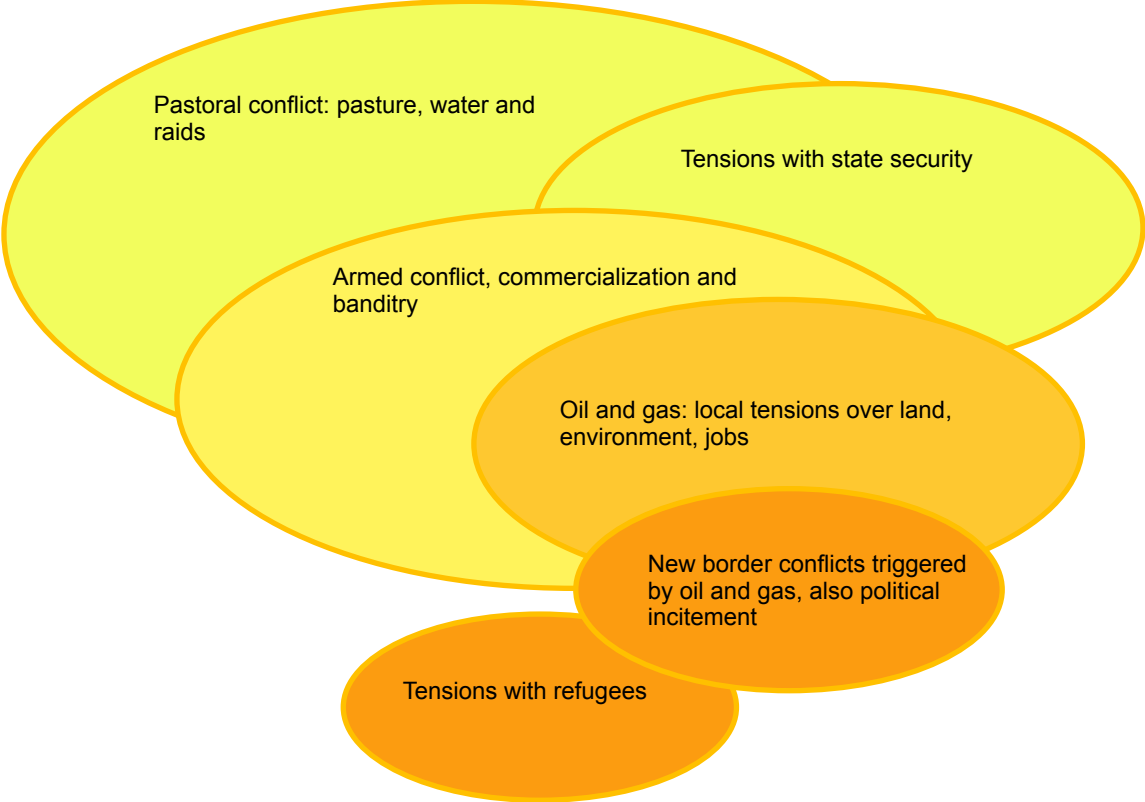


Figure 2: Layers of Conflict and Tension in Turkana

²³ Koeach, F (2015). ‘Child warriors initiated into banditry’ Daily Nation. 21 June
²⁴ Interview, intelligence officer, Turkana, February, 2015



Key Findings

The risk of conflict in Turkana relating the extractive industry may be considered from a number of angles. There is a long history of intercommunal pastoralist conflict across international and internal borders. Regional dynamics, namely civil wars in Sudan/South Sudan, Uganda, Ethiopia and Somalia have, border disputes and arms flows have served to exacerbate existing conflicts and create new forms of violence such as commercialized raiding (for cash) and banditry. New findings of oil, gas and water have now complicated the existing patterns of enmity further, while the interaction between the investors and the community has had its own set of challenges in terms of expectations, opportunities, communication, participation and lastly, community demonstrations which are described in detail. Lastly the role of the county, national government administration and the security players in the security dynamics is examined. The various stakeholders in the oil industry are outlined in figure 3.

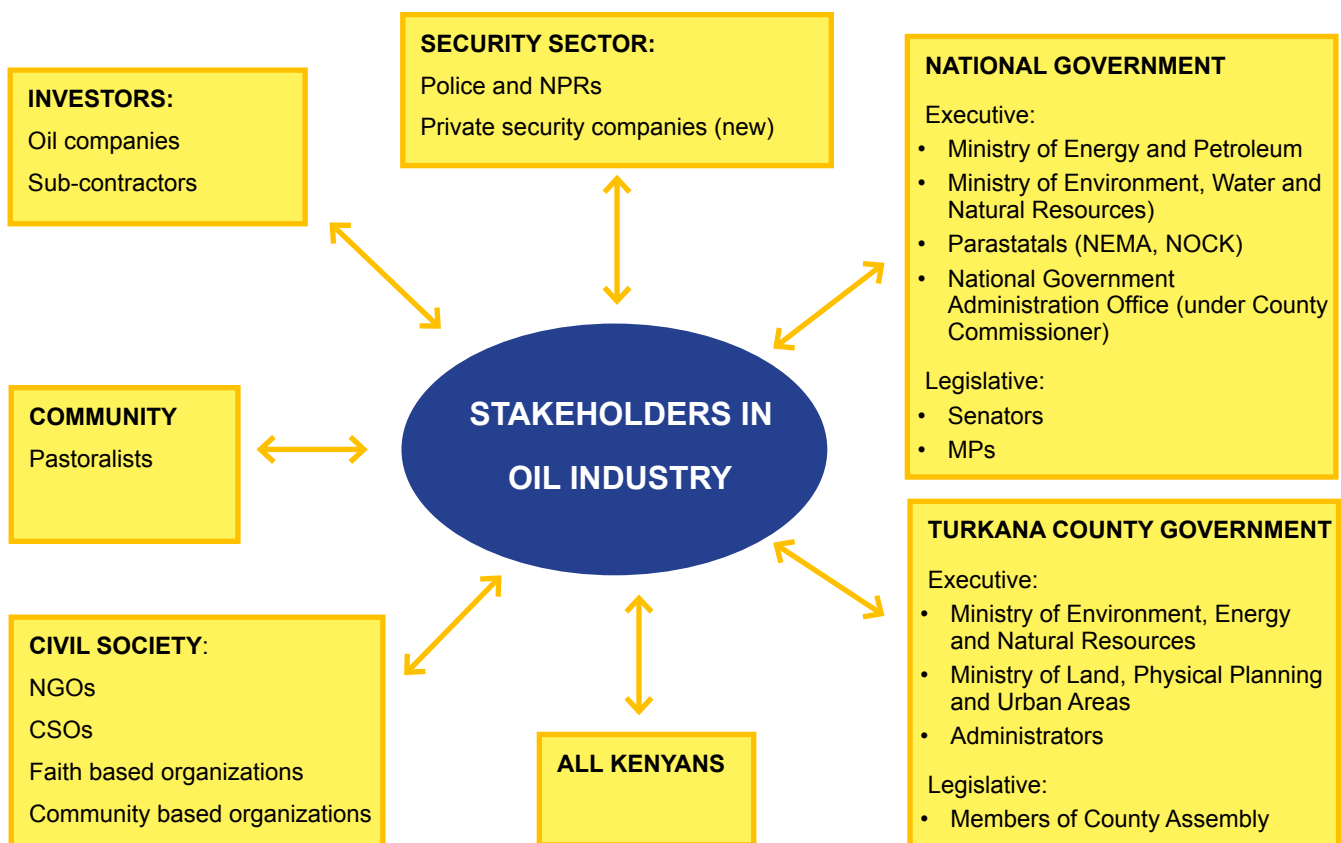


Figure 3: Stakeholders in the Extractive Industry

Current Oil Activities

There are several phases in oil exploration and production which are worthy of description. Firstly, seismic exploration through vibrations and detectors builds up a picture of the sub-surface, allowing possible sites of oil reserves to be identified. Exploratory drilling follows, which ascertains whether

oil or gas is present. This stage involves the building of rigs and other visible activities. Appraisal drilling is similar to the previous stage and provides further clarification on the size and viability of the reserve. Development is the next phase, in which a long term plan is created, Production then follows, which may last from 10-30 years. Lastly, decommissioning occurs when the reserves are no longer viable, and involves leaving the site in a manner that protects people and the environment. At each stage social and environmental impact assessments should take place, and the development plan should provide details of projected benefits to local communities.²⁵

British registered company Tullow PLC, in partnership with Canadian based Africa Oil Corp. was the first company to explore and discover oil in Turkana. This partnership has blocks 10BA in northeast Turkana, and 10BB and 13T in south Turkana (see figure 4). In south the exploratory stage has been completed and the appraisal stage is now beginning. In the east the company has halted its operations for a time, following a dry well in Engomo site, and a decline in oil prices (and possibly due to relations with communities). Similarly, Tullow Oil PLC also has activities in Uganda and Ethiopia; the latter was abandoned in 2014 after not encountering commercial quantities.²⁶ Adamantine and Bowleven entered in 2012 and have not yet carried out seismic survey in block 11B, while Spanish firm CEPSA which entered block 11A in 2014 has completed its seismic survey in the northwest of the county and hopes to begin exploratory drilling in September 2015.

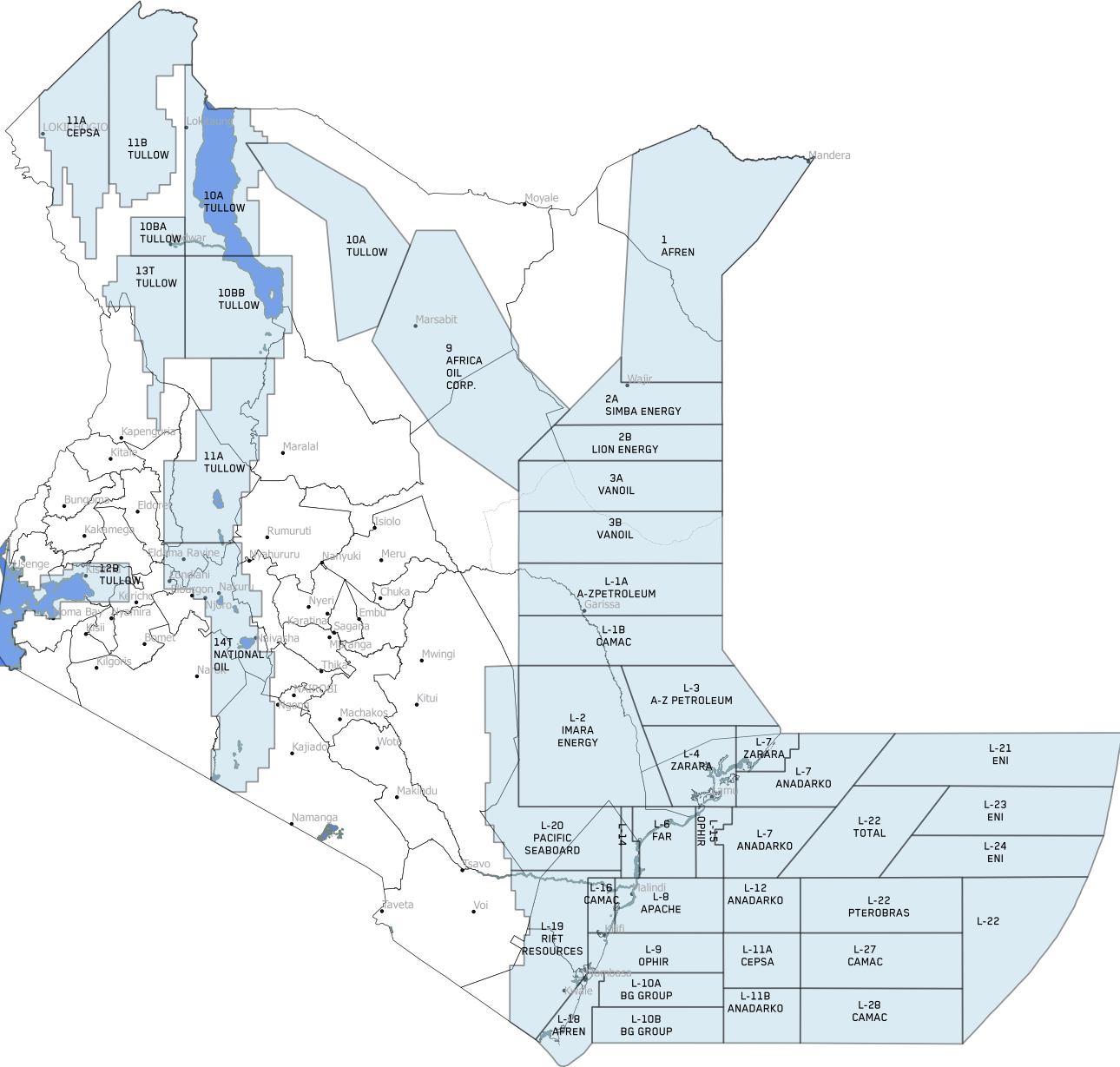


Figure 4: Oil Blocks in Kenya

²⁵ See <http://www.cairnenergy.com/index.asp?pageid=554>

²⁶ Interview, researcher among the Dassenech in Ethiopia, Tokyo, 15 June 2015; confirmed on Tullow website

The LAPSSSET corridor is a long-term strategy to link South Sudan, Ethiopia and Uganda (and ultimately West Africa) with Kenya's coast in terms of oil transportation, road and rail. The route which passes through Lokichar from Uganda was debated with investors fearing insecurity in the North Rift area, but this route has now been agreed. Plans are ambitious, (although it is not known to what degree these will be completed) a 1380km long corridor is planned to comprise a railway, road and oil pipeline at a combined width of 200 meters, along with 3 tourist resorts, will pass through 7 counties (including Turkana) which are currently occupied by pastoralists sharing communal land. A port, ultimately planned to be 32 berth in size, is under construction in Lamu county on Kenya's Coast, and is already raising many issues of displacement, compensation, environmental impacts, livelihoods and enormous social and cultural change to the quiet Swahili people of Lamu and other ethnic groups in the area.²⁷ It is likely that similar issues will be raised in the other 6 counties as the project proceeds.

Community Impacts

Land Issues

Land grievances may lead to conflict as Kenya's recent past demonstrates. Certain events may act as triggers, intensifying competition (such as displacement by government alienation of land), and sometimes what is ostensibly a conflict over land may have a different cause altogether. Conflict entrepreneurs may introduce the emotive issue of land into contentious contexts to arouse people to violence. Neither land use nor the actors who use it are static. Land use evolves in response to changes in technology, markets and climate, and actors adjust to accommodate these changes. In this constantly shifting context, old tensions between different actors around the control and use of land may be exacerbated and new ones may emerge. Unless managed effectively, such tensions can easily result in violent conflict.

Turkana is largely communal land, belonging to the Turkana people, where land adjudication has not been carried out, and where there are no title deeds. This land is held in trust by the Turkana county government. However, sub-surface resources belong to the state which holds this in trust for the Kenyan people at large, not for the local people specifically. Different interpretations of the law, lack of completion of Bills through parliament, subsequent lack of policy and the lack of transparency of the whole process makes the issue very fragile and a source of potential conflict. It was reported that before the oil was discovered, there were only 25 title deeds in the entire County. This number increased to 51 by 2013 but it has not been possible to determine how the additional title deeds have been issued. The process is therefore not transparent, nor consultative as stipulated in the Constitution, and links between elites may bypass it.²⁸

Both the reality and perception of displacement are important. The allocation of oil blocks for prospecting is not well understood, with the perception amongst community members being that almost all Turkana's 77,000 sq km of land will be used in a 'scramble for Turkana' This requires clarification with all stakeholders. While the vast majority of the land allocated is not being used, exploration sites occupy around 13 acres, which are unexpectedly fenced, leading to fear and in some cases, displacement from important routes or strategic grazing grounds. Displacement then increases as multiple test wells are drilled in the process of identifying the size of the oil reserve in the basin, and the amount of land which will ultimately be required in the extraction process, transportation through pipelines and accompanying infrastructural development is as yet uncertain.

Seasonal migration patterns may be disrupted which are essential for the survival of pastoral populations. In Lokichar, where Ngamia 1, Twiga 1 and Eklas are located, the area is known as an 'ere', a homestead area in which children and the elderly may stay and to which herders may return in the wet season. An airstrip has also been created which has also taken land. If pastoral communities can no longer access this land, or the land available is limited particularly when herders return, it is likely to threaten livelihoods and cause conflict as it has already done (to be explored

²⁷ IRIN (2013) 'Lapsset project raises issues of land' 20 October, Daily Nation <http://www.nation.co.ke/business/infrastructure/Lapsset-project-raises-issues-of-land/-/1959776/2041546/-/ys6m2x/-/index.html> ; Correspondence from International NGO Safety Organization (INSO) regarding Chechelezi area, Isiolo, Security Report KENYA/EAST/SR/05102015/#38, 4 October 2015

²⁸ Interview, civil society leader, Lodwar, 2014

in a later section). Indirectly related to extraction, Kainuk, another important grazing ground is now insecure because of heightened tensions between Pokot and Turkana, which include disputes about geothermal sites, forcing Turkana to move to Uganda. Political and administrative factors such as devolution and upcoming elections have contributed to these inter-communal disputes and the displacement of thousands of persons. In Northeast Turkana near to the lake, Lowerengak is an area where pastoralists have often moved to in times of drought and crisis (being able to catch fish), and exploration has started here also, although it has stalled as noted. CEPSA is working close to Mount Mogila, another important grazing ground which is already a source of conflict caused between Toposa and Turkana.²⁹ Thus the oil industry becomes the third competitor for land and could be attacked also.

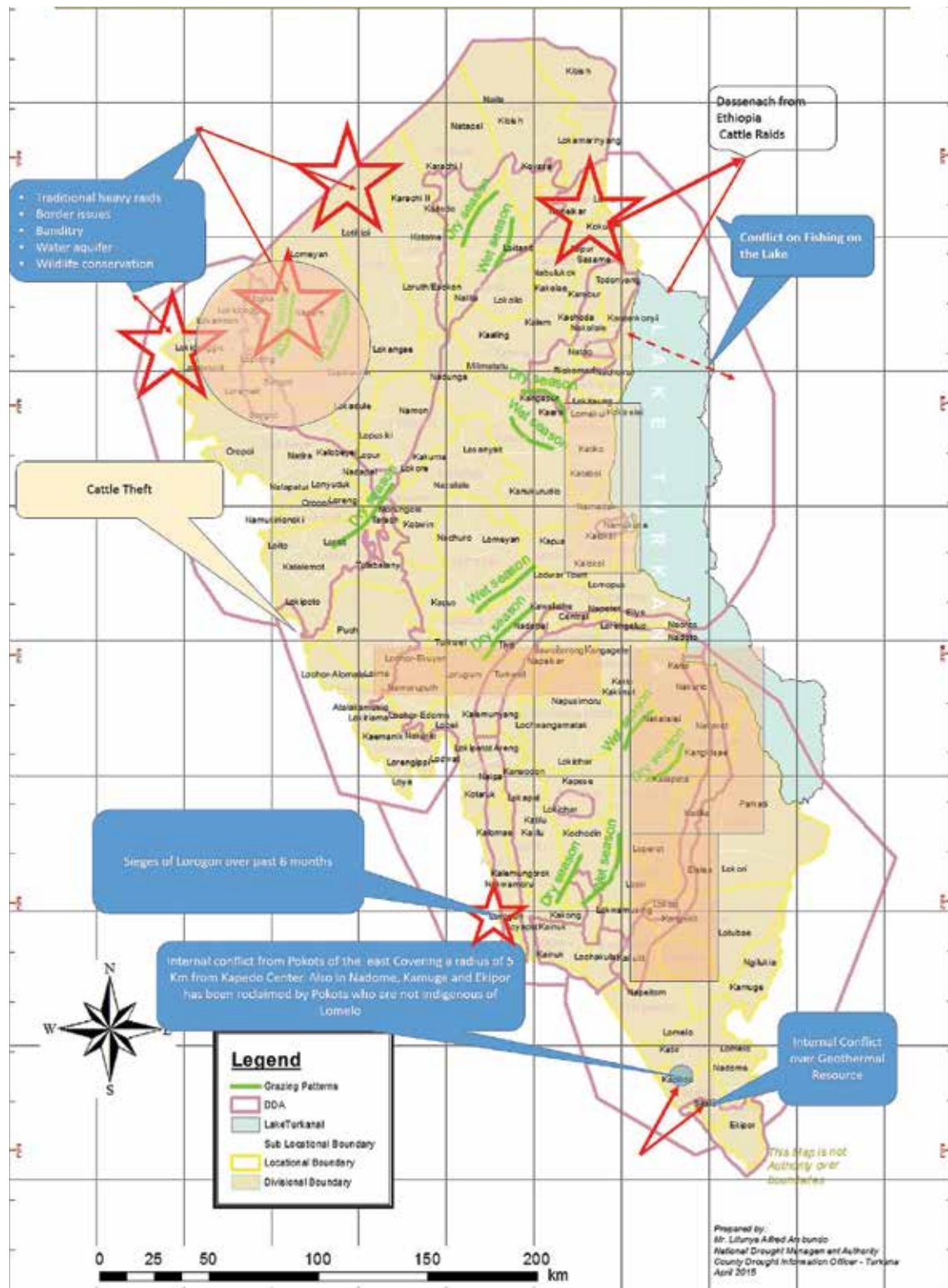


Figure 5: Grazing Patterns, Oil Blocks and Recent Conflicts

²⁹ See Mktu et al., 2015

Displacement from water sources is a serious related problem. In order to mitigate this, in south Turkana, communities have been provided with tanks, although they had been informed initially of a plan to create boreholes. In northwest Turkana, communities having witnessed this, pressed for the digging of boreholes, of which 6 have been provided by CEPASA. A chief commented that even in the northeast at the lake, water is a problem because the lake is salty, 'The water is only in the main centres but not in the villages. Nachuchi does not have clean water, so people drink lake water.' He noted that a well has been dug by Tullow in Kataboi centre which is providing a good quantity which can be piped to other areas.

A case of a kraal leader known as Emanman was mentioned by a well-placed local interviewee. He has 8 wives, many children and a large herd of animals, and claimed that he was forcibly moved from Twiga 1 to Elkas (Ostrich). Local administrators expressed concern that as an emuron (diviner) he is an important local opinion leader with the power to influence the wider community.³⁰ Following complaints his clan was eventually compensated by the oil company directly, with a financial sum said to be 2.5 million (others estimate higher) and 100 sheep/goats, as well as the construction of 3 classrooms in a local primary school.³¹ Compensation raises complicated legal questions of who should be compensated given that most of Turkana is communally owned. Furthermore, the compensation of one clan has led to demands from other clans and inter-clan conflict.³² Lastly and interestingly, oil has also led to changes in raiding patterns, yet to be fully understood. It was noted that raiders often pass through neighbouring communities prior to a raid to confuse the process of their identification, tracking and recovery after the raid. This, they are finding, is also being interrupted by the oil sites.³³

In Isiolo county in October 2015 a protest by local residents sparked by the setting of beacons by surveyors, halted the progress of the LAPSSET project. The main concern was lack of discussion regarding compensation where LAPSSET will pass through land owned by community members. It would seem to be individual plots rather than community land which were being debated in this setting; the owners being requested by the chairman of LAPSSET to 'donate' their plots. To complicate matters, speculative buying of plots locate along the route, in the hope of hefty compensation, is on the increase, illustrating the potential for tension over the issue.³⁴

Environmental Concerns

Oil extraction may have a number of adverse effects on the environment at various stages in the process, many of which may be currently showcased in the Niger Delta.³⁵ Oil spills may release dangerous and sometimes carcinogenic hydrocarbons into soil and water, reducing plant growth and threatening animal and human health. This is a particular concern given the communities dependence upon water holes and pans. Gas flares caused by the burning off of gas missed with the oil release of CO₂, methane and also some toxic compounds. This may disturb fish and animals and their breeding patterns. Toxic wastes and effluents in both exploratory and extractive phases may kill plants and animals on land or at the bottom of rivers and lakes through smothering. During extraction, removal of water which is mixed with the oil underground requires safe discharge. The cumulative effect of such contaminated water may be very damaging to plants, animals and fish. Lastly, infrastructural development and immigration may affect local people and their livelihoods and expose them to new and unfamiliar hazards.

Landquest argues that the statutory environmental impact assessments in Turkana have been inadequate, and that consultants carrying them out are paid by companies which may prejudice their findings (Constantaras, 2014). Reports are available but are very large and difficult to access, download and comprehend. No popular versions of the EIA reports have been provided and this makes it almost impossible for the communities to participate, which is a legal right. Illiteracy (94%)³⁶

³⁰ Interviews, provincial administration, civil society, local leaders, Lokichar, 9 February, 2013

³¹ Figure given by an administrator at an expert meeting to share findings, Nairobi, 5 August, 2015

³² E-mail communication from a peace worker in Turkana, 15 August, 2015 Confirmed by administrators in Turkana, August 2015

³³ Interview, peace worker, Lodwar, 12 February 2015

³⁴ Correspondence from International NGO Safety Organization (INSO) regarding Chechelezi area, Isiolo, Security Report KENYA/EAST/SR/05102015/#38, 4 October 2015

³⁵ This section makes several references to information from Saro Pyagbara, 2007 and Manby, 1990

³⁶ Interview, Turkana County Council members, names withheld, Lodwar, 8 February, 2013

is another insurmountable hurdle for most members of the community. At this early stage community members have raised concerns about the destruction of community environment, especially trees (Cordaid, 2015) and cultural sites by trucks and large scale equipment. There are also concerns about the wastes from the exploration process and whether or not they are disposed of safely, particularly around the lake (Cordaid, 2015). Vehicles have knocked cattle and a young boy was hit and killed. As a response to this, Tullow PLC has now employed a large number of road marshals outside its sites to avoid such. Cordaid (2015) note that some compensation was paid to communities affected by seismic surveying but that this only amounted to around 1200 Kshs per household.

Jobs and Supply Tenders

Initially, the news of the oil find was received with excitement among members of the local community who felt that, 'it is now our turn'.³⁷ Some thought that the oil finds would lead to instant wealth. However in the south, efforts have been made by various actors, including local government, civil society actors, and Tullow's community liaison staff, to achieve a basic level of understanding among the community that 'the current stage is one of exploration and that the oil finds to date do not guarantee that there will be commercial quantities of oil.'³⁸ So far the main economic benefits from the oil exploration process relate to development in Lokichar, and jobs and tenders with Tullow and its subcontractors, but these are also the source of much tension and discontent. Cordaid (2015) in their study of perceptions of communities across Turkana note that economic concerns and expectations topped the list of issues most frequently mentioned. This covers a wide variety of issues, including employment, contracting and procurement, benefit expectations, regional economic development, infrastructure, social investment, compensation, corruption, cost of living, enabling business environment, and capacity.

Tullow's figures released in August 2014, reveal that of the 3619 people employed by their subcontractors, about 60% were Turkana, 28% are from other parts of Kenya and 12% are expatriates. A breakdown according to skill level reveals that 99% of unskilled labourers and around 75% of semi-skilled labourers are Turkana, but as expected, skilled labourers are only around 14% Turkana (CORDAID, 2014). This compares favourably with figures released in the previous year, in which semi-skilled labourers were 60% Turkana (Constantaras, 2014). Tullow (2014b) noted that in 2013 4.1 billion KShs were spent by Tullow with local suppliers and 4.1 billion by subcontractors. However, of the latter figure, only 259 million was with Turkana businesses. In another report (Tullow, 2014a:23) a chairman seems to suggest that the main barrier to increasing specifically Turkana content is the capacity of local suppliers to meet technical, environmental, health and safety standards and to be reliable and cost-competitive. He notes "We therefore have to be realistic about the scale of the opportunity that exists for local businesses, but pro-active in playing a part to build capacity."

Recent complaints by locals may give different figures however. In a baraza, attended by around 100 people in Lokichar, the chair of a locally formed drivers association, stated that '70% of jobs at Tullow are non-Turkana',³⁹ a statistic which is difficult to substantiate, but which is likely to anger its hearers. He noted that the community wishes to see the list of employees. Confusion abounds and locals assume they have been deliberately short-changed, especially as downscaling of operations occurs, as he continued, 'We are being told redundancy, but as we are fired, other people from elsewhere are being employed.'⁴⁰ A woman attending the aforementioned baraza said 'I stand here as I need a job...non-locals have taken the opportunities'.⁴¹ The chair of the drivers association commented on her presence 'If you see mothers have come under the tree, then things are worse.'⁴² Furthermore, some locals complained that some jobs have only been advertised on the internet which the majority of the local community does not have access to.⁴³ In Turkana West, however, CEPESA has been more

³⁷ Interviews, Catholic Justice and Peace Commission, Lodwar, 8 February, 2013

³⁸ Interviews, Atanyo, Counsellor, Loima, 7 February, 2013

³⁹ Chair of Ngamia Drivers Association in baraza between Tullow/Community/Government public meeting 13 February, 2015

⁴⁰ Chair of Ngamia Drivers Association in baraza between Tullow/Community/Government public meeting 13 February, 2015

⁴¹ Comments by Turkana woman Catherine Senye in a baraza between Tullow/Community/Government public meeting 13 February, 2015

⁴² Chair of Ngamia Drivers Association in baraza between Tullow/Community/Government public meeting 13 February, 2015

⁴³ Interviews, CSO, a chief, and community members interviewed, Turkana, 2012-2013.

open about its employment and this has diffused potential tensions.⁴⁴

Many grievances relate to driving jobs or tenders and the large number of non-Turkana drivers. One company has only 2 local drivers out of 32, and while it was suggested that this is because the expertise needed is very high for the large vehicles, the community request that they be trained.⁴⁵ This raises issues as to who should finance this. Communities have also complained that the requisite Defence Driving Training certificate (DDT) is 80,000 KShs, and therefore again, they need to be assisted with training, an area which the county government could potentially be involved in. A driver complained about the DDT, 'It's very painful and a stumbling block... To work for Tullow you must get it...it is issued by Tullow. Tullow should take me as a driver then train me and give me a DDT.'⁴⁶ Those who have tried this route also felt that their abilities were undervalued. Locals also complained that the company did not want to deal with their drivers association but instead uses a subcontractor.⁴⁷

In Turkana South, Tullow and Toyota Kenya agreed on a scheme of leasing 36 vehicles which would be driven by local drivers for Tullow and eventually would become the property of those drivers. This was a move by Tullow to increase the participation of local businesses within its supply chain to ensure the oil and gas sector creates long-standing positive impacts on the economies and lives of local communities. However, in February 2015, a complete road block and demonstration took place in Lokichar organized by the local drivers association,⁴⁸ protesting amongst other matters, the unrepresentative manner in which cars had been given to people who were politically linked.

We do not see the help they are assisting with the locals...Vehicles were given to individuals who then gave to relatives. It's very good Tullow brought 36 vehicles. Even if they are owned by [these] owners, why not employ locals? Those who got cars let them benefit. But let others also benefit, by being employed instead of just relatives and clan members.⁴⁹

Or, as another person put it 'The new scheme in Tullow only benefitted the big fish.'⁵⁰ It is likely that the corruption and poor standards involved in the issuance of Kenyan driving licences are to the avoidance of using local drivers, which suggests a potential role for the county government.

Other tenders for equipment and services have raised tensions. Complaints that meat was being sourced in Nairobi, while much of Nairobi's meat comes from pastoral areas, have led to an improvement in this matter.⁵¹ An important factor in community-investor tensions is the lack of sustained employment in the oil industry. The various phases of surveying, exploration and extraction, and the sub-contracting of companies to carry out activities in these phases leads to unpredictability, sudden job losses and poor communication of changes to communities. It was noted that sub-contractors are a particular problem because they do not have an ongoing relationship with communities, and terms of engagement may differ from those agreed between the community and contractors.⁵² Demonstrations in Tullow/Africa Oil's block 10BA site in Lowerengak in the first quarter of 2015 and in Lokichar in May 2015 were related to this issue.⁵³

Socioeconomic Changes

Oil is bringing important changes to Turkana, both positive and negative. An administrator described the economic changes in Lokichar,

The community has benefited from Tullow...The economy is doing very well, there is market for products.... There are a lot of social investment programs by Tullow...The

⁴⁴ Interview, Epuu Joseph Turkana County Executive for Environment and Energy, Lodwar, 12 February, 2015

⁴⁵ Memorandum by Ngamia Drivers Association, given to Tullow following baraza between Tullow/Community/Government public meeting 13 February, 2015

⁴⁶ Comment made at a baraza between Tullow/Community/Government public meeting 13 February, 2015

⁴⁷ Chair of Ngamia Drivers Association in baraza between Tullow/Community/Government public meeting 13 February, 2015

⁴⁸ See 'Light vehicle scheme in Kenya' <http://www.tulloil.com/media/case-studies/light-vehicle-scheme-in-kenya>

⁴⁹ Comment made in a baraza between Tullow/Community/Government public meeting 13 February, 2015

⁵⁰ Comment made in a baraza between Tullow/Community/Government public meeting 13 February, 2015

⁵¹ Interview, a local administrator, Lodwar, 11 February

⁵² Interview, local administrator, Lowerengak, 10 April, 2015

⁵³ See <https://www.youtube.com/watch?v=EeJznf8MoQ0>

*road marshals are paid 30,000 and they are nearly 200 in number, hence the money comes back in circulation. There is increased population in small urban centres such as Lokichar, where hotels have been built.*⁵⁴

Prices of commodities, land and rent in Lokichar have increased markedly. The figure for a hotel room has increased from 300 KShs (around \$4) in 2010 to 800 KShs (around \$10) in 2013, and now to 3000 KShs (around \$40).⁵⁵ In terms of land prices, the price of a 50 x 100m plot has increased tenfold from 50,000 KShs (around \$625) in 1997, to KES 300,000 KShs (\$3750) in 2013, and now to 500,000 KES. This excludes most locals from purchasing land. The administrator also noted,

*Before Tullow came a goat would go for 1,200. Now a goat is between 4-6,000 because of demand and supply. If you have quality stock, you have money. It is encouraging livestock keeping. By two in the afternoon you cannot get a butcher with meat in Lokichar.... The only challenge is raiding. It has encouraged commercialized raiding more.*⁵⁶

On the other hand, the changes are encouraging others to give up their pastoral livelihoods. One example given was that a Turkana had left his goats [presumably with relatives] to work for the company. Unfortunately these were raided in his absence.⁵⁷ Some people are dropping out of school to work in the oil industry, but another commentator noted that the interest in education has increased and 'a lot of money is being spent on school fees). People are now beginning to use MPesa (telephone banking) in Turkana.⁵⁸ It was noted that workers in the oil industry have to be resident in camps, which is disrupting traditional lifestyles, in particular causing women to live apart from their husbands or families and that 'young girls are following guys with money'.⁵⁹ Prostitution is a likely extension of this, and with it, the spread of HIV into this previously relatively unaffected area. The Peace Ambassador for Turkana raised the concern that an increased cash economy was likely to exacerbate the problem of alcoholism which already exists in the county.⁶⁰ The variety of responses to the opportunities brought by oil and development is a potential area for civil society to become involved in advising communities.

However the boom seems to be ending and prices falling again due to the slowing of oil operations. As noted by the deputy county commissioner, 'We have several redundancies and this is creating disharmony, people are not happy, there are road blockages, though Tullow has attempted to prepare the community.'⁶¹ A peace worker concurred that in the last 4 months Tullow and its affiliate sub-contractors are now in the appraisal stage and will require more technical than manual workers which may bring further tension. The downscaling has negatively impacted on business and affected the hotel industry and other hospitality industry in Lokichar.⁶² This raises several questions, what happens to the many youths that dropped out of schools to seek employment with Tullow? How about the youths that left pastoralism to work with Tullow? What are the opportunities for youths in Turkana? The unpredictable nature of employment in the industry, or surrounding service industries has therefore brought challenges to pastoralist livelihoods.

Participation

In their study on perceptions of communities across Turkana, Cordaid (2015) note that participation featured as the second most common theme in community grievances. In particular they voiced that they felt that local leaders were getting too close to the companies which could erode the trust placed in the former. Oil companies have invested in liaison with local communities which is an important step in participation. Unfortunately however, district advisory committees set up to coordinate dialogue between the company and local communities have been criticized for not being properly representative of the local communities and for relying too heavily on prominent

⁵⁴ Interview, Epuu Joseph Turkana County Executive for Environment and Energy, Lodwar, 12 February, 2015

⁵⁵ Interviews, local administrator, Lokichar, 9 February, 2013; Interviews, Chief Josephine Akiru Ekai and Laura Sambul (APEI), 12 February 2015

⁵⁶ Interview, County Commissioner, Lokichar, 12 February, 2015

⁵⁷ Interviews, Chief Josephine Akiru Ekai and Laura Sambul (APEI), 12 February 2015

⁵⁸ Interview, Epuu Joseph Turkana County Executive for Environment and Energy, Lodwar, 12 February, 2015

⁵⁹ Interviews, Chief Josephine Akiru Ekai and Laura Sambul (APEI), 12 February 2015

⁶⁰ Interview, Peace Ambassador for Turkana, Lodwar, 12 February, 2015

⁶¹ Interview, County Commissioner, Lokichar, 12 February, 2015

⁶² E-mail communication, peaceworker in Lokichar, 4 June, 2015

individuals within the communities who were able to act as gatekeepers. The companies' own liaison officers have also been criticized for not facilitating the interaction between local communities and the company in a neutral and balanced manner. Some local actors objected strongly to the very term 'community liaison officers' and demand that the word community should be removed and replaced by the company name to clearly signal that these people represent the interest of the company and not the community. Some community leaders have been employed by oil companies as liaison officers; a peace worker commented on the problems of this 'The kraal leaders who are being paid as village liaison officers are individuals with capacity to speak boldly. If they are compromised, it means nobody will speak for the rest.'⁶³

People noted that the situation in Turkana South had evolved into a culture of demonstrations and road blocks in order to be heard. An important factor in this is inadequate genuine community participation from the beginning, and related to this, the reliance upon communication via elite Turkana who are often also disconnected from the communities. Tullow has now instituted a formal grievance procedure since the end of 2014.⁶⁴ A senior administrator noted 'The community entry strategy has left the company vulnerable and if not well managed, it is a recipe for future war.'⁶⁵

Another issue raised was the discrepancy between the standard operating procedures of companies, and the laws of Kenya, an example being that government officers are not supposed to be paid, while NPR and APs are providing security for the companies and expect an allowance from this. This and other issues had to be extensively talked over to reach an agreement, a process which would be made easier by clear standards of engagement of the county with oil extractive sector in Turkana.⁶⁶

In Turkana West where CEPSA is exploring, the community set up a community liaison committee (CLC), which has representatives from each ward, but does not allow politicians to sit on the committee. The CLC visited Turkana South to observe the community investor relations there and decided to do things differently, creating terms of engagement which were then brought to the company and after long debate, accepted.⁶⁷ This community-led committee has been a point of contact for the company and has led the equitable distribution of jobs through all wards, avoiding inter-clan conflicts experienced elsewhere in Turkana. Similarly in northeast Turkana a Local Advisory Committee was formed, which also aimed to be inclusive, with youths and faith based organizations well represented, and oversaw all jobs and tenders and held sub-contractors to account.⁶⁸

High expectations and demands by the community are often cited as contributing to the tensions and dealing with this raises operations costs for the company (in hosting public relations meetings). An administrator believed that expectations may be related to the communities' experiences of being food-aid dependent and the object of much NGO assistance and the failure to fully recognize the implications of oil companies being profit based organizations whose CSR programs are at their own discretion.⁶⁹ Due to lack of policy in the area, it is not clear who should carry out civic education and participation activities, although under the previous constitution the provincial administration used to coordinate barazas for similar purposes. The national government Ministry of Energy does not have the structures at the local level to do this.⁷⁰ A county leader noted that the county plans to carry out civic education.⁷¹

Several community bodies across Turkana have signed Memoranda of Understanding (MOUs) with different companies relating to terms of engagement, participation, civic education, jobs and tenders, vehicles ownership scheme, environmental audits, land allocation, corporate social responsibility and conflict resolution. The Engomo community with Tullow in block 11B;⁷² the Turkana North Development Forum and Tullow also in block 11B;⁷³ the Community Liason Committee with CEPSA

⁶³ Interview, peace worker in South Turkana, Lodwar, 12 Feb, 2015

⁶⁴ Tullow public relations manager speaking at a baraza between Tullow/Community/Government public meeting 13 February, 2015

⁶⁵ Interview, senior administrator in Turkana, name withheld, February, 2015

⁶⁶ Comments made by Turkana County Drivers Association (TUKADA) in a meeting in Kapese on 13 February 2015

⁶⁷ Interview, Chair of CLC, Turkana West, Lodwar 13 February, 2015

⁶⁸ Interview, secretary of LAC, Lodwar, 11 February, 2015

⁶⁹ Interview, a senior county administrator, Turkana, 12 February, 2015

⁷⁰ Interview, a senior county administrator, Turkana, 12 February, 2015

⁷¹ Interview, Epuu Joseph, Turkana County Executive for Environment and Energy, Lodwar, 12 February, 2015

⁷² Dated 12 January, 2015

⁷³ Dated 28 December, 2013

in block 11A;⁷⁴ the Kokuro/Meyan/Liwan communities with Adamantine and Bowleaven also in block 11A;⁷⁵ the Lowerengak Advisory Committee, District Advisory Committee and member of the county assembly with security company Newport Africa⁷⁶; and so on. MOUs are cordial agreements which help to define and even build relationship between the community and investor, but importantly they are not legal documents to be relied upon in matters of dispute, which communities may not realize.

Corporate Social Responsibility (CSR) programmes and local benefits

It was noted that many people have benefitted from jobs, scholarships, developments, school building projects and road improvements local to the oil installations, with donations from Tullow in 2014 of around 3 million KShs per constituency (around 40,000 USD).⁷⁷ Tullow itself notes that it has given out 233 million KShs in 2013 and doubled this budget in 2014 (Tullow, 2014b). Tullow also emphasises its commitment to training and knowledge transfer and is investing in skills development programs and supplier forums to boost the local content (jobs and tenders). Scholarships however are currently not being given out in 2015 due to cutbacks described previously.⁷⁸ Boreholes have been provided in the northwest as noted, at the insistence of the community members in their initial engagement with CEPSA. Tullow is currently offering free flights to some of the county elites, although this may raise ethical concerns.⁷⁹ As noted there is no policy in Kenya on local benefits, which makes problems for both the investor and the community.

Borders, Politics and the Extractive Industry

Cross-border conflicts often involve claims on land, and there is evidence of this heightening since oil and gas discoveries in Turkana county. The Toposa have laid claim to areas around Mount Mogila and Naderpal which some believe is connected with oil exploration in the northwest of Kenya. A commentator from civil society gave his view that cross-border tensions between the Toposa of South Sudan and the Turkana, notably the demanding of Mt Mogila by the Toposa, are linked to oil and gas finds in Turkana.⁸⁰

Near the border lies the refugee camp at Kakuma established during Sudan's years of internal conflict. Since December 2013 when civil war broke out in the new nation of South Sudan around 43,000 more refugees have arrived in the camp.⁸¹ The camp has grown to around 150,000 people and is unable to accommodate any more. Thus according to the chief of Kakuma, UNHCR is seeking to secure more land at Kalobeyi, around 10 kms from Kakuma.⁸² The proposal is opposed by locals, however, who fear, amongst other things, being sucked into the South Sudan civil war, i.e. warriors could regroup on Turkana soil, especially given that South Sudan has territorial claim to Turkana land.⁸³

In the south, the manner in which the Pokot intensified their aggression up to mid-2015 was said to be a strategy to remove the Turkana and benefit from the oil and gas resources in the area. Local politicians are involved in incitement of the conflict (Mkutu et al, 2015). Conflict between the Turkana and the Pokot has historically revolved around reciprocal raiding of livestock and competition over grazing land and water. However, it also involves a long-term border dispute which was intensified as a consequence of the construction of the Turkwell dam (Lokiyo, 2014). Increased aggression and occupation by the Pokot has been seen in the past 4 years, as noted, and is believed by several people to be an attempt to gain control of the road, the area and the resources, especially the geothermal power site in Silale.⁸⁴ The conflict is so severe that it is causing Turkana to sell off their cattle to avoid being so vulnerable. A chief noted 'Pokot say they want to destroy the oil project. It is

⁷⁴ Dated 7 February, 2014

⁷⁵ Not dated

⁷⁶ Dated 11 January, 2015

⁷⁷ Interview, Epuu Joseph Turkana County Executive for Environment and Energy, Lodwar, 12 February, 2015

⁷⁸ Interview, Chief Josephine Akiru Ekai and Laura Sambul (APEI) 12 February, 2015

⁷⁹ Interviews in Turkana, 2012-2015

⁸⁰ Interview representative from LOKADO, Kakuma, 2 April, 2015

⁸¹ Honan, E (2015) 'U.N. expands refugee camp in Kenya as South Sudan conflict rages'. Reuters. see <http://news.yahoo.com/u-n-expands-refugee-camp-kenya-south-sudan-083723467.html>

⁸² Interview, Chief of Kakuma, Kakuma, 13 February, 2015

⁸³ Noted by participant at a stakeholder meeting organized by Pax for Peace, Lokichoggio, 14 and 15 March, 2015

⁸⁴ Several interviews including prominent officials, an intelligence officer and peace builders 2010-2015

an attempt at economic sabotage.⁸⁵ A peace worker concurred 'Oil is a factor in the conflict. At the moment, oil is mentioned during raiding.'⁸⁶ There is also suspicion that the conflict may be instigated at a political rather than a community level, and aggression may be further fuelled by the public knowledge that Turkana is getting the largest share of devolved funds given that it is one of the poorest counties.⁸⁷ A concern was raised that the Turkana could become more organized and joined by other clans, namely those from Kibish in this warfare.⁸⁸

The Kitale-Lodwar road which has been the site of severe banditry in the conflict is a crucial thoroughfare for Turkana, (including for food aid) and for the oil sites in Lokichar also. The frequent banditry attacks therefore have economic and security impacts for the whole county. In December 2014 Turkana blocked the Kitale-Lodwar high way for 4 days killings of four Turkana herdsmen and theft of over 4,000 goats by Pokot rustlers, and the lack of state assistance. Reports noted around 700 travellers and a stream of over 50 vehicles were stranded in Kainuk trading centre, and some of those who attempted to leave were shot and injured by concealed bandits. The governor and senator attempted to negotiate with the elders.⁸⁹ An OCPD related that in December 2014 there had been a peace meeting between the Pokot and Turkana, which shortly followed by a raid in which 5 people were killed. Again in January, a meeting took place, followed by another raid in which 4 people were killed.⁹⁰ It has been suggested that a small group of troublemakers are responsible for spoiling peace processes and that these people are known, raising questions about leadership.⁹¹ The possibility of collusion between bandits and police was also mentioned.⁹²

Several peace initiatives in 2015 led to cessation of the Turkana-Pokot conflict, and a return to school for children at border schools going uninterrupted.⁹³ This was said to be assisted by an inclusive peace process involving kraal leaders, elders and active warriors from both sides in Turkwell and Lorogon, in which elders took a lead role. There remains conflict between Turkana and Pokot from Tiaty (especially Silale Mountain) with Pokot raids in Lokori and Kerio.⁹⁴

Oil and devolution have both raised the stakes for power in Turkana. For example, following a dispute, the MP for Turkana South openly told the governor not to step in his constituency. Although traditionally Turkana has been unified, communities of different districts have become divided over the recent discoveries of oil, with south and north claiming the resources belong to them.⁹⁵ The situation is complicated by suggestions of elite interests which influence who is employed and from which ethnic group.⁹⁶ As noted 'Everyone wants those [few] positions. So there is a scramble for jobs and tenders. Here is where the politicians and leaders come in.... Leaders want their own clan or relatives to get the jobs.'⁹⁷ This is leading to political and inter-clan conflict which is likely to escalate as the 2017 election approaches, in which oil and insecurity will almost certainly be campaign issues. The situation also makes operations costs higher for the companies because they cannot easily transfer workers from one site to another due to strong feelings about employment opportunities for locals.

Legal, Policy and Governance Issues

Given that the extractive industry has not been prominent in Kenya until recently, most relevant

⁸⁵ Interview, Chief in South Turkana, February-April, 2015

⁸⁶ Interview, a peace worker, Lodwar, 13 February, 2015

⁸⁷ Interview, Peace Ambassador for Turkana County, Lodwar, 12 February

⁸⁸ Interview, intelligence officer, February, 2015

⁸⁹ *The Star* (2014) 'Turkanas block highway for fourth day'. 15 December. see: <http://www.the-star.co.ke/article/turkanas-block-highway-fourth-day#sthash.pA4VeOqm.dpuf>

⁹⁰ Interview, OCPD Lodwar, 12 February 2015; Similar statistics and events are described by the media, see Ochieng, P (2015) 'Over six people killed in the span of one week in Turkana' *The Standard*, 7 February, <http://www.standardmedia.co.ke/thecounties/article/2000150903/over-six-people-killed-in-a-span-of-one-week-in-turkana>

⁹¹ Interview, name withheld, Turkana, February 2015

⁹² Interview, county administrator, Turkana, February 2015

⁹³ Obare, S (2015). Border peace good for economy, says West Pokot Governor Simon Kachapin. *Standard Daily*. 10 August.

⁹⁴ E-mail communication with a peace builder, working in South Turkana, 15 August, 2015

⁹⁵ Interviews various communities and civil society workers, May, 2013

⁹⁶ Interview, senior administrator, Turkana, February, 2015

⁹⁷ Interview, peace worker in south Turkana, 12 February 2015

legislation is still in parliament.⁹⁸ Therefore policy is also lacking, although Turkana county government is attempting to address this. This section briefly outlines the relevant existing (Acts) and proposed legislation (Bills) and discusses their implications.

The Petroleum Bill (2015), which will repeal the Energy Act [Cap 314] governs the regulation of upstream petroleum (mid and downstream are covered in the Energy Bill (2015)). It contains provisions for community rights (section 127) to information and education (though it is not specified who should do this); compensation for displacement, and for lost source of revenue or livelihood and environmental damage.

The Bill also outlines the need for local content (section VI) meaning that first consideration should be given to services and goods from the country, and jobs where possible are given to Kenyans. However, the need to employ local community members is not specified, and illiterate or marginalized communities may miss out, unless there is some kind of affirmative action. A provision for affirmative action for jobs and opportunities for marginalized communities is contained in the Constitution but this is not reflected in the Bill. Therefore truly local employment is at the discretion of companies, and as noted below, this is happening to some extent.

According to the Bill, 20% of government revenues are to be allocated to county governments, and 5% to the locals, via a community trust fund to be administered by a board of trustees. Policy and subsequent implementation will need to ensure that this 5% is not lost in administrative expenses, and that board members properly represent local people.

The Petroleum Act (1986) which is the main legislation under which the oil industry operates at present, empowers the minister to sign production sharing contracts, decide on fees and issue production and exploration permits as well as grant authority to the contractor to access any land or place for the purpose of oil and gas exploration. However, under the new constitutional dispensation, while custody of community land has been vested with the county government the contents of the PSCs have been held in secrecy. The Act has allowed the host community to be bypassed in all contractual deliberations and conclusions leading to community–investor conflict and county government-investor conflict.⁹⁹

The Natural Resources (or County Royalties) Bill (2015), has recently been put forward by the Senate to increase the county share of royalties and create a National Sovereign Wealth Fund (such as exists in oil-rich Norway).

The Land Act (No. 6 of 2012), recognizes the designation of Community Land and the equal rights of its inhabitants as those owning private land. The Community Land Bill (2015), then assists in clarifying the position of the collective owners of community land (the community). It repeals the Land (Group Representatives) Act, (Cap 287) and Trust Lands Act, (Cap 288). It is supposed to give effect to Article 65 (3) of the constitution; thus to provide for the recognition, protection and registration of community land rights and management and administration of community land by communities themselves and also stipulates the county governments' role in holding unregistered community land in trust for communities. The Bill refers to compulsory acquisition only briefly, thus relying on the Land Act which states that this may only be carried out 'in accordance with the law, for a public purpose, and upon prompt payment of just compensation to the person or persons, in full'. The Act here is rather vague since the use of the terms 'public purpose' and 'just compensation' leave wide parameters for determination or interpretation as to their meaning.¹⁰⁰ Furthermore, the definition of community is rather broad, and this too, could be subject to misinterpretation and political manipulation.

The process of registration of community land (section 6) with a County Land Adjudication Officer is stipulated, which may be a challenge to remote, illiterate and ill-informed pastoral communities, could be open to corruption, and may be insensitive to the fluid nature of pastoral movements and agreements. A community assembly will be required for any transactions, contracts and investment agreements concerning community land (section 43). The Constitution of Kenya (Article 63) also

⁹⁸ A bill is a proposed law under consideration by a legislature. Once a bill has been enacted into law, it is called an Act or a statute

⁹⁹ Information provided by a senior administrator, Turkana, 4 July 2015

¹⁰⁰ E-mail correspondence with lecturer and expert in land law, 20 May, 2015

mentions community land, stating that it 'shall not be disposed of, or otherwise used except in terms of legislation specifying the nature and extent of the rights of members of each community individually and collectively.'

The Community Land Bill (2015) also refers to environmental impact assessments, compensation and royalties, capacity building and technology transfer for communities, and other matters relating to community benefits. Currently, the Council of Governors has, rejected the bill as inconsistent with the constitution and a threat to devolution as it denies the devolved units a role in collecting land rates and rents from the community lands. The governors argue that it gives the Lands Cabinet secretary powers over community and trust lands which a step backwards.¹⁰¹

In Turkana, the agreement with the extractive companies occurred prior to any devolution processes, when the Authority holding the land was the Turkana County Council (no longer in place). At this time the TCC noted that it was completely bypassed in the agreement (Mkutu et al. 2013). ILEG notes that a legal framework on Eviction and Resettlement is needed to ensure these measures are clearly undertaken, since currently, investors submit their own resettlement plan action done in accordance to international best practices, but that this may be unreliable (Kayumba, n.d.). In neighboring Tanzania, loopholes allow community land to be transformed into public land at the president's order and then subsequently allocated to investors in mining, conservation, and agricultural sectors. The result is displacement of communities and conflict between them and the state and investors, which is difficult to mitigate (Reisman et al. 2013). Lastly, a concern about the Land Act is that no proper definition of the community representatives is provided, allowing powerful players to acquire and misuse these positions.

The Environmental Management Coordination Act (1999) provides for a council and authority (NEMA) and local committees to oversee the function of environmental protection. It also stipulates that an Environmental Impact Assessment be carried out where relevant, which should be gazetted in a local paper for 2 weeks to allow stakeholders to respond. IEA note that the constitution and other sectoral policies are clear on the need for a clean and healthy environment for citizens, with community participation being the main mechanism for environmental management. Lack of understanding of the law and low capacity of NEMA in this new area are cited as obstacles to success. Lastly, the Act is not specific to oil and its particular environmental risks (Odari, 2014).

The Constitution of Kenya (2010) is the main document relating to participation, which is also provided for in various Bills created since that time. As well as electoral processes, participation should also underpin the process of policy making and other aspects of governance. Affirmative action to remedy lack of participation, and lack of economic opportunities and unemployment by marginalized groups is stipulated (Article 56). Moreover, the rights of indigenous people to prior consultation and consent in enshrined in international law in ILO 169 and the UN Declaration of the Rights of Indigenous Peoples.

The County Role in the Extractive Industry

Turkana county government has recently created a Ministry for Environment and Energy. A CEO for this ministry noted that the county is now catching up and hopes to recruit a technical expert to assist in the development of a policy on petroleum extraction. All investment agreements have been halted while the county maps the resources and issues.¹⁰² Turkana county government is the custodian of communal land in the county, and is entrusted to utilise and control this resource on behalf of the community. A concern that was repeated variously is that the county's predecessor (The Turkana County Council) was not formally engaged in the discussion between exploration companies and central government (the Ministry of Energy) and was bypassed in the investment agreement. TCC noted that they had raised the issue at various times, including in a meeting with the Minister of Energy (for the national government) in which Tullow was also present, but with no effect.

In the disputes between the community and the companies, the county seems not to be playing a role at present, despite their mandate in development issues and their legal role as holders of community land in trust for the communities. If the Petroleum Bill (2015) is passed unchanged, the

¹⁰¹ Mnyawezi, R (2015) Deputy President William Ruto says historical injustices and community lands bills will be re-looked at by all. 25th August, *Standard Daily*.

¹⁰² Interview, Epuu Joseph, Turkana County Executive for Environment and Energy, Lodwar, 12 February, 2015

county will also have the responsibility for management of the 20% and 5% shares of royalties to benefit the county and local people respectively.

Devolution and Security Governance

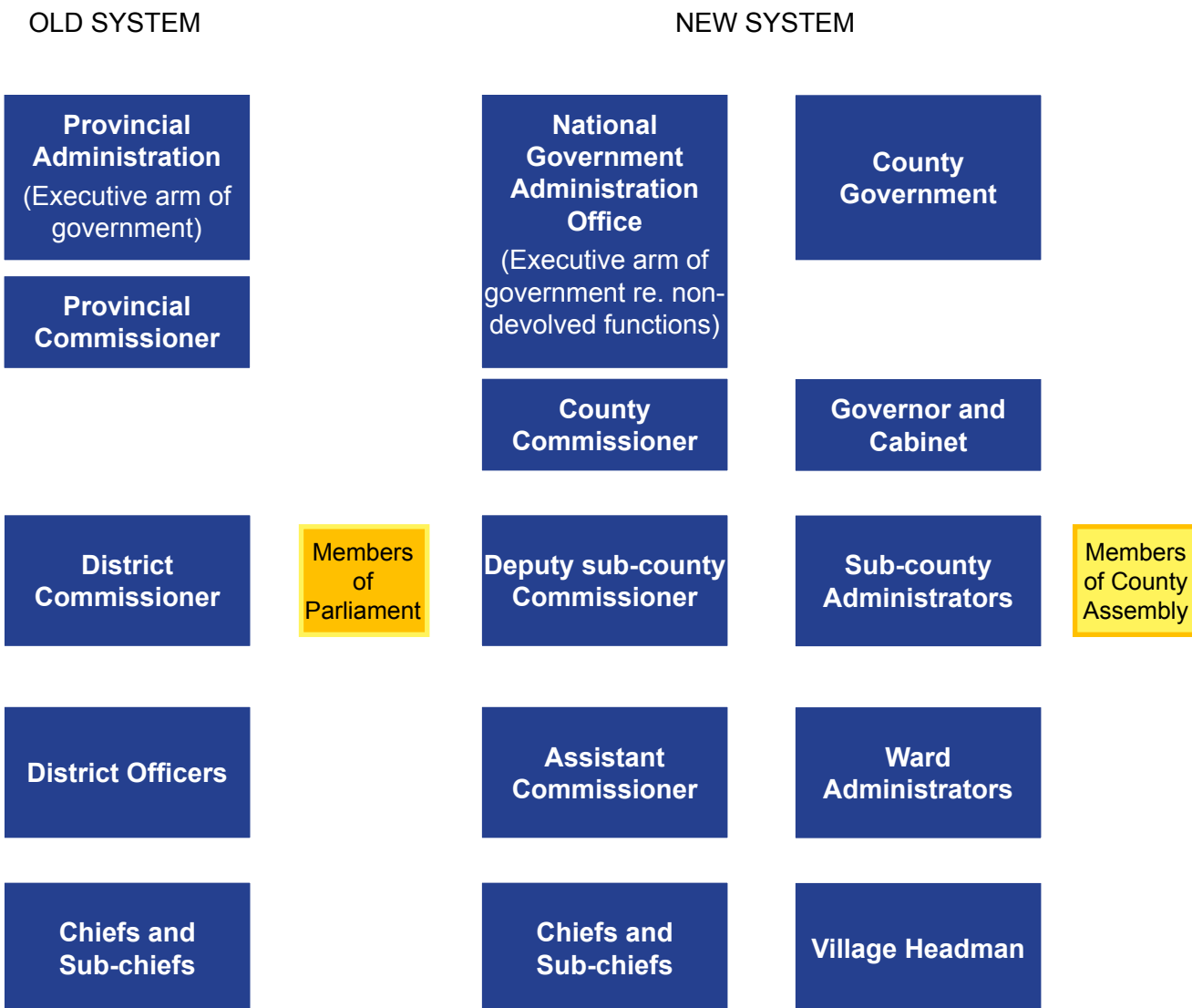


Figure 6: Governance Structures Pre- and Post-Devolution

Figure 6 denotes the old and new governance structures in counties, while figure 7 shows the main security players. These have a bearing upon security governance within counties, as well as administration. The former provincial administration which existed prior to the enactment of the new constitution in 2013 has been remodelled into the National Government Administration Office to represent government activities in counties although this was not provided for in the constitution. Two main structures connect governance and security; the County Security Committee headed by the County Commissioner and attended by police bosses, which has tiers down to the village level makes decisions on policing on a day to day basis, and the County Policing Authority headed by the county governor and attended by security bosses and public representatives which decides on security priorities in the county.

NATIONAL LEVEL	National Police Service (under IGP)			National Intelligence Service	Other: Kenya Defence Force (KDF)
	Kenya Police	Administration Police	Criminal Investigation Department		
COUNTY LEVEL	County Commander	AP County Commander	CID County Commander	County NIS Officers	
	KP personnel General Service Unit (GSU)	AP personnel Rapid Deployment Unit (RDU)			KDF personnel
					National Police Reserve

Figure 7: State Security Players in Counties

Oil and devolution occurring almost simultaneously, have both brought challenges for security governance. Under the new constitution the Administration Police (which was previously under the command of the provincial administration) and the National Police Service have been placed together under the headship of the Inspector General of Police (IGP). This has led to upheaval, confusion, tension and communication problems in police hierarchies, and an inability for the current national government administration to directly address security, while police commanders have to consult with Nairobi.¹⁰³ Further, in contrast to pre-devolution when the provincial administration had responsibility over the administration police and was also able to command the Kenya police (regular police) in an emergency, the NGAO no longer controls either which de-links the security from the administration and leads to coordination problems.¹⁰⁴ Lastly, the national government administration office, as noted, is not directly provided for in the new constitution and operates under an executive order, which again leads to confusion and low morale.¹⁰⁵

New Challenges for Security Providers

Deployment of Security Personnel to Oil Sites

Ensuring sufficient security to avoid interruption of oil production is moving up on the list of national security priorities leading to the deployment of a security unit to protect oil exploration sites and companies, and transport networks serving these.¹⁰⁶ In an agreement made with the former provincial administration, administrative police, regular police and National Police Reservists (NPRs) have been deployed to exploration sites, bases and as escorts for survey teams for which they are paid an added allowance.¹⁰⁷ These changes leave communities vulnerable, as an AP Officer explained, raiders spy on communities before attacking them and usually target communities that are the most vulnerable.¹⁰⁸ Cordaid (2015) concur that communities voiced high levels of fear relating to the re-deployment of NPR and their subsequent vulnerability. The requirement for road escorts is another activity which is providing an extra income for the official security personnel, diverting them from their duties, and reducing the incentive for them to work for lasting peace. A peace worker concurred that while police, APs and NPR are keen to guard oil because of the extra pay involved, this has left a security gap on the border with Pokot which the latter have taken advantage of. As a result, the former IGP commanded police personnel to go back to their normal duties.¹⁰⁹ An intelligence officer confirmed that around three quarters of the security personnel in Lokichar are at the oil sites, which has made Turkana more vulnerable to its neighbours.¹¹⁰ The extra money, which for police is

¹⁰³ Interview, intelligence officer, Turkana, 12 February 2015; under the previous constitution, police duties of detection and arrest of criminals and general law and order were distinct, with the latter being something that the district administration officer could command in an emergency situation.

¹⁰⁴ Interview, county administrator, Lodwar, February 2015

¹⁰⁵ East African Centre for Law and Justice (2013) 'Role Of The County Commissioners Under The Devolved Government' 16 June <http://eacj.org/constitution/20-constitution-feature-articles/139-role-of-the-county-commissioners-under-the-devolved-government.html>

¹⁰⁶ See Khalif, Abjata (2013). Kenyan Security Unit to Guard Vanoil, Afren assets in the North. <http://www.bloomberg.com/news/2013-07-29/kenya-forms-security-unit-to-guard-oil-assets-in-unstable-north.html>

¹⁰⁷ See Mkutu (2015) and Mkutu and Wandera (2013) for the role of NPR in guarding oil

¹⁰⁸ Interviews with communities, security, provincial administrators, CSO, FBO in Kalkol, Lokichar, Lodwar, 7-10 February, 2013. See also Mkutu and Wandera (2013).

¹⁰⁹ Interview, a peace worker, Lodwar, 13 February, 2015

¹¹⁰ Interview, intelligence officer, Turkana, February, 2015

around 45,000 KSh per month has also led to corruption, with senior police extorting money from the juniors whom they send to the site.¹¹¹ There is a secondary effect to this deployment. NPRs are rotated periodically, and upon leaving NPRs may seek other livelihood strategies which pay in cash. 'If you have paid me 30,000 for 2 months, and given me classic food, how do you expect me to follow animals for 40 kms? This transformation is affecting the community to their gains and losses.'¹¹² It was claimed by a few interviewees that occurrences of banditry may be due to NPRs who had recently ended their term. The deployment of NPRs was also viewed by one respondent as a means of buying them (they are community members) so that they support the oil industry and are silent about potential or real problems.¹¹³

NPRs are important as the main security on the ground in Turkana, are familiar with the local context and able to respond quickly to security threats. Moreover, they have been guarding the international borders for decades (although this is an unofficial role and of concern as they are not paid, trained or overseen to do this). However, there is a general lack of control over NPRs, especially in terms of mandate, and firearms regulation. They are known to misuse arms in banditry or raids, especially when in financial need. In addition to re-deployment to service the oil industry, there is now a metamorphosis from their previous role in provision of remote livestock security to paid work as road escorts and private security guards in Lodwar town, which is developing in line with the oil sector; once again, this leaves communities unprotected from their neighbours. NPRs are also vulnerable to recruitment by politicians for their personal protection, and fears have been raised that in the event of instability or resource based conflict they are a ready 'private army' who could be galvanized in various directions (Mkutu and Wandera, 2013). In this case it was noted that members of the county assembly (MCAs) have been involved in arranging NPRs to guard oil sites, without the involvement of the Officer in Charge of the Station (OCS) (Mkutu, 2015). The National Police Service (Amendment) Bill, 2014 seeks to improve training and supervision and provide remuneration for NPRs, acknowledging their current levels of service and risk in protecting Kenya's borders, and is currently awaiting Presidential assent.

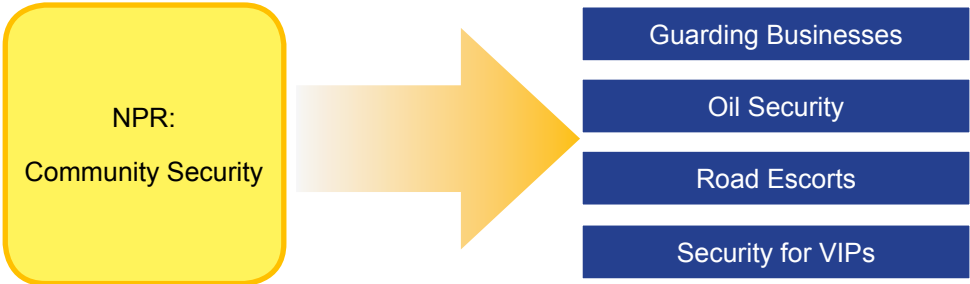


Figure 8: The Metamorphosis of the NPR
Source: Mkutu 2015

Another procedural problem noted was the bypassing of the security hierarchy by an investor in arranging security on a day to day level, and most of the security working for Tullow at the senior level are non-Kenyans, which leads to difficulties in understanding the local context and security challenges. The national government administration is only asked to be involved when security problems arise, so there is a lack of information sharing and trust between these two parties (Mkutu, 2015).

A confrontation between local communities and investors in Kalkol related to an issue of unequal compensation to Administrative Police (AP) officers, regular police and Kenya Police Reservists (NPR). While the provision of paid work has been appreciated, NPRs are reported to receive 500 KES, and police 1000 KES. NPRs who are normally not paid perceive this as unfair, since the police receive this benefit in addition to a regular salary (Mkutu and Wandera 2013). This led to a 3-day strike by NPRs in December 2012 in Kalkol (controlled by BGP, a Chinese sub-contractor of Tullow). The issue was contained after the involvement of a councillor but may not have been resolved. While no similar incident has taken place in connection with the exploration around Lokichar, similar

¹¹¹ Interview, intelligence officer, Turkana, February, 2015
¹¹² Interview, senior administrator, Turkana, February, 2013
¹¹³ Interview, civil society personnel, Lodwar, 26 May, 2013

concerns were raised by interviewees.¹¹⁴

Community Demonstrations

From 2012 to April 2015 a total of 14 demonstrations, road blockages and attacks have been witnessed in Lokichar town, according to the area police records. The intensified animosity between the community and Tullow culminated into violent attacks on investors sites forcing them to suspend operations on two occasions.¹¹⁵ In May 2013 a large baraza (meeting) was held in Lokichar. The County Commissioner was called in to settle a conflict between the governor, who supported an investor, and the member of parliament, who supported the community. Before the 2013 elections, the previous Council allocated some noted 6 sq. km of land¹¹⁶ to an investor in the south for him to build a 600 bed hotel and an airstrip. However, the local MP noted that this area was part of an important grazing ground for pastoralists. Following the allocation the community burned and destroyed the investors' property worth 6 million KShs (\$80,000), including huge tents and fencing poles. The community said that they had not been consulted before the leasing of the land, and they could not honour a deal which had been done without proper consultation. They alleged that bribery may have been involved.¹¹⁷ The investor claimed to have paid 4.5 million (in cash) to the county council and 0.8 million for the survey.¹¹⁸ Since the incident, the investor has continued to develop the area and has built an airstrip, which has been leased to Tullow.¹¹⁹

In October 2013, Tullow suspended their operations across block 10BA and block 13T for a period of 3 weeks due to riots by communities who cited the lack of opportunities for Turkana people.¹²⁰ In the demonstration, locals invaded workers camps, leading to the emergency evacuation of all non-Turkana by plane (Mkutu, 2014). A senior administrator gave his view on the cause of demonstrations,

Even when no skills were required, outsiders were being brought in. It's what woke the local people. There were job opportunities that people should not have had to demand. There are [sub-contractor] companies that communities have complained about, but Tullow has not removed them...Locals now know that if they demand and cause problems they will get what they want.¹²¹

Demonstrations in Tullow/Africa Oil's block 10BA site in Lowerengak in the first quarter of 2015 were related to delayed payments by subcontractors. A complete road block lasted for 4 days, and as the company attempted to close down operations, their departure was blocked by the communities demanding the 11,000,000 KShs they were owed. Another source confirmed that money intended for this purpose had gone missing. A meeting to address the issue led to the direct intervention by the owner to settle the balance. A similar demonstration by community members citing delayed payments by sub-contractors occurred in Lokichar in May 2015.¹²² In northwest Turkana where CEPESA have been carrying out seismic survey there have been better relations between the investor and community, with little tension as yet, although the company is only in the early stages of the exploration process.

Conservancies

Conservancies have been suggested as one measure to ensure that community land is protected. In Laikipia and other counties, conservancies have been created which are intended as wildlife havens, and also are supposed to benefit local communities through their involvement in eco-tourism. Conservancies are protected by rangers, who are drawn to a large extent from among the National Police Reserve (NPR) because these personnel are allowed to carry arms (Mkutu and Wandera, 2013). In Turkana a proposal to create six community conservancies from Turkana and

¹¹⁴ Interviews with fishermen and community members, Daraja village, Kalkol, 8 February, 2013; Interviews, Lokichar, 9 February, 2013

¹¹⁵ Information provided by a senior administrator, Turkana, July 2015

¹¹⁶ Sources interviewed noted 500 hectares or acres; with confusion among the various sources over which unit was being used. 6 sq. km is in fact 600 hectares or 1482 acres so the former unit is most likely. This however, illustrates the general confusion surrounding these issues, which can heighten tensions.

¹¹⁷ Interview, Director APAD, Lodwar, 26 May, 2013.

¹¹⁸ Interview several people and organizations including Oxfam, Provincial administration, civil society 25 May, 2013. Also see Daily Nation May 21, 2013.

¹¹⁹ Observation, February 2015

¹²⁰ See https://www.youtube.com/watch?v=Oaxs-9R_52Y.

¹²¹ Interview, A local senior administrator, Turkana, 12 February, 2015

¹²² See <https://www.youtube.com/watch?v=EeJznf8MoQQ>

West Pokot has been announced, and appears to be led by an investor in conjunction with a Member of the County Assembly and community elders.¹²³ A chief noted that these are planned from Lokichar to Kainuk in the south of the county.¹²⁴ At the time of writing, however, the county governor has suspended the process which is fraught with questions. A point of contention is that zones traverse disputed Turkana-Pokot boundaries which residents view as a plan to take their land and that there has been inadequate participation in planning, since crucial parties such as kraal leaders, kraal commanders and warriors have not been involved.¹²⁵

Little (2014:66) discussing community-private/government partnerships in conservancies in Kenya (particularly Laikipia) notes that,

While local partnerships may be a worthy goal, they usually reflect very unequal power relations, with the local community often having little clout to negotiate the terms of the partnership. Hence 'rather than partnership many of these become patron-client arrangements with the powerful patron company or INGO dictating the terms for the arrangement and monopolizing most of the critical information.

Other criticisms raised by Little (p.68) include the sometimes exorbitant profits for private business while communities benefitted little. Further he argues that the increasing land under conservation represents significant losses of communal pastoral grazing areas and alternative livelihood activities such as dryland farming (p.75).

In his work Mburu et al. (2003:66-67) shows that Kimana Group Ranch members (belonging to a community-based conservancy in Amboseli National Park) who have given some of their best grazing lands to wildlife, still earn considerably more revenues per hectare from pastoralism and agro-pastoralism than they do from wildlife conservation/eco-tourism, because the latter is volatile and not self-sustainable (it depends on outside funding). Moreover, they have little say in the management of the conservancy and the revenues are not equally distributed.

It is not clear where conservancies fit into the law, namely the Community Land Bill (2015), nor how land access for pastoralist mobility will be impacted. Therefore further study and discussion is necessary. An intelligence officer also raised concerns that NPRs guarding conservancies may also be vulnerable to politicization and formation into an army, especially in the context of recent internal border conflict.¹²⁶ This may also fragment security provision, and confuse security governance further, in the presence of a high number of arms in the community.

Disarmament

Following the Kapedo massacre in November 2014 and since increased violence in 2015 at the Turkana-Pokot border, various disarmament attempts have been made by Kenya Defence Force (the army) with little success.¹²⁷ Senior police officers from across Turkana raised concerns that most groups in the region are armed and resources to protect disarmed people, and to supervise the NPR adequately are insufficient. An officer cited the fact that the OCPD in Lokichar does not even have a workable car. A 'security first' approach to disarmament was advocated. It was suggested however that the state could deal decisively with raids as it had the capability and the names of the raiders.¹²⁸ Amnesties to register arms are another strategy in Turkana, Baringo, Samburu and West Pokot counties. It is hoped that registration would assist investigations of raiding, crime and banditry. However, several groups including the National Council of Churches of Kenya argue that this approach legalizes the use of arms. Further, in Karamoja, Uganda from 2001 to 2003 this approach was then followed up by forceful disarmament, targeting those who had registered first, and breaking trust (Gomes and Mkutu, 2003). Fear of the same is likely to stop Turkana from registering. Lastly, with porous borders, civil war in South Sudan and ongoing threats to Turkana, they are likely to continue to re-acquire another secret arm for protection.

¹²³ Muchui, D (2015) 'Six new wildlife conservancies to help restore peace in Turkana, West Pokot' *Mobile Nation*, 6 May <http://mobile.nation.co.ke/counties/Turkana-West-Pokot-new-conservancies/-/1950480/2707942/-/format/xhtml/-/aa309r/-/index.html> Access date 30.6.2015

¹²⁴ Interviews, Chief Josephine Akiru Ekai and Laurah Sambul (APEI), 12th February, 2015

¹²⁵ E-mail correspondence with peace worker from Turkana, August 2015

¹²⁶ Interview, intelligence officer, Turkana, February 2015

¹²⁷ Kipsang, W. and Bii, B (2015) Police officers in Kapedo arms mop-up 'neglected' 15 February, Sunday Nation <http://www.nation.co.ke/counties/Police-Kapedo-Weapons-Baringo-Turkana/-/1107872/2629478/-/11bdgdgz/-/index.html>

¹²⁸ Interview, security, local administrators, community members, 2010-2015



Key Recommendations

Closure of the Legal and Policy Gap

While new law is in the process of being crafted to govern the extractive industry, most Bills have stalled for years now, while the oil industry moves forward, and extraction is due to begin in 2017. It is urgent therefore to have a legal framework, upon which relevant policies may be built. This work also finds that laws tend not to harmonize with the constitutional principle of affirmative action for marginalized groups, i.e. Local content is about Kenyans rather than local people, particularly those who are marginalized.

Thus there is need for the government and other stakeholders to develop a local content policy to guide the practice both at national and local levels. The absence of a local content blueprint and knowledge about the same by the host community has opened a plethora of demands and actions which have culminated into riots. Compensation, and how this might be carried out for communal land, needs clarification in the Community Land Bill (2015).

There is a need for civil society to assist understanding of the law which is complex, by administrators, security heads and local people. Technical assistance is advisable at the county level as they are responsible for developing policies in the extractive sector at the local level. This would go a long way to clarifying the situation and avoiding unnecessary confrontations which are often build on misunderstanding. County and national government need to lead the way rather than allowing oil companies to interpret the law and make decisions as they see fit.

Institutional Framework

Once law and policy are developed, implementation remains a challenge, to which Kenya frequently fails to rise. The various government institutions, at national and county levels, that are charged with responsibilities relating to the oil and gas exploration process and any subsequent development and production phase (contingent on commercial viability) must clearly discharge their official roles. Strong well governed institutions are a pre-requisite for avoiding conflict over resource, which is most important when revenues start to flow.

A clear coordination framework that includes all the actors is important to reduce tension and suspicion. A document that clarifies the roles and responsibilities of different levels of government should be communicated clearly to all stakeholders within and outside the state. A popular version that would be easy for government officials, investors, civil society and

communities to access would be highly useful and would promote transparency and trust. It is also important that the both the central and local level governments take steps to ensure that the formal channels of engagement are respected, that they are clear to all and that there is a paper trail of all-important communication. This will assist in avoiding misunderstandings.

Local Benefits

The government of Kenya and the county have a responsibility to ensure that revenues benefit the marginalized people of Turkana. Affirmative action to ensure employment opportunities reach marginalized people in society is a constitutional requirement, but one which is easily ignored, because it is not clear who should do this. This work argues that the county should, possibly in partnership with civil society and investors, train local people to make them employable. Particular areas include driving (the DDT certificate), hospitality and oil industry specialist jobs, and also other jobs which may be relevant to the LAPSET project (construction, mechanics and all manner of other vocational trainings). There is currently no institution of higher education in Kenya offering training relevant to the extractive industry (an opportunity in itself to receive local and international students), and there is no longer a technical college. One option could be for the county to work with the Diocese of Lodwar to revive the old technical school developed by the church. The vision should be towards ending dependence upon expatriate labour and overseas training, which are expensive and allow only a few to benefit.

Companies are already aware that benefits, in terms of local acceptance, balance the potential extra costs of dealing with smaller local providers. National and local procurement by oil companies of materials, equipment and supplies can be a potent way to inject income into local businesses and households, in effect sharing the revenues from extractive operations. Procurement also generates indirect jobs, that is, jobs created by local suppliers, which generate further income through 'demand linkages' or wage multiplier effects. Most important, local procurement builds linkages to and strengthens local economic sectors, promoting sustainable development. Without local supply linkages, extractive industries create enclave economies. However, while agreements with companies have been made for local content, sub-contractors have been accused of being less concerned. Companies should be careful to ensure that their sub-contractors honour the MOUs made with locals for the sake of peace, but communities should be made aware that these are not legally binding, and therefore they need to explore legal channels where necessary.

Local NGOs need training in skills specific to the extractive industry, which is an area for international NGO involvement. New roles for civil society are also opening up as Turkana itself develops. Given the lack of predictability and sustainability of the oil industry and its highly mechanized nature, people need to be advised about maintaining fall-back mechanisms for livelihood (pastoralism),¹²⁹ school attendance, dangers of alcohol abuse and the avoidance of sexual networking amongst other new risks for Turkana.

The role of the county is crucial in the issue of local benefit by the oil industry, given that they are custodians of the community land. Further in the case of the passing of the Petroleum Bill (2014) as it is at present, the county is due to receive a 20% and 5% royalty to the county and locality respectively and locals should benefit from this. The Constitution calls for affirmative action to assist minorities and marginalized communities to benefit from opportunities, which needs to be applied in this case, in terms of jobs and training opportunities. However, this responsibility cannot fall on the shoulders of the companies only, rather the county and national government could and should lead in creating policy to reflect this and in preparing and training Turkana to be able to take up more skilled jobs.

Communication, Participation and Civic Education

The themes of communication failure and participation are recurring in the document. Related to this is civic education and management of expectations. The lack of access to objective and trusted information generates a context in which unfounded rumours play a central role in forming communities' expectations and attitudes towards investors and the government, which may lead to

¹²⁹ Interview, peace worker, south Turkana, 12 February, 2015

potentially violent conflicts. With effective communication along with transparency and accessible information (including EIAs also in popular version) through a variety of media, mutual respect and trust may be cultivated which may avert conflict. Verbal presentations in 'roadshow' format to communities may be a useful strategy.

There is a role for civil society in assisting communities to engage effectively with investors, particularly in knowledge and awareness of their rights, translation of legal documents such as EIAs and assistance to write professional MOUs which pave the way for better relations with sub-contractors.

Valuing Pastoralism and Protecting Pastoralists

An important way to reduce violent conflict and the risk of crimes such as banditry and 'oil bunkering' (stealing of oil from pipelines as is happening in the Niger Delta) is to secure livelihoods. In other words, more prosperous and stable communities means less conflict. There has been a high demand for meat which may increase as Turkana develops, and furthermore, the jobs in oil are not sustainable, so it is more likely to be through Turkana's development that pastoralists can find opportunity. Instead of doing away with pastoralism, the county could invest in veterinary services with mobile clinics, abattoirs, cattle transportation and markets, introduction of better varieties of animals and secure water sources such as water pans and water catchments.¹³⁰

Continuity and change as argued by Dyson-Hudson (1999), are important forces in pastoral areas of East Africa and vital in understanding in understanding historical factors in understanding present day interactions between people and environments. He notes that the way of life of pastoral Turkana in the early 1980s was in many ways similar to those Turkana whom the first European adventures encountered in the late 1800s, but that throughout their history Turkana have also experienced change. These findings question how pastoralists will they cope and adapt with the new introduction of extractive industry and whether they will suffer unduly as a result. Mobility by pastoralists is viewed as a reflection of the 'tragedy of the commons', 'backward', 'chaotic' 'unnecessary', 'socially & environmentally disruptive.' However, mobility is a rational response to ecological patterns in the dry lands. It is informed by several factors including climatic conditions, seasonal environmental conditions and the household needs (Dyson-Hudson and Dyson-Hudson, 1999). Pastoral herders utilize the variety of pastures based on seasons, watering points and hence this needs consideration even as the extractive industries are taking up land in Turkana. Mobility should be considered as a key feature of resilience in pastoral livelihood. As argued by Eulenberger (2015;167) 'although a pastoral life entails considerable risks, livelihood security in general seems much higher in a functioning pastoral economy than under the precarious conditions of much of Africa's 'modern sector'.

The work has highlighted the potentially hazardous effects of cultural changes in Turkana. Cordaid (2015) quote a women's group in Lokichar which voiced the need for sufficiently frequent leave for workers in oil camps to avoid prostitution and divorce. This is a serious consideration reminiscent of miners camps in South Africa and Botswana which are widely believed to have contributed to the spread of HIV and social breakdown.

The national government and county should work together to reserve sufficient land for pastoralism. Maps of migratory routes and traditional grazing grounds should be available to policy makers and should be protected by law. Failure to ensure that local pastoral communities have access to pasture areas of equal or higher standards than they have been used to is likely to lead to violence. This will need to take into account that many Turkana are currently in Uganda (100,000 animals) but may need to return as the land holding capacity is being stretched. The notion of conservancies requires detailed thinking, as how this will impact pastoralist livelihoods; these have been negatively impacted elsewhere. Further, the use of armed scouts should be carefully considered as this could inflame current conflict and create an arms race.

It is important from the beginning to demonstrate adequate compensation if the cooperation of community members is to be gained. A legal framework and mechanisms for collective compensation should have been developed and is therefore urgently needed.

¹³⁰ Thanks to Prof. Kurimoto of Osaka University, Japan, for his helpful thoughts in this section

Security for All

The national government currently has a considerable challenge in securing Turkana. Intercommunal conflicts are complicated by extractive resources, devolution and politicization. Security provision which has historically been sparse and under-resourced is complicated by police restructuring and the deployment of many security personnel to guard oil sites. Disarmament is likely to have limited effect in the absence of security provision. On a positive note, long years of investment in peace building on the Uganda-Kenya border appears to have borne fruit, and has complimented the disarmament and heightened security presence on the border at least in the short to medium term. The recent Turkana-Pokot peace process is also a hopeful development.

Devolution and development associated with oil may also assist security provision through road building, while the county is already assisting the police in some practical ways. A peace ambassador and a County Policing Authority may assist in a more tailored approach to security management in Turkana, if these stakeholders can work together. A holistic strategy involving short and long term goals, and in partnership with other stakeholders is required. The role of the state is to protect its citizens, and community security cannot be left out of the strategy at the expense of oil security. Therefore state needs to carry out community safety audits and focus not only on oil security but include the wider Turkana communities so that they feel a benefit. This could address the current fear of external attacks and conflicts.

It is clear that police need to be better resourced and supported, and that chains of command need to be clarified. The current reality that deployment in arid areas is a punishment or a way of getting rid of unwanted individuals in the force¹³¹ is part of the problem of low morale, and a disconnect between the periphery and the centre. This problem may be approached by ensuring that all officers serve a term in arid areas in order to understand the challenges.

NPRs are leaving their communities vulnerable to attack because of their work in guarding oil. This strategy needs to be reconsidered. While they are a locally knowledgeable, hardy and courageous human resource in a difficult terrain and circumstance, their lack of professionalism and their link with politicians is an ongoing concern. This may improve if the legal amendment to allow them to be paid and better trained is passed. Any decisions need to look to the future development of Turkana, and the current trend for NPRs to work as private security guards which is likely to increase as the cash economy supersedes the cattle economy. Increasing other private security providers (who unlike the NPR are not legally allowed to carry arms) will also complicate the current situation and is not recommended. The conservancy model risks marginalising pastoral communities in terms of participation and land rights and fragmenting security provision further and is not appropriate for a county which has recently faced large scale conflict across one internal border, and also lower level constant insecurity across 3 international borders. In this situation, state security is needed.

Turkana is facing challenges from inter-communal conflict on every side which is likely to lead to self-acquisition of arms. Tight border security is therefore the most efficient way of dealing with both problems. The impervious border security aspect of Uganda's strategy is something which Kenya may wish to reproduce on the South Sudan and Ethiopia borders, in order to secure its citizens. Notably, Turkana people are not at war within themselves so there is a relatively small area for security to cover. Currently however, there is a military presence on both of these borders but it seems to have limited effectiveness which requires investigation. In Uganda in 2003-2004 a concept known as Civil-Military Operations Centres (or CMOCs) was carried out. It was successful for a time, in its aim of bringing the military to the community level to assist the community with their security concerns as the former carried out voluntary disarmament. Its effectiveness was limited however, was by the centres becoming dominated by the military component, and lack of sustainable resourcing. Some lessons could be learned from the original vision of the CMOCs to avoid the counterproductive relationship that usually ensues (Gomes and Mkutu, 2003).

Capacity Building for Administrators

¹³¹ Interview, police officer, Nairobi, 2014; this police officer was removed from Nairobi and deployed to an arid area because he had allegedly confronted a junior about misuse of a firearm. The junior however was well connected and the officer lost his job. This phenomenon is common knowledge in Kenya.

Oil is a new area for Kenya, and administrators need to be aware of the opportunities and pitfalls in the area, and the complex legal and policy aspects as noted. The extractive industry could be an aspect of training for all senior government officials at Kenya School of Government and for senior security officers from NSIS and the police. Training should be in-house to maximize its reach. This is a potential area for donor support.

Averting and Diffusing Conflict

The Government of Kenya is overall responsible for preventing, diffusing and managing conflicts. To do this successfully and with long term impact it is critical that the government equips its local administrators to take a conflict sensitive approach, which includes consultation and listening to local communities in keeping with the constitution. Early constructive action increases the likelihood of peaceful management of issues and reduces the likelihood of needing to resort to the use of force. Security providers and military and the disarmament approach are covered previously.

Elected officials and other community leaders must ensure that they are well informed and provide balanced information to those they represent. They should resist the temptation to use the issue for personal benefit or to demonstrate political power. Civil society actors should recognize both positive and negative potentials of oil and gas development and provide balanced and objective information to communities. They should ensure that community concerns and priorities are properly represented and listened to. They should recognize that it is a long process and that it is critical to promote constructive engagement with all stakeholders including investors. Development partners can support with knowledge and specialised capacity. They may have a particular role in supporting initiatives to promote transparency, accountability and conflict sensitivity.

Peacebuilding on the cross border areas should continue, with support for organization of meetings to break down suspicion. At the local level, local leadership can be brought together across international borders (particularly south Sudan-Kenya).

Conclusion

This paper has highlighted that resources may not always benefit nations or local communities, and negative impacts predominate in developing countries with weak governance institutions. It is critical that Kenya learns from good and bad practice in other countries. This work stresses the need for better law, better policies, strong institutions, better contracts and effective security. The government is attempting to create a sound legal basis for the nation to benefit from oil, although this requires some adjustment and completion. At the local level where this paper is focused, there is evidence of significant tension with communities over real and perceived lack of benefit, land rights and needs, and lack of access to information. Turkana has a long history of a fragile security situation with frequent and lethal inter-communal conflict and a high number of arms in the community. Therefore the added risks to local security are seriously and all stakeholders (national and county government, investors, civil society and communities) are required to engage constructively with each other for conflict prevention.



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