Lessons learned from the Enabling Good Governance in Kenya's Oil Sector project

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Introduction

This paper presents lessons learned from the Enabling Good Governance in Kenya's Oil Sector project. The project aimed to address governance deficits by building constructive relationships and engagement processes between the Tullow Kenya Business Venture (TKBV) and its external stakeholders, including host communities. Engagement processes, such as grassroots dialogues with company representatives, local government officials and community members, were approached as a means of fostering constructive dialogue about issues that divide local actors, including the company. The paper is based on the experience of the project's implementers: International Alert (Alert), CDA Collaborative Learning (CDA), the Center for International Private Enterprise (CIPE) and Kaputir Resource Management Organization (KARMO). It is also based on interviews with approximately 25 of the project's stakeholders and interlocutors, representing the Tullow Kenya Business Venture (TKBV), the Turkana County Government (TCG), communities in Turkana East and Turkana South sub-counties, the Turkana Chamber of Commerce (TCoC), non-governmental organisations (NGOs) operating in Turkana county, and other NGOs engaged in the project. The paper incorporates insights gleaned from the work of Alert, CDA and CIPE work in other contexts, as well as a small number of secondary resources.

The project embodies a particular approach to peacebuilding in relation to large-scale, private-sector projects in fragile and conflict-affected settings (FCS). Lessons learned from implementing the project may thus have value for those seeking to address conflict and tensions relating to large-scale, private-sector projects in contexts that are characterised by fragility, weak governance and histories of conflict and violence. As such, the lessons relate to the role of business in conflict and peace, conflict-sensitive business operations, and effective approaches that third parties in such settings may employ in their engagement with companies and their stakeholders. The lessons have relevance for efforts to encourage the private sector to contribute to peace or to operate in ways that are conflict sensitive.

Conceptual framing

It is well established that large-scale, private-sector projects in FCS carry a high risk of generating or intensifying conflict.[1] In recent years, there has also been rising confidence among bilateral and multilateral organisations and development finance institutions that the private sector has a critical role to play in efforts to improve social and political conditions in FCS. This confidence has driven substantial interest in private-sector development initiatives as projects with explicit objectives to strengthen peace, mitigate conflict, reduce fragility, or all three. The expansion of interest in this area, and in the prospect of programming of this nature, has, however, not been accompanied by increased clarity about how such interventions should be designed, managed, or implemented in order to mitigate conflict risks and to make good outcomes more likely.[2]

The approach and rationale of the Enabling Good Governance in Kenya's Oil Sector project ('the project' henceforth) are consistent with the literature on business and peace. A small but expanding body of research suggests that, in FCS, companies have had positive impacts on peace where they purposefully addressed governance failures and conflict issues related to their operations.[3] Evidence within this body of literature suggests that coordination and collaboration between companies and actors outside the private sector are key success factors, in part because there are roles that are essential to these processes that, for various reasons, companies cannot play themselves.

Case studies that support this finding are drawn largely from contexts in which such cross-sector collaborations emerged organically out of the relationships and engagement among the local stakeholders and in response to emergent needs within the context.[4] There is as yet relatively little evidence that demonstrates precisely how actors not already embedded in the local context might purposefully and constructively intervene at the local level. There is even less public knowledge of how those parties might effectively plan, fund and implement this kind of purposeful intervention as a deliberate effort to reduce fragility, strengthen peace or mitigate conflict. To the extent that this paper is able to address those issues, it may provide insight into how business and peace interventions of this kind can be approached as specific projects.

About this paper

In presenting lessons learned from the Enabling Good Governance in Kenya's Oil Sector project, the intention of this paper is to offer insights based on our experience without being prescriptive. Organisations working in other contexts with different companies and stakeholders may not find all of the lessons to be relevant to their work. Our aim is to provide readers of this paper – including donors, implementers and companies – with at least some insights that they may be able to deploy or adapt in order to achieve better outcomes for their projects.

We see this paper as having direct relevance to the following groups of actors:

a) foundations and bilateral/multilateral donor agencies that have developed or are interested in developing peace- and/or governance-related approaches involving large, capital-intensive, private-sector projects in FCS;
b) NGOs wishing to engage private-sector companies directly, in a constructive manner, to improve the outcomes of the company's activities, be those outcomes framed in terms of conflict, realisation of economic benefits, local development, or other terms;
c) companies operating in weak governance areas that recognise the utility of an independent, third-party interlocutor acting in the interest of outcomes that are good for all parties; and
d) contributors to thinking and discourses about the private sector as a peace and conflict actor, including academics and policy-level actors and researchers.

The paper is organised into three sections. The first establishes factors in the context of Turkana county that contributed to risks in the context of an extractive industry project. Although the context in Turkana county and the project of the TKBV are distinctive, they have several characteristics that can be found more widely and that indicate significant risk. The second section explores strategic considerations that may contribute to the effectiveness of third-party interventions in such contexts and the third section explores some of the pragmatic aspects of projects, such as planning and implementation considerations, that might make them more or less effective.

It is important to bear in mind the limitations of this paper, which is based on a single project that was compromised in significant ways by the outbreak of the coronavirus disease (COVID-19). Systematic learning about this role would require multiple case studies, based on a single terms of reference, and drawn from multiple contexts.

The context and the challenge

The project unfolded in relation to the TKBV's oil development project in Turkana county in Kenya. Several characteristics of the context, and several aspects of the company's approach to operations, contributed to conflict risks and were thus salient to the design and implementation of the project. This section of the paper provides a concise description of these factors, focusing on aspects of the context that illustrate the sources of conflict risks around oil development in Turkana county.

The communities

The communities in Turkana county consist overwhelmingly of ethnic Turkana people, with most non-Turkana residents of the county living in urban settlements. The consultancy Pastoralist Consultants International estimates that 70% of the population in Turkana county practises a transhumant way of life, depending on camels and goats for subsistence.[5] Turkana society is organised into clans and subclans, which are significantly territorialised groups, and age grades, which cut across clan and subclan lines and geographies. Senior men and traditional seers may exert some authority within their own families and clans, and some are able to build a degree of respect and credibility more widely. Many Turkana people speak today, however, of the waning influence of elders, and in any case, clan structures have only informal political and decision-making roles, although there may be important social sanctions for disregarding them. There is no recognised informal status or position within local communities that confers a mandate to make decisions on behalf of members of families other than one's own. Outside the official structures of government, local social organisation does not include apical authority of any kind, formal or informal.

As a consequence of the county's historical neglect by the Kenyan government, rates of formal education and literacy in Turkana are among the lowest in Kenya.[6] Community members expressed uncertainty about Kenyan legislation that is relevant to the oil project and its outcomes, such as laws that define the legal rights of individual citizens, the obligations of TKBV (about, for instance, disclosure, local recruitment, and environmental protections), or the roles and obligations of government offices vis-a-vis citizens or companies. In the words of a member of our project team, at the outset of the project, "Communities were not united or organised and didn't know what they wanted. Some people wanted material gains; some wanted the community's interests represented; and some were just confused." Many local people did not know: how to gain access to information that would help them make informed decisions or determine useful courses of action; how to present or communicate issues effectively in ways that might be compelling to the company or to state agencies; how to access fora in which decisions that bear upon the oil project are made; or what local laws do and do not allow or require.

The government

The history of the relationship between the Kenyan government and communities in Turkana county has been marked by negligence. Government services and development efforts in Turkana have been minimal since independence in 1962. For example, for many years formal education in the area was largely in the hands of the Catholic Church. To date, the county has one paved road outside municipal areas and, until improvement works were launched in 2020, that road was in a state of egregious disrepair. Despite frequent incidents of armed banditry, police in the county commonly do not respond to calls for assistance, citing the lack of fuel for their vehicles, and public services outside the county's larger municipal areas are basic or non-existent.

People in Turkana do not hesitate to voice their negative views of the government and in their conversations with our team many discussed the government in terms framed by several grievances. Locally, the government is widely perceived as corrupt; formal officer-holders within the government are believed to use their posts to advance their personal interests, often in ways that are illicit or that impose costs on individual citizens or the public at large. Large-scale, organised protests in Kainuk in June and July of 2019 demonstrated the feelings of many local people that the government has failed to provide security in and around the oil zone, and that the government cannot be trusted to manage oil royalties in good faith. The first two county-level elections brought opposition political parties into power and kept them there.

The devolution of substantial authority and resources to elected county governments has been heralded by many (including many in Turkana) as a step in the right direction, but the TCG is working to overcome decades of neglect by the government. Although the TCG is regarded favourably among people in the oil zone, members of our project team observed that some elected officials within the TCG appear to be no more interested in the welfare of communities than their central government counterparts:

> *"Elected and aspiring politicians are playing a big role, but they are not representing the interests of local communities, just trying to get contracts. On issues of waste management, for instance, the politicians are silent, sitting 'in between' and looking for a good deal for themselves."*

Although Kenya has historically had several early-stage mineral exploration projects, oil and gas exploration and production are new industries in the country, and the TKBV's resource finds were the first commercial oil discoveries ever made in Kenya. Both the central government and the TCG have been learning about the industry, its needs and its impacts as the TKBV project unfolds; neither have experience-based insights into the challenges and dilemmas that commonly accompany oil and gas projects. By the same token, legal, institutional and regulatory frameworks relative to the oil and gas sector have also been in development as the TKBV project has moved forward. For example, the Critical Infrastructure Protection Unit of the Kenya Police (which will ultimately provide security to the oil project, among others) was formed in 2015; the Community Land Act, passed in 2016, was the first law in Kenya that permitted communities themselves to act as the legal managers of their own land; and the Petroleum Bill, which governs the distribution of royalties derived from petroleum production, was only passed in 2019. County-level administrative structures were instituted in 2013 and the scope of their authority in relation to the government remains unsettled in some areas and contested in others. County government officials frankly acknowledged to members of the project team that they were unsure about what actions they could take to make good outcomes for local people more likely, a reflection of their lack of experience of oil and gas projects.

Civil society

Kenya has a robust civil society, although Turkana-based civil social organisations and NGOs tend to be small in terms of staff, financial resources and the scope of their activities. One member of our team noted, “At the grassroots level, [local] civil society lacks a voice and capacity. They need someone to help them engage better with the authorities. If there is a problem in the community, no one is able to help or to engage on the issue.” In recent years there have been several significant projects in Turkana county undertaken by NGOs headquartered in Nairobi or internationally. To our knowledge there has been little or no coordination among these projects, or among the donors funding them. As a consequence, projects in Turkana have unfolded largely without efforts to establish synergies, linkages or continuity across them.[7] Civil society actors engaging in Turkana county have not worked to establish any broadly shared understanding of the social and conflict risks presented by the TKBV project or of the needs and aspirations of communities that are affected by the project.

A consequence has been projects that have failed to build on each other, have advanced unpredictably and irregularly, or have operated on the basis of divergent assumptions and strategies about how risks in the oil zones can be mitigated and how the interests of communities in the oil zones can be advanced. For instance, in 2017, the UK Department for International Development (DFID) funded a consortium of organisations to implement a four-year programme of activities intended to mitigate the risk of conflict in oil and gas development. After one year of activities, DFID cancelled the project for reasons that members of the consortium told us were not clear to them. As of 2019, relatively few organisations working on issues relating to the Turkana oil project have posted staff or maintained offices in Turkana county, although there are some exceptions (notably the Danish Demining Group and Trocaire, the development organisation of the Catholic Church in Ireland).

The company

In its relationships with external stakeholders, the TKBV has had a mixed track record. Early efforts to deliver benefits to communities did not yield sustainable results or widespread support for the company’s project. Initial land acquisition led to tensions within local communities, although the parties in dispute subsequently reconciled on their own initiative. Although violence in the region around the oil project (including between residents of Turkana and West Pokot counties) is of significant concern to the company, it has not built internal support for what some personnel have been calling a “conflict management” approach to operations. Such an approach would proactively seek to mitigate the factors driving conflict, including factors originated within the company itself, through external alliances, diplomatic efforts, and modified approaches to operational activities. While key staff in Nairobi have supported this idea, they have not managed to convince Tullow Oil’s London headquarters that there are substantial conflict risks associated with the project, and that these may warrant a more robust and expansive approach to the company’s engagement with external stakeholders. Furthermore, in the run-up to the final investment decision, there was substantial pressure within the company to reduce headcount by laying off staff or outsourcing functions to contractors. As a part of this effort, the TKBV’s Community Liaison Officers were retrenched and then rehired in the same role by a contractor, a transition which reportedly damaged their morale. The TKBV also experienced turnover of key personnel within the Non-Technical Risk Department (that houses public affairs, community relations, security, local procurement, and other functions that deal directly with local communities).

The TKBV started to develop a community development plan based on the model developed by Chevron Nigeria Limited (which is widely regarded as an example of good practice for conflict-affected settings), but this work was overtaken by events. In 2019, Tullow Oil experienced a major internal financial crisis (for reasons unrelated to the Turkana oil project), and the company lost 70% of its share price in a short time. The CEO and Director of Exploration left the company, and the company ultimately sold part of its share in the Turkana oil project (although Tullow Oil remains the operator) and launched another round of retrenchment. Six months later, the COVID-19 outbreak halted travel between counties in Kenya. Together these factors largely halted the oil project, which faces an uncertain future. The TKBV currently retains a skeleton staff at its base camp in Kapese, pending a final investment decision.

Implications and conflict factors

The context and the TKBV are of course distinctive in their particulars, but at a high level several of their characteristics are common across extractive industries projects in FCS. These characteristics may provide some indication of other contexts for which lessons from this project may be relevant. Those characteristics include:

- Local actors have divergent and contradictory interests, and their contemporary relationships are defined significantly by histories of conflict and violence.
- Local actors perceive that they receive little reliable information about the company's project and they feel that they do not understand it.
- Local actors anticipate that the company's presence and activities will confer significant material benefits, as well as potentially significant harms (such as pollution or compulsory relocation), and they are motivated by concerns about how both will be distributed among them.
- Community representation is deeply fragmented; there is no local entity that has a mandate to speak on behalf of local communities, and formal, elected representatives do not necessarily act in the interest of communities and their welfare.
- There is no government entity that appears to have the interest, capacity, and credibility among other actors to balance the competing interests of TKBV's various stakeholders in ways that are fair or to bring to a resolution conflicts that predate the company's project. Perceptions of the government are such that some stakeholders may perceive even well-intentioned government intervention as conflictual action.
- There is no government entity that appears to have the interest, capacity and credibility among other actors to regulate, service and administer an oil and gas development project (e.g. by ensuring security in the region, effective public consultations, land acquisition, managing oil revenues into the state, and so on).
- Local civil society is weak and both national and international civil society actors have engaged in the local context in ways that are inconsistent and misaligned with community priorities.
- The company does not communicate effectively about its project to stakeholders to ensure that they understand how the company intends to handle issues that are of concern to the community and the company's predictable social impacts.
- Key decision-makers within the company are not convinced of the need to adapt operational approaches to local conflict dynamics. They underestimate conflict risks and take a narrow view of the scope of the company's responsibility and mandate with respect to social issues in the operational context.

Lessons learned

Lessons learned and reflections from the implementation of the project are presented in two subsections exploring higher-level issues and practical considerations respectively. Recommendations from both sections are captured in the third subsection, 'Project considerations'.

Strategic considerations

Within the context described above, the Enabling Good Governance in Kenya's Oil Sector project sought to build constructive dialogue among the company and its external stakeholder groups. Part of the project's remit was to build a shared understanding among all of those actors of the risks inherent in the oil and gas project and the responses that it provokes among local stakeholders. These include conflict and violence among local social groups (such as between ethic Turkana and Pokot populations), fraught relations between the company and local communities in the oil zone, and challenges in the relationship between the government and the population of Turkana county. Directly and indirectly, the presence and activities of the company have influenced all of these relationships.

The relationship with the company

Building constructive dialogue and relationships between the company and its stakeholders entails acting upon the relationships among local actors, including the company itself. This, in turn, requires maintaining constructive relationships with those actors while addressing issues that are linked to conflict issues about which local actors disagree sharply. In this context, engagement with the company entails inducing it to address issues that are of concern to its external stakeholders, but that the company itself may not see as legitimate or perceive as its responsibility to address. This needs to be accomplished without compromising the ongoing engagement of the company. A question that arises immediately, therefore, is how to position the project in relation to the company.

The TKBV appeared in many ways to be committed to broad engagement with external actors, even with some of its critics, but not all companies engage as freely with external actors. Some companies may not perceive a rationale for engaging or may simply decline to do so. Some may perceive oppositional approaches by external actors – such as pressure or advocacy campaigns, public denunciations, legal action, efforts to prove or substantiate failings, and similar approaches – as hostile or antagonistic. Some companies may respond to such approaches by withholding information and declining dialogue or engagement. For this reason, oppositional courses of action and approaches to influencing the company should be understood as potentially compromising the possibility of constructive dialogue with the company. This is not to say that oppositional approaches are illegitimate or that they cannot induce positive changes in company behaviour, only that they carry a risk of undermining efforts to engage constructively on an ongoing basis with the company. In some cases, they may increase the likelihood of conflict in the company-community relationship, at least in the short run.

Entrenching conflict

In a conflict-affected country in Central Asia, an international NGO and its local partner NGO organised communities to monitor the implementation of a public community development agreement that a mining company had signed with the host state. The project proposed to use photographs and videos, posted to the internet, to demonstrate that infrastructure built by the company as part of the agreement was substandard. The project itself had no vision for resolving community complaints about poor company practices or deficient construction. The company declined to engage either of the NGOs or to participate in the project. The intent of the project was to generate public pressure on the company and possibly to provoke remedial action by government agencies as a response to public pressure.

One of the explicit goals of the project was to build peace between local communities and the company. Yet the activities proposed by the project appeared to be more likely to build and validate frustration with the company within local communities, without reliably providing an avenue for the community to address its frustration. While it may be reasonable to point out a company's shortcomings publicly as a way to pressure the company to comply with its contract, the planned activities seemed more likely to drive conflict between the company and the community than to build peace between them.

Collaboration with external actors and their initiatives may be more successful for companies when aligned with the companies' interests; companies are more likely to participate in dialogue processes when this will benefit the company. A member of our project team observed in the early stages of the project, "[Whenever] TKBV wanted something done, they would work fast and get it done. But whenever we wanted something from them, they would never implement." This highlights the risk of companies instrumentalising their relationship with constructive external parties as a means to achieve the company's own goals in relation to its stakeholders and the project without necessarily making any compromises.

Companies are only required to engage with certain external actors; therefore, if optional meetings and discussions do not offer value to the company, it is less likely to participate in them. Cessation of engagement by the company may have implications for the project because it may significantly reduce the avenues available to influence the company's actions and behaviour. In the initial months of our project, field-level staff of the TKBV demonstrated scepticism towards our project and appeared to approach engagement with it as something of a formality. Project staff expended significant effort and time in building credibility among the site-level field staff of the TKBV. Several interviewees suggested that our project might have benefitted from pursuing the company's formal approval for the project before launching activities and from involving the company in the project's design phase. They suggested that this approach might have ensured a greater degree of collaboration from the company from the outset of the project. This approach may indeed have made the initial field-level engagements with the company easier and more productive, but inviting the company's participation in the project's design phase may have undermined the perception among communities of the project's independence from the company. This, in turn, might have made initial engagements with local communities more time-consuming and less productive. This issue is explored further below.

Company buy-in

An international NGO sought to protect the rights of local community members in Turkana county by establishing a local grievance mechanism that communities could use to register complaints about the TKBV's actions. In the eyes of the NGO, it was important that the mechanism was not subject to the influence of the company. The NGO engaged a broad range of the company's stakeholders to determine which, if any, local parties might be able to play credibly the role of receiving, investigating, and arbitrating disputes between local people and the company. Ultimately, the NGO settled on the local Catholic Diocese as an appropriate entity.

Throughout the process, the NGO never considered how to make the mechanism credible and legitimate in the eyes of the company. It never consulted the TKBV, nor did it think through how its 'popular' non-judicial grievance mechanism might relate to the TKBV's own grievance mechanism that it was required to implement as part of its 'duty to remedy' human rights abuses, as per the UN Guiding Principles.[8] As a consequence, the company never bought in to the NGO's project or grievance mechanism and in the absence of any indication from the company that it recognised the mechanism, local people themselves have never used it, to our knowledge.

Buy-in from local communities

Evidence from Turkana county suggests that the absence of an expressed mandate from local communities may limit their collaboration or investment of time and energy in a project. There have been numerous NGO-led and other interventions in Turkana county that, from the perspective of communities there, have not advanced communities' interests substantially. At the outset of our project, community members expressed their initial scepticism of our efforts, telling a member of our project team that "lots of people come to do research, from the government and from NGOs, telling us that they want to help, but then they just write a paper and go away". 'Assessment fatigue' among local people is such that in some cases communities appear to have limited their collaboration with organisations intending to advocate for their rights. The communities' perspectives on these efforts suggest that communities may not readily see the value to themselves of such courses of action by NGOs or other external actors. Communities may need to be convinced that the project will benefit them in ways that they themselves define as meaningful. Influencing the conduct and decisions of the company with respect to issues that communities see as important may be critical to retaining the interest of communities in dialogue processes.

Independence

Convening and facilitating dialogues about a company's project in ways that communities find credible may require independence from the company, or the perception of independence in the eyes of communities. Independence may mean various things to actors in different contexts, but the project's experience in Turkana county suggests that, in that context at least, receiving funding from the company and being independent from the company are almost antithetical to each other. Our project staff and counterparts within the TKBV agreed broadly that accepting funding from the company would have discredited our project in the eyes of local communities. The perception of an alignment of interests between the project and the company would have fundamentally compromised the project's ability to play certain roles in relation to the company and its stakeholders. Actors that are interested in playing an independent role should consider carefully the implications of accepting funding from the company; donors interested in private-sector development and impacts upon peace and conflict should also recognise that interventions that are, and are seen to be, independent likely require sources of funding other than the company itself, even if those projects may be beneficial to the company in certain ways.

Furthermore, the company's willingness to fund a third-party initiative may also be conditioned by the company's expectations of the community's reaction to the funding relationship. Representatives of the TKBV had very firm ideas about this and expressed to our project team on numerous occasions their view that funding parts of the project or paying the project for services would compromise the project's independence. They ruled out any such arrangement specifically for this reason. The project team broadly agreed with this premise and perceived that the TKBV's reluctance to influence the project extended to making suggestions and requests, as if this might compromise the project's independence.

Funding and independence

Local people in Turkana South were suspicious of one of the TKBV's waste storage sites, which they believed was contaminating air and water in the vicinity of the site. A number of local people believed that animals that had passed near the site were becoming sterile, and in some cases sickening and dying, and they had taken to avoiding the site altogether. Some of the local people brought the issue to the attention of the TCG in the hope of a resolution. The county's environment office consulted with TKBV about the site and it was agreed that samples from the site and the surrounding area would be tested by an independent, private laboratory. TKBV offered to pay for the tests and did so. When the results came back indicating that air and water quality were within acceptable parameters set by the government, local people disagreed with the results. Later, they argued that the laboratory must have been influenced by the fact that TKBV had paid for the tests.

Levels of intervention

In the context of the TKBV's oil project, the Kenyan government consistently acted in ways that had substantial impacts on local actors, including the company, and their relationships with each other. In some cases, these actions influenced the company-community relationship and made it more difficult to maintain constructive dialogue between those parties. For instance, community members informed members of our team that a representative of the Ministry of Petroleum was giving divergent and contradictory information to different stakeholders, and that this was creating confusion, uncertainty, and a perception that the government was biased towards certain groups of stakeholders. Policies and regulations, procedural decisions, and even simply the communication of information about issues relating to the oil and gas project may all have similar effects on local issues and relationships between local actors. This observation points to the utility of an advocacy strategy for influencing the actions of the government. As one member of the project team indicated, "There was a need to engage at the policy level simultaneously, to try to involve the government. In all of our meetings and engagements, we heard that politicians' interests were all short term and personal. There is a need to influence the politicians, and to represent the interests of communities to them." He noted that "the dialogue has to connect to the decision-making process".

Similarly, the TKBV's Community Liaison Officers (CLOs), who are responsible for interacting with community members on behalf of the company, participated in numerous community-level dialogues convened and facilitated by the project, but they did not have the authority within the company to make decisions about operational activities or internal procedures. Often issues were raised to which the CLOs were unable to respond without consulting someone above them in the company's organisational structure. A member of the project staff observed:

> *"The CLOs we engaged with had already spent years working with communities on the issues. They had good relationships with community members. The challenge, according to community members, was that they did not influence decisions within the company – they were there as fire fighters, not as people who input into decisions. Communities also did not find them effective in influencing or changing the company's behaviour. They told them, 'We always tell you the same things and nothing ever changes. Can you send us some decision-makers, someone higher up in the company?'"*

These observations point to the salience of non-local actors for sustaining meaningful and effective dialogues at the local level. They suggest a need to link local dialogues with engagement, influencing, and advocacy strategies with the company headquarters (the TKBV headquarters in Nairobi and possibly also London) on the one hand, and policy- and decision-makers within the central government on the other hand. Failure to account for these non-local factors may limit what can be accomplished in dialogues among local actors.

Geographical scoping

The relationships among stakeholders of the Turkana oil project, and their relationships with the TKBV, exist within a conflict system that affects the entire Lokichar Basin, including the neighbouring West Pokot and Baringo counties. The presence of the company, initially within Turkana county and later in West Pokot county as well, has affected conflict dynamics, and thus relationships among actors within the larger conflict system. Responses to the oil project by people within West Pokot county, for example, have had profound effects on communities that are stakeholders of the project, and also on their relationships with each other, the government, and the TCG. As such, the larger conflict system of northwestern Kenya is material to the project. Further, the oil project is tied to a separate pipeline project that would connect Turkana county with Lamu county through five counties in northern Kenya that are themselves conflict-affected. In the case of our project, however, West Pokot and Baringo counties and the pipeline corridor were all outside of the project's geographical scope.

Within the extractive industries more broadly, it is relatively common for communities that the company and/or the host-state government consider to be outside a project's impact area to be excluded from social investment, local content, and company stakeholder engagement activities. In many cases, those communities perceive that they have been unfairly excluded from the benefits that companies and their projects confer on neighbouring communities. The creation of 'haves' and 'have-nots' through these dynamics of inclusion and exclusion is a well-known driver of conflict risk in the context of extractive operations, both between the company and the excluded communities and between excluded and included communities.[9] These actors and dynamics may have substantial impacts on efforts to establish dialogue and constructive relationships among project stakeholders. It may not be possible for projects to influence those actors or dynamics, but it is critical at a minimum to understand them and the ways in which they may impact upon the project.

Knowing the parties

During the course of this project's community meetings, members of the project team observed a strata of local sub-elites: people who were not quite prominent locally, but aspired to be. These actors appeared to engage the project in self-interested and opportunistic ways and demonstrated indifference to the wellbeing of the wider community. Some members of this group diversified their roles within the community as a strategy for advancing their interests and thus had multiple roles within the context (including, as noted previously, certain elected local politicians). One of our team members, who had worked on a similar project in Uganda, observed:

> *"In Uganda, if you call a meeting of private-sector people, you get private-sector people. They have their own way of looking at things. Their perspectives are not the same as [those of] other actors. In Turkana, you might find a failed politician who runs an NGO and also supplies vegetables to TKBV. People wear lots of hats. They have political interests, business interests, and they may also have a role in civil society."*

The team member suggested that diversifying roles was part of a cynical strategy to broaden opportunities to influence local events and advance their own self-interests. He observed members of this group consistently acting in ways that were disruptive to dialogues involving community members: "The most vocal people at the community level are those same ones. They were always finding ways to make a fuss over who is in the meetings and who is not, rules of order, the agenda, and so on. The community knows them and knows that they are not reliable." Members of our project team foresaw that if our project had had a longer timeline, its success would have hinged on the establishment of some mechanism for limiting the negative influence of such actors.

The profiles and conduct of self-interested and opportunistic local actors may be different in other contexts. Yet these observations underscore the importance of developing a robust knowledge of local actors, including different positions they may occupy, the source of influence they might deploy to affect outcomes, and their histories and relationships with other actors. A robust understanding of local actors will help to identify spoilers, contextualise their contributions to dialogues and meetings, and understand how they might mobilise resources to undermine efforts to advance the interests of the community more broadly. Implementers may find it possible to offset or balance their influence with that of the rest of the community through rules and processes for decision-making and discussion and through approaches to facilitation that contain their influence on dialogues.

A similar point can be made about key allies or 'champions' among local actors. Locally influential supporters may make project success more likely;

there may also be key people whose participation is important for good outcomes, or whose absence from project meetings reduces the broader influence of the project.

'Discursive ambidexterity'

Effective efforts to facilitate constructive dialogue among actors in such scenarios require a high degree of competency in two highly divergent contexts or "discursive ambidexterity"[10] – the capacity to engage community members in terms that relate to their everyday lived experience and to engage the company in language and concepts that it finds persuasive and connected to the company's analysis processes, internal procedures and activities.

Companies and local communities frame and discuss issues in language and conceptual terms that can be radically disparate, and communication at cross purposes is commonplace between them. Particularly in greenfield areas, local communities that are affected by business operations often do not have an accurate or complete understanding of companies' processes; in many instances, they may not know what questions to ask to get information that they need. They may not understand the project lifecycle and the different, characteristic social impacts that are typical of different phases of oil and gas projects. Company processes, analytical concepts, and technical constructs often use language that has both commonplace and highly specialised meanings, and people who are unfamiliar with these processes are often confused by specialised language. Disclosures, permitting requests, and so on, are often presented in highly technical language that makes them difficult to understand without specialised training and experience.

'Discursive ambidexterity' is also a matter of helping two very different groups of people to communicate effectively with each other. Members of our project team attended presentations to local stakeholders by TKBV staff providing technical information about the project. The staff, some of whom were not Turkana speakers, presented in Swahili,[11] but relied on English words to communicate technical aspects of the oil project phases, such as the 'exploration phase', the 'FEED' (front-end engineering and design), and the 'construction phase', without explaining what each of these phases involved or what they were likely to mean for communities.

Local content

Kenya's local content law[12] presents 'local content' as jobs and contracts that are set aside for Kenyans and Kenyan contractors. In the oil and gas industry, such jobs and contracts are commonly referred to as 'national content'. Companies typically use the phrase 'local content' in contradistinction to 'national content' to designate jobs and contracts that are reserved for people and firms originating from within the vicinity of the company's operational sites, as well as the set of company policies governing local recruitment and procurement. In the case of the TKBV, local content is relevant only to people and firms originating in Turkana county, and the TKBV's local content policy relies on this specific meaning. Since the inception of the TKBV project, among the population of Turkana county the phrase 'local content' has come to mean all benefits accruing to local communities, including royalties from the company that are earmarked for local communities.

Divergent understandings of such terminology can be consequential: local people in Turkana county have seen fit to organise protests to demand benefits that they see as part of local content promised to them by the company or the government, or guaranteed by Kenyan law.

Project considerations

The project partners and individuals interviewed for the purposes of this paper identified several practical lessons that bear upon the planning and implementation of interventions that seek to engage large, private-sector companies in multisector dialogues. These are enumerated in the following section.

The relationship with the company

Project implementers should ensure that feasible, planned modalities of engagement with the company are consistent and aligned with the role that they seek to play in the context of the company's operations and external relationships. Credibility among the company's external stakeholders may depend on positioning the project as completely independent of the company. Equally important is the perception of independence among the company's stakeholders. What 'independence' entails may depend significantly on the context and it is important to explore at an early stage how stakeholders, including the company itself, define independence. Safeguarding an independent role may preclude accepting funds from the company, engaging the company during the design phase of the project, or establishing formalised partnerships or collaborations with the company.

Engaging with the company as a stakeholder of a project (as opposed to a partner) may heighten the difficulty of building a constructive relationship with the company or engaging the company consistently around issues that the company perceives as being outside its own interests. If other stakeholders perceive that the company is not inclined to engage on issues that are of concern to them, it may diminish their interest in the project.

In contexts in which there is a high degree of polarisation or significant distrust between the company and its external stakeholders, it may be challenging to balance relationships with both over the course of a lengthy project. In extreme cases, closeness with either may signal antagonism or partisanship to the other, and this may affect the ability to engage that party constructively.

Recommendations include:

- **Positioning of the project in relation to the company:** Whether the project adopts a confrontational or collaborative approach, and whether the project engages the company as a partner, funder, or stakeholder, should be understood as one of the foundational, strategic issues confronting the project. How the project positions itself with respect to the company may have far-reaching implications for the project's relationships with other stakeholders and for the effectiveness of the project's activities. Confrontational relations with the company may be less conducive to constructive dialogues and peace outcomes; collaborative relations may demand significantly greater investment in inducing active collaboration and behaviour change by the company.
- **Independence:** Consult with stakeholders, including the company, about 'independence', the possibility of formal agreements with various stakeholders, including the company and local government offices, and the role that the project envisions playing in relation to the other actors.

Initial steps

Actors without an historical presence in the context should plan to invest significant time and effort in an initial period of trust and relationship building among the project's stakeholders. This should occur prior to any effort to accomplish substantive project activities such as multi-stakeholder meetings. Buy-in from local actors for the project is a key success factor, as the facilitation of multi-stakeholder dialogues requires acceptance of the project and of the role that it intends to play by all stakeholders.

Trust is dependent on the mindset of external actors and is difficult, if not impossible, to achieve on a predetermined timeline. Ad hoc events within the context may occur unpredictably and enhance this challenge (or present opportunities to overcome it). It is difficult to predict exactly how much time is necessary to build sufficient trust for a project of this nature, but it is easy to predict that the project will be suboptimal if planned activities start without a foundation of trust across the relevant actor groups. Adequate time for trust building should be built into project design. Trust building may also be substantially easier if a project has a sustained presence among local actors, such as a local office with full-time staff.

The history of interventions by other organisations (or other actors more generally) may partly determine local people's initial reactions to the project and the relative ease or difficulty of establishing constructive relationships with stakeholders. The successes or failures of previous projects, as local people understand those, partly determine their expectations with respect to any new interventions.

Implementers might consider a range of early activities that are not calculated to address challenges and problems directly, but rather to build credibility and validate a shared understanding of problems and challenges that need to be addressed. One example of such activities might be the 'socialisation' and validation of baselines studies, including the conflict analysis, by engaging a broad range of local people to explain the studies and jointly explore their implications. Such activities might provide a useful rationale for engaging a broad range of stakeholders, forging relationships, building trust, and seeking input and opinions about key issues. The goal of this activity should be to establish trust and credibility; additional input into and validation of baseline studies may improve the accuracy of the studies, but this is an added value rather than the primary objective of the exercise.

Recommendations include:

- The project plan should include a significant period of time for trust and relationship building. Project staff should plan to be physically present in the area and engaging regularly with a broad range of local actors.
- Budget allocations should reflect a lengthy, initial phase of trust and relationship building.
- 'Socialising' the baseline studies widely among the project's stakeholders may provide a reasonable vehicle for early engagement in which the primary aim is building trust and relationships.

Determine relevant levels of intervention

Decisions that bear significantly upon relationships among actors at the local level may be made elsewhere. Influencing key decision-makers may be important to project success. In the case of our project, key decision-makers were located within government agencies, the TKBV headquarters in Nairobi and in Tullow Oil's offices in London. In other cases, key actors may include entities other than the central government authorities and the offices of a subsidiary and a parent company. Implementers should not assume that all of the key actors are situated locally and should investigate where and how key actors are making decisions that bear upon local actors and the outcomes of the project.

Strategies for influencing the policies, decisions, and actions of the key actors should be tailored to those actors; it is unlikely that approaches that are effective in influencing governments will also be effective in influencing companies, and vice versa.

Recommendations include:

- Include key decision-makers, irrespective of their geographical location, in actor- and stakeholder-mapping processes.
- Consider the feasibility and likelihood of success of activities designed to influence non-local actors who have the authority to make key decisions.
- Tailor influencing strategies to the specific groups of actors who are the targets of those strategies.

Geographical scoping and knowing the parties

Project design activities and initial baseline studies should in part determine the geographical scope of project activities that is necessary for good project outcomes. It may not always be necessary for projects to engage all conflict actors within a given conflict system in order to be successful, but whenever possible, such determinations should be made on the basis of relatively complete information and analysis. Implementers should bear in mind that formal impact areas of oil projects, as defined by companies and host states, commonly fail to circumscribe dynamics and actors that are fundamentally relevant to events and outcomes within those impact areas. In cases where implementers determine that they will limit the scope of their engagement and activity, they should at a minimum be aware of the larger 'ecosystems' of which their project areas form a part.

In view of the perception that extractive industries projects offer highly lucrative opportunities, implementers should take into account the incentives of individuals within the local context to manipulate events in favour of their own interests. A finely grained analysis of local actors, their relationships with non-local (e.g. national) actors and institutions, and the dynamics among them is important for identifying such opportunistic actors, the leverage that they may have, and the ways in which they may try to influence the project. Furthermore, Alert and CDA's experience working with extractive industries companies suggests that understanding these dynamics among local actors – political relations, legitimacy in the eyes of community members, resentments and grievances among them, the roles and associations of opportunistic and self-interested individuals, and so on – can be critical to the management of conflict risks. Substantial time should be devoted to understanding local actors and the relationships and dynamics between them before commitments to significant activities or irreversible plans are made.

Concrete recommendations include:

- Scope initial analysis on the basis of the dynamics being analyzed and the actors that participate in those dynamics. Include the analysis of those larger arenas in project design processes.
- Launch a broad mapping of local actors early in the project. Update the actor mapping frequently

throughout the life of the project, as new information about local actors becomes available.

Plan to work on issues arising

The experience of the project team suggests that, during the course of a multi-year project, unforeseen issues will arise that affect the actors with which the project seeks to build and maintain relationships. Such issues may affect the relationships between those actors, making dialogue among them more or less challenging. Examples of relevant issues may include disputes among local actors that are unrelated to oil and gas operations, community interruptions of the company's ongoing work through demonstrations or similar, initiatives or actions by the company or the government that frustrate or anger local people, crises arising from acts of violence against or among project stakeholders, and so on. As the relationships are of material importance to the project, it may be advantageous or important for projects to address such issues as they arise. Framing project activities too narrowly, or defining extraneous events as beyond the project's scope, may diminish the ability to react constructively to those events. Perhaps more saliently, effectively helping stakeholders to resolve disagreements through dialogue may require some degree of responsiveness to unforeseen issues as they arise. Project plans and logframes should afford some degree of flexibility for this purpose.

Concrete recommendations include:

- Build funded time into the project design and plan to address emergent and unforeseeable issues that bear upon relationships among the project's stakeholders.
- Scope the project's goals in such a way as to make the relationships among local actors central to the project, and issues that bear upon those relationships material to the project.

Project plans and timelines

We have noted in the discussion above several issues – such as the need for early and potentially lengthy trust-building activities and the need to address unforeseen issues as they arise within the local context – that may shape project plans and timelines. Plans should include unusually long inception phases that presume ongoing engagement with a range of stakeholders. Plans should also allocate time for activities and deliverables that are unforeseen at the outset of the project.

All of the considerations outlined so far suggest the need for timelines and plans that are highly flexible, and that are focused on outcomes in terms of relationships – such as levels of trust among actors, preferences for dialogue for addressing issues or managing disagreements, and so on – over outputs related to numbers of meetings or training sessions.

Recommendations include:

- Frame key outcomes in terms of the relationship between key actors, and not in terms of outputs or activities accomplished.
- Subordinate activities planned in advance to the emergent needs of relationships.

Competencies

Implementers should be capable of engaging equally effectively both companies and the communities in the locations where those companies operate. They should also be capable of moving comfortably between industry-specific technical parlance and culturally specific community discursive practices. This requires at a minimum some technical experience working in partnership with companies in the target industry, as well as concepts and frameworks, such as risk-management processes and concepts, that are common across large, private-sector enterprises, and some experience working with local communities in dialogue-based projects.

Conclusion

Large-scale, private-sector projects in FCS have the potential to drive significant conflict or to catalyse positive impacts on local people. Policy actors and investors have demonstrated considerable interest in the positive potentials of the private sector, but experience and substantial evidence suggests that realising these potentials is difficult and complex. A range of factors, some internal and some external, may prevent companies themselves from engaging other parties in ways that are critical to mitigating the risks and realising the benefits of their own projects. Experience from Kenya and other contexts suggest that independent actors outside the private sector may have fundamental roles to play in shaping outcomes in these settings. What makes their efforts effective or ineffective, however, is not yet well understood.

This paper has presented strategic and practical lessons learned from a project that sought to play a constructive role in relation to an oil and gas project and the conflict and fragility in Turkana county in Kenya. The lessons are derived from efforts to build constructive relationships and dialogue among relevant actors in order to address issues that drive conflict and threaten to undermine the potential of the company's operations to deliver good outcomes. The lessons include a range of strategic considerations and practical adaptations to the realities of the TKBV oil project in Turkana county. These may have broad relevance for other projects in other contexts.

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10 Deanna Kemp of the Center for Responsible Mining coined this phrase.

11 The Turkana language is the first language of ethnic Turkana people, who are the majority in Turkana county. Some ethnic Turkana people also speak Swahili and English, but their competence in those languages depends on their level of formal education and their experience living outside of Turkana county.

12 The Local Content Bill, 2018

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