CHALLENGES AND OPPORTUNITIES IN OIL EXPLORATION IN KISUMU COUNTY

Report from reconnaissance visit in Kisumu

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© Institute for Law and Environmental Governance (ILEG)
P.O. Box 9561-00100
Tel: +254 20 2349141
Nairobi
Email: ileg@ilegkenya.org
www.ilegkenya.org
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>TABLE OF CONTENTS</td>
<td>1</td>
</tr>
<tr>
<td>I. BACKGROUND</td>
<td>2</td>
</tr>
<tr>
<td>II. THE VISIT</td>
<td>2</td>
</tr>
<tr>
<td>III. KEY ISSUES FROM THE VISIT</td>
<td>3</td>
</tr>
<tr>
<td>i. Status of oil exploration</td>
<td>3</td>
</tr>
<tr>
<td>ii. High expectations and lack of information</td>
<td>4</td>
</tr>
<tr>
<td>iii. The role of national government</td>
<td>5</td>
</tr>
<tr>
<td>iv. The role of Kisumu County Government</td>
<td>6</td>
</tr>
<tr>
<td>v. Compensation</td>
<td>6</td>
</tr>
<tr>
<td>vi. Lack of a central platform to voice community concerns on oil exploration</td>
<td>7</td>
</tr>
<tr>
<td>vii. Political interference</td>
<td>8</td>
</tr>
<tr>
<td>viii. Land rights and related developments</td>
<td>8</td>
</tr>
<tr>
<td>ix. Scholarships</td>
<td>8</td>
</tr>
<tr>
<td>II. LESSONS FROM THE TRIP</td>
<td>9</td>
</tr>
<tr>
<td>i. Need for community empowerment</td>
<td>9</td>
</tr>
<tr>
<td>ii. Need for the community to speak with one voice</td>
<td>9</td>
</tr>
<tr>
<td>iii. Inter-county lesson sharing and learning</td>
<td>9</td>
</tr>
<tr>
<td>iv. Women and children rights</td>
<td>10</td>
</tr>
</tbody>
</table>
I. BACKGROUND

Kenya and the wider East African region continue to experience hydrocarbon exploration boom after the recent discoveries of oil and gas in several locations in the region. These discoveries and ongoing exploration have brought a new significance to the region’s socio-economic and political discourse. On the one hand, the discoveries and ongoing exploration bear enormous economic growth potential if approached carefully. On the other, there exists potential for irreparable negative social and environmental impacts if the exploration and development of the resources are not handled well. ILEG has been working to promote responsible, accountable and inclusive governance of the extractive sector in Kenya and the region. In Kenya, these initiatives have focused on improving the overall national regulatory environment and promoting participatory and inclusive management and utilization of extractive resources in Turkana County. But hydrocarbon exploration is also going on in several other parts of the country including Lamu, Elgeyo Marakwet and Kisumu counties. The oil and gas industry is fairly new in Kenya, more so in these regions. The industry is also very highly technical. As such, local governments and communities are often ill prepared to handle the intricacies of the industry, and are more often than not caught unawares by the oil companies and/or national government. It is against this backdrop that ILEG sought to conduct a reconnaissance visit in Kisumu County where Tullow Oil has been conducting oil exploration.

The long term goal of the visit was to make the opportunities and challenges of oil exploration in Kisumu part of the national extractive sector conversation which has focused more on Turkana. In the long-term the visit will contribute to empowering local communities and Kisumu County in general to be better prepared to harness the opportunities created by potential oil discoveries in the area. The short-term aims of the visit were to:

- Learn the general status of oil exploration in Kisumu County
- Understand the level of awareness and general community perspectives on the opportunities and challenges presented by the on-going oil exploration in the region
- Understand the county government perspectives on the on-going oil exploration in the County.
- Learn about development issues on the ground and how those issues can feed into on-going policy processes.
- Create partnerships with local organizations working on natural resources governance.

II. THE VISIT

ILEG Extractive Sector Governance team comprising the Executive Director Benson Ochieng, Senior Researcher Dr Collins Odote and Programme Officer Duncan Okowa visited Kisumu from 19th-21st July 2015. On the first day, the team held discussions with Prof Raphael Kapiyo at Homeland Hotel in Kisumu. Prof Kapiyo is a renowned academic and natural resources governance expert with extensive experience working with local communities, government and civil society groups in Western Kenya. On day 2, Prof Kapiyo joined the team from ILEG on a visit to several locations in Nyakach where Tullow oil has been exploring for oil in Block 12B. The team visited community leaders including the Nyakach Elders Council, the Chief and Assistant Chiefs in the affected areas and some individuals on whose land Tullow Oil
conducted exploration drills. On day 3, the team met some Members of Kisumu County Assembly in Kisumu to discuss the status of the oil exploration work in in Kisumu. The team also visited the Kisumu County Assembly Hansard office to learn about any discussions around the Nyakach oil exploration in the assembly.

From left: ILEG Programme Officer Duncan Okowa, Senior Researcher Dr Collins Odote, Executive Director Benson Ochieng, and Prof Raphael Kapiyo holding discussions with Mr Peter Nyabua (right) from Nyando District Environment Conservation Centre (NYADEK). Mr Nyabua was one of the people whose land was used during Tullow Oil’s seismic tests.

III. KEY ISSUES FROM THE VISIT

   i. Status of oil exploration

Tullow started by conducting aerial surveys on the Block (12B). After this the company conducted seismic surveys on lines 104, 105, 115, 116 etc. According to the respondents, the company took the samples abroad for analysis. They are expected back early next year.
ii. High expectations and lack of information

Lack of information emerged as a key concern for the locals. Due to lack of information, initially, the locals had very high hopes and expectations. They thought mere entry of Tullow into the area meant there was oil and that that meant they would be very rich sooner than later. According to the respondents we spoke to, Tullow came into their midst and conducted their business so fast and then everything went into silence. The company initially set up an office in the area but the office has since been closed and the staff are nowhere on the ground. Now the locals have no clear information about the status of the exploration process, any time frames, whether the seismic surveys were unsuccessful, or what it means to them. They rely on local chiefs and politicians who according to them are equally ignorant. Due to the lack of information, most locals have resorted to being indifferent about the oil exploration process. This in fact led to lack of interest by many of the locals in forming a common platform to champion their concerns around oil exploration. In fact some locals feel that they were duped into believing that there is possibility of finding oil in the area while in fact there is none.
The team listens to Mr Paul nyagaya (Right), a local resident and retired Engineer with considerable knowledge of oil and gas sector exploration and development.

iii. The role of national government

According to the respondents, Tullow struck a working relationship with the national government which in turn facilitated their entry into the area. The company officials were introduced to the locals by the chief in two public barazas. The chiefs were themselves introduced the company by the Sub-County Commissioner who instructed the the chiefs to ensure the locals accord maximum co-operation with the company officials, but also reiterated that the locals should not be taken for granted. The chiefs stated the company’s intentions and urged locals to give them maximum cooperation, reiterating that the company was there to bring development. This meant that the locals had to grant them access to their land without asking too many questions. Any reluctance or objections to any aspects of the company’s operations e.g. destroying fence, cutting trees was viewed by the chiefs as antagonizing development. The chiefs and local national government officers accompanied the company officials in almost all visits in the area, and talked mostly on the good side of the exploration process. At the barazas, Tullow oil officials asked the locals to cooperate and promised employment, water boreholes, and scholarships.
The team also paid a courtesy call on and held discussions with Senior Chief, Bolo location Mr George Omullo (Centre) and his two assistants Mr Benjamin Kisero (Left) and Zedekia Okello (partly hidden).

iv. The role of Kisumu County Government

Management of natural resources such as oil is constitutionally a function of the national government. However, the same Constitution gives county government important roles that can ensure sustainable, participatory and equitable use of those resources. These functions include integrated county development planning and promoting and facilitating effective public participation in policy and decision making. From the discussions we had, it appears that the County government of Kisumu has not taken up the oil exploration issue as a key priority issue. A visit to Kisumu County Assembly revealed that the oil exploration issue has never been discussed as a substantive motion in the assembly. But records show that the assembly has discussed the issue of scholarships given to the County by Tullow oil, when the paper containing the scholarship beneficiaries was tabled in the house. The county government seems to be a victim of both a lack of deliberate initiatives as a county, as well as of the domineering presence of the national government on local oil exploration issues.

v. Compensation

Most land in Block 12B is essentially private land. In order to access the land for the seismic surveys, the company, with the help of local chiefs obtained Permit for Temporary Access. Almost all our
respondents stated that due to lack of information, they signed the forms without really knowing what they were signing for in terms of the extent of access, compensation e.t.c. After finalizing the permits, the company came in with a vibrator and conducted the seismic tests. The respondents were compensated based on any crops, trees, structures, and fences etc. that were destroyed by the vibrator. The affected persons only got to know the amount of compensation after the company had already accessed their land and completed the seismic tests. The company clearly stated that the compensation was based on government of Kenya rates and the respondents did not have a voice in the amount of compensation. Agricultural extension officers guided the locals on government rates. The compensation, which ranged between Ksh1000 and Ksh47000\textsuperscript{1} were collected by the individuals in envelopes from the chief’s office. The company only compensated for access and in most cases did not restore the land to its original form. Those interviewed admitted that their expectations for the compensation was quite high, hence were quite disappointed when the figured were released.

\textbf{vi. Lack of a central platform to voice community concerns on oil exploration}

Oil exploration in Nyakach has brought to the fore a number of issues that need to be addressed, including lack of information, compensation, empowerment etc. This required a strong unified voice of

\footnote{According to the records we saw}
the affected community members. Yet currently the affected members are largely acting individually making it hard for their voice to be heard. The well-known Nyakach Elders Development Group (NEDG) admitted that it had not taken up the issue of oil exploration in the area. According to Prof Kapiyo, the initial excitement among the community members about a possible oil discovery in the area almost overshadowed the need to critically look at the intricacies involved or to coalesce in order to chat the way forward together. This was in fact among the factors that frustrated earlier initiatives to organize the communities to speak under one platform. All is not lost though. Most of the affected members seem to have since realized the need for empowerment and the importance of speaking with one voice on the issues of management and utilization of natural resources in the area. This seems to be a good time for the communities to form a platform that they can use to voice their joint concerns rather than speaking individually.

vii. Political interference

Political interference is another issue that is likely to impede possible economic and social benefits from the Nyakach oil exploration. According to some community members, local politicians including the local Member of Parliament (MP) are already falling over themselves to take credit for bringing the oil explorers into the area. Political seats are normally very hotly contested in Kenya. Using the oil discovery and exploration as a political tool may lead to rival political groups antagonizing the exploration process if it appears to be associated with opposing camps. Therefore, while politicians form a key stakeholder group whose opinions should help shape the exploration process, politics should be kept away from the process.

viii. Land rights and related developments

Although the respondents could not pinpoint any specific oil exploration-related land sales, they agree that a lot of land developments including buildings, shops have sprung up in the area since exploration began. This points to already growing interest in land and other property in the area. In terms of land rights, there is considerable fear of relocations in case the company comes back with results showing oil discoveries in the area which majorly comprises private land. It is also rumored that potential presence of oil in Nyakach area in part contributed to recent fatal conflicts with neighboring Kalenjin communities in Belgut.

ix. Scholarships

Tullow Oil provided Ksh5 Million worth of scholarship to Kisumu County. The Money was distributed to locations within Kisumu. For example Bolo location, one of the areas where the company is exploring for oil got Ksh79000 which was distributed among applicants within the location. The coordination between Tullow and the scholarship beneficiaries was done at the county level. At the locations, the scholarship beneficiaries were identified by the chiefs.
II. LESSONS FROM THE TRIP

i. Need for community empowerment.

The initial stages of exploration in Nyakach seem to have caught the community unaware. As such they were easily manipulated as they didn’t have the right information and knowledge to critically analyze issues and to effectively bargain with the companies. They were deprived of balanced information since they relied on the government and the company (Tullow Oil) for information. For instance, because of lack of or misinformation, in many cases the locals signed the permit for temporary access forms without knowing what it really meant. They were also not very conversant with their rights and obligations especially as provided in Kenya’s Constitution. It is therefore important that the communities seek ways of empowering themselves including through deliberately seeking all the relevant information they require to enjoy their rights in relation to management and utilization of natural resources.

ii. Need for the community to speak with one voice

As stated the locals especially the affected persons are currently speaking with disjointed voices making it difficult to notice their concerns. Moreover, the individuals seem to focus almost wholly on the issue of compensation. It is therefore important that they organize a platform or any other suitable way of coalescing together to make their voice stronger. Such a platform will also help them to look at the bigger picture including issues of community empowerment, environmental standards and broader economic opportunities rather than just focusing on compensation. It will also help in lobbying and negotiating for better terms for the locals.

iii. Inter-county lesson sharing and learning

A number of counties in Kenya are at different stages of exploration and/or development of oil and other mineral resources. Many of them have rich and unique experiences that can greatly help others to surmount what seem to be enormous challenges. For instance, Nyakach community in Kisumu County previously formed a fairly successful Technical Committee that guided them through the Sondu-Miriu hydro-power project. The Community also has a fairly active council of elders that is capable of uniting all members of the community around important issues.
Communities in the Mui basin in Kitui County not so long ago formed a community liaison committee that has successfully negotiated for a fairly good benefit sharing formula for the coal mining project in the county. In Turkana County, local Community-Based Organizations (CBOs) have formed a common hub, the Turkana Natural Resources Governance Hub (TNRGH) to champion community rights in the county. It would help a great deal for these and other initiatives to meet and share their experiences and learn from each other’s successes and challenges.

iv. **Women and children rights**

From the visit it clearly emerged that women, children and youth are not well integrated in the management and utilization of natural resources in the area. This was clearly manifested for instance by the fact that all our requests to speak to affected persons almost naturally resulted in only males being called up. Yet, as we spoke to the males, we could see the women and children observing with curiosity but only from a distance. This showed that they were deeply interested in our discussions yet they seemed to have accepted the notion that matters of land is a primarily adult male domain. This notion was also clearly manifested in another key group that we spoke to, the Nyakach Council of Elders, an elder’s council comprising leaders representing all the eleven clans comprising Nyakach. Like other traditional councils of elders in Kenya, NCE is governed by traditions some of which do not necessarily embrace principles of equality. Indeed, all members of NCE are male. Women, youth and children do not have any prominent roles, nor voice in their operations, yet they make decisions that have enormous impacts on these groups of people. There is therefore need to sensitize the elders and the community in general about the rights of women and children as envisaged in the Constitution, and encourage them to embrace change and even become champions for women’s rights especially in relation to land and natural resources.