An Assessment of Social Investments in the Extractives Sector in Kenya

A Case Study of Turkana County

Land Development & Governance Institute
An Assessment of Social Investments in the Extractives Sector in Kenya; Case Study of Turkana County

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The views expressed herein represent the findings of the study, and interpretation by the research team, and do not necessarily represent those of LDGI
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# Table of Contents

Acknowledgement ........................................................................................................... 4  
Executive Summary ......................................................................................................... 7  
List of Images ..................................................................................................................... 12  
List of Abbreviations ......................................................................................................... 13  
1. Introduction .................................................................................................................. 14  
1.1 Objectives .................................................................................................................. 15  
2. Literature Review .......................................................................................................... 17  
2.1 Social Investments in the Extractives Sector ......................................................... 17  
2.1.1 Types of Social Investments ............................................................................. 18  
2.1.2 Advantages of Social Investments ................................................................. 19  
2.1.3 Financing ............................................................................................................. 20  
2.1.4 Sustainability ........................................................................................................ 20  
2.2 Extractive Sector in Kenya ...................................................................................... 22  
2.2.1 Developments in the Oil and Gas Subsector .................................................. 23  
2.3 Legal and Policy Framework Governing Social Investments in the Extractives Sector in Kenya .......................................................................................................................... 25  
2.3.1 The Constitution ................................................................................................. 25  
2.3.2 Mining Act No. 12 of 2016 .............................................................................. 26  
2.3.3 The Petroleum (Exploration and Production) Act, 1984 ........................... 27  
2.3.4 The Petroleum Development Fund Act No. 4 of 1991 ............................... 28  
2.3.5 The Petroleum (Exploration, Development and Production) Bill, 2015 ................................................................................................................................. 29  
2.3.6 The Energy Bill, 2015 ....................................................................................... 29  
2.3.7 The Draft National Energy and Petroleum Policy, 2015 ........................... 30  
2.4 Institutional Roles in Social Investments in Oil and Gas Industry, Kenya ................................................................................................................................. 30  
2.4.1 Legislature (Parliament) .................................................................................... 31  
2.4.2 National Government - Ministry of Energy and Petroleum ..................... 31  
2.4.3 Turkana County Government ......................................................................... 32  
3. Methodology and Study Site ....................................................................................... 34  
3.1 Study Site .................................................................................................................. 34  
3.2 Ethics ........................................................................................................................ 35  
3.3 Data Collection ......................................................................................................... 35  
4. Findings ......................................................................................................................... 36  
4.1 Tullow Oil Corporation in Turkana County ......................................................... 36
4.2 Social Investment Projects .................................................................37
4.3 Engagement between the Community, County Government and the Corporation .................................................................42
4.4 Engagement with National and County Government ............45
4.5 Project implementation .................................................................46
4.6 Project monitoring ....................................................................46
4.7 Grievance mechanism ................................................................47
4.8 Gaps in the Implementation Framework and Process that Hinder Sustainable Development .................................................................................48
5. Conclusion .........................................................................................55
6. Recommendations ...........................................................................57


Executive Summary

The discovery of non-renewable natural resources is always expected to fuel growth of a country’s economy. This was the optimism that engulfed Kenya when oil was first discovered in 2012 by a British Company, Tullow Oil in Turkana County, Northern Kenya.

Since then, other corporations have set up or increased their exploration work and more oil continues to be discovered in the area. The buoyancy has been evident with regional and global partners collaborating with the government to develop infrastructure like, the Lamu Port and Lamu Southern Sudan - Ethiopia Transport (LAPSSET) Corridor to support the industry. Other expected economic impacts include; increased employment opportunities and social developments at both National and County levels.

While more positive impact is expected, the discovery of oil has also caused reasonable anxiety to local communities. This anxiety arises from experiences in other developing countries, where the discovery of non-renewable natural resources has
often not brought about the expected outcomes. Instead, areas with the resource have experienced slower economic growth, extensive environmental degradation, political instability and general poverty.

Prior to the oil and gas find in Turkana, oil corporations in Kenya were mainly engaged in exploration work. Now that some companies have embarked on development and gearing into production stage, more practical questions are arising with regard to communities benefit from the oil and gas industry investments.

The Land Development and Governance Institute (LDGI), sought to assess social investments in the extractives sector with Lokichar sub-basin in Turkana County as study area. This is the block with the highest number of wells and where most development work was taking place at the time of the assessment.

The specific objectives of the exercise were; assessment of the current approaches to community investments in the extractives sector, identification of gaps in the implementation
that may hinder development and making recommendations on policy, legislation and best practices.

To establish the community’s views and perceptions regarding social investments (community development) focus group meetings were conducted with community members in Lopii, Loperot, Nakukulas and Lokicheda. Interviews were conducted with corporations’ officials and officers from the National and County Governments in line ministries to get insights into the community development work taking place. The study reviewed the relationship between the oil corporations, the national and county governments and the communities; further analysis was made on the legislative framework and institutional structure governing the sector.

From the assessment some concerns that became evident include the lack of policies and legislative framework to guide aspects of social investments, community engagement, revenue and information sharing. It was noted that there was ineffective communication between the communities, the corporations and government which greatly limited their participation in the planning, development and monitoring the
development projects. The research team noted that community members had limited technical skills relevant to the oil and gas industry. This reduced the communities’ ability to take up employment and investment opportunities. It was further observed that, most investments projects were not aligned with the County Integrated Development Plans (CIDP) affecting their sustainability beyond the oil corporations’ project lives.

To promote beneficial and sustainable development through social investment, the following were recommended: the enactment of legislation to guide community engagement, revenue and information sharing and specific disclosures relating to cost recovery by corporations. To promote sustainability of the projects, there is need to align the corporations’ social investment projects with the County Integrated Development Plans (CIDP). In addition, there is need for increased stakeholder engagement and collaboration in the sector. These may include the corporations, the national and county governments, sector practitioners, High Level Learning Institutions, Civil Society Organization (CSOs) and the communities. This would increase their participation in
planning, implementation and monitoring of sector activities, thus promoting effective implementation and sustainable development. Finally, there is need for continuous capacity building for communities around the projects areas to bridge the information and skills gap and empower them to take up the employment and investment opportunities.
List of Images

Image 1: (Source: LDGI/Kimzy, 2017).................................................................25
Image 2: (Source: LDGI/Kimzy, 2017).................................................................30
Image 3: Turkana County Ministry of Energy, Environment and Natural Resources in Lodwar Town.................................................................33
Image 4: A researcher in a key informant interview with an Officer of the Turkana County Government (Source: LDGI, 2017).................................34
Image 5: (Source: LDGI/Kham, 2017).................................................................36
Image 6: A water tank installed by Tullow to serve the community around the Ngamia wells.................................................................38
Image 7: Borehole and water pump installed at Lokicheda Village........38
Image 8: Lopii Primary School, Source LDGI.........................................................39
Image 9: New classrooms constructed at Lopii Primary School by Tullow (Source LDGI)...........................................................................39
Image 10: Older buildings at Lopii Primary School, (Source, LDGI).........40
Image 11: Lokichar Health Centre constructed by Tullow, (Source, LDGI).................................................................................................40
Image 12: (Source: LDGI/Igah, 2017).................................................................42
Image 13: A Tullow Community Resource Centre coming up in Nakukulas Village (Source: LDGI, 2017).........................................................43
Image 14: (Source: Land Development & Governance Institute/Kimzy, 2017).........................................................................................51
Image 15: (Source: LDGI/Igah, 2017).................................................................52
Image 16: (Source: LDGI/Kimzy, 2017).................................................................53
Image 17: (Source: LDGI/Igah, 2017).................................................................55
### List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>CIDP</td>
<td>County Integrated Development Plan</td>
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<tr>
<td>CBO</td>
<td>Community Based Organization</td>
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<td>CLO</td>
<td>Community Liaison Officer</td>
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<tr>
<td>CSO</td>
<td>Civil Society Organization</td>
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<td>CRC</td>
<td>Community Resource Centre</td>
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<tr>
<td>CS</td>
<td>Cabinet Secretary</td>
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<tr>
<td>CSR</td>
<td>Corporate Social Responsibility</td>
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<td>FGD</td>
<td>Focus Group Discussion</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>ICT</td>
<td>Information and Communication Technologies</td>
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<tr>
<td>IFC</td>
<td>International Finance Corporation</td>
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<tr>
<td>MCA</td>
<td>Member of County Assembly</td>
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<tr>
<td>MP</td>
<td>Member of Parliament</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
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<tr>
<td>NOCK</td>
<td>National Oil Corporation of Kenya</td>
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<tr>
<td>PS</td>
<td>Principal Secretary</td>
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<tr>
<td>PSA</td>
<td>Product Sharing Agreement</td>
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<tr>
<td>PSC</td>
<td>Product Sharing Contract</td>
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<tr>
<td>SI</td>
<td>Social Investment</td>
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<tr>
<td>UPRA</td>
<td>Upstream Petroleum Regulatory Authority</td>
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<tr>
<td>VSO</td>
<td>Village Socialization Officer</td>
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1. Introduction

In 2012, oil was discovered in Turkana County, Northern Kenya. This brought new hope for development in Kenya and a boost to the country’s efforts towards realizing Sustainable Development Goals. The discovery and subsequent developments have attracted increased activities by various players including: academic institutions, Civil Societies Organizations (CSOs), Community Based Organizations (CBOs), Investment Partners, the National and County Governments.

The increased activities have raised expectations for the local communities on the benefits relating to employment, social amenities, infrastructure and investment opportunities. These expectations are situated in a community that is composed of largely nomadic pastoralists who primarily depend on livestock for their livelihoods. The community which has a rich culture has endured decades of boundaries and resource based conflicts (grazing land and water) with its neighboring communities. The County’s perennial food shortages have also been a problem owing to drought in the Semi Arid region. The years of marginalization has seen the county record low literacy levels and poor economic situation.

Corporations working to extract oil have begun production and the country has embarked on a process of developing laws, regulation
and structures necessary to guide the Industry. As part of their CSR, corporations have begun Social Investment projects in Turkana County. History has however indicated that oil extraction does not always lead to development. Some resource-rich countries in Africa have in the past had slow economic growth, extensive environmental degradation and political instability\(^1\).

To get insights into the corporations approach to community developments, this assessment looked into the aspect of Social Investments by oil corporations in Turkana: their nature, suitability and sustainability. Lessons from the assessment will be shared with stakeholders in the sector to guide the development of policies, laws and regulations and promote beneficial investments.

### 1.1 Objectives

The main objective of this project is to assess the social investments undertaken by oil corporations in Turkana County, Northern Kenya. Specific objectives are to:

- Review the nature of social investments in the extractives sector
- Evaluate the legal and policy framework governing social investments in the extractives sector in Kenya

• Make an assessment of social investments in Lokichar sub-basin Turkana County, in terms of alignment with development needs and planning.
• Make policy recommendations that would make social investments sustainable
2. Literature Review

This section looks at Social Investments, their definitions, nature, financing and sustainability as viewed by various authors. It also looks at the available policies and legislative framework governing the extractives sector with emphasis on Oil and Gas Industry in Kenya.

2.1 Social Investments in the Extractives Sector

Social Responsibility (SR) is the manner in which a company manages its business processes to generate stakeholder value while having a positive impact on the community and minimizing any adverse impact on the environment\(^2\). SR is about organizations going beyond the legal obligations to manage the impact they have on the immediate situation of surrounding communities. Social investments (SI) as a component of SR, includes projects that are external to the normal business activities of a company and not engaged directly to increase company profit.

Trialogue defines SI as any social development activity that is not undertaken for the purpose of generating business income\(^3\). This excludes projects aimed at mitigating negative impact of a company’s operation such as compensation for accessing community land.


Social investments are used strategically to lessen the social risk and address growing social expectation\textsuperscript{4}. They have the potential to boost to the economic growth and improve the living standards of the respective community\textsuperscript{5} by contributing to their real needs.

2.1.1 Types of Social Investments

SI takes a variety of forms depending on the investing companies’ budget, community needs and government policy.

The common types of SI include:

1. Construction of social infrastructure such as health clinics, community centers and learning institutions.
2. Livelihood diversification programs aimed at building the community resilience to external shocks and making their livelihood more economically sustainable.
3. Enterprise development projects focusing on the supplier and entrepreneurship development.
4. Skills development through scholarships for local students and or support to technical and vocational training institutions.
5. Investment of local government capacity building\textsuperscript{6}.


\textsuperscript{6} Catherine M. Et al,(2015). Extractive industries and social investments: Principles for sustainability and options for support. ADB, BMGF. Pg.6
2.1.2 Advantages of Social Investments

Social investments can be good for the corporations as well as the communities where they operate\(^7\). They help the corporations to avoid injurious impacts to the community and the environment and deliver public value outcome either by focusing on how their services can make a difference in the community\(^8\). Engaging in social investment helps in improving the company’s image and enhances relationships between the corporations and other stakeholders involved.

Social Investments provide employment opportunities hence improving the living standards of the communities. Social investments to the education sector empowers young generation in the community by providing them with basic education and opportunities to further their studies through tertiary education. By equipping individual members of the community with the skills and knowledge to build sustainable and dignified future, significant strides can be taken in alleviating poverty\(^9\).

\(^7\)ReanaRossouw, 2010 , CSI, Community & Social Development P.3
2.1.3 Financing

Before 2012, extractives sector was contributing 1% to Kenya’s GDP. With the discovery of oil and gas in Turkana, contribution is expected to grow to 10% of GDP\(^\text{10}\). In most of the sharing and production contracts, corporations are expected to invest at least 50,000 USD to local community development projects\(^\text{11}\). In countries like South Africa, companies are expected to invest at least 1% of their annual income in community developments\(^\text{12}\). Essentially Companies factor community developments as part of their operating costs. They therefore are entitled to make cost recoveries before declaring profits. Where the agreements include sharing of net profits or payment of dividends to governments, the SI costs serve to reduce this share. In effect they reduce the pool of resources available to the government to invest in communities or share with devolved governments.

2.1.4 Sustainability

Sustainable development tenets require that community development benefits continue even after the closure of projects. Sustainability will be achieved, when companies see Social Investments as part of the strategic environment, contributing to real

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social development and economic growth. If this is not regarded as a strategic activity, companies will keep falling into the trap of using SI as an extension of their marketing or public relations activities\textsuperscript{13}.

Another effort towards sustainability is the requiring of governments to have production sharing contracts, where corporations commit a percentage of its profits for social investments. Before this was a voluntary action by the corporations. Furthermore, communities need to own the projects; this may be done by making contributions in terms of labour and land for the investments; other ways include: Communities taking credit for any success of the project and corporations desisting from overusing of their logos or trademarks.\textsuperscript{14}

To promote project sustainability, there is need to reduce overdependence on natural resources. The unpredictability of the sector caused by prices and exchange rate affects other interconnected sectors such as agriculture.\textsuperscript{15} Kearney observed that the best strategy would be the investment in other sectors such as agriculture, tourism and manufacturing. This strategy ensures sustainable development beyond the life of a mine\textsuperscript{16}


\textsuperscript{14}IPIEC(2008). Creating Successful Sustainable Social Investment Guidance document for the oil and gas industry . United Kingdom: IPIECA

\textsuperscript{15}Obara, H. J. (2008). Corporate Social Responsibility (CSR) in the mining industry - the. Queen's University Belfast

In promoting sustainability, it is noted that there is need for shared responsibilities between corporations and governments. Projects purely undertaken by corporations without consultation may not be aligned with the government’s plans and may undermine its authority. On the other hand, projects solely undertaken by governments may face challenges reaching remote areas and face great corruption.  

To revert the notion of “resource curse”, Emily observed that host governments are adopting the practice of creating an endowment fund. This is to provide resources for future generations.  

2.2 Extractive Sector in Kenya

Kenya’s has been engaged in extracting a wide range of minerals including soda ash, limestone, fluorspar, gypsum, carbon dioxide, manganese, soapstone, graphite, copper, gold, chromite, and nickel. Since 2012, more resources have been discovered in many parts of Kenya. They include; Oil and Gas in Turkana County, Titanium in Kilifi County, Coal In Kitui and Rare Earth minerals in Kilifi County.

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The extractives sector is expected to positively change Kenya’s social and economic landscape. The importance of this sector can be seen by the inclusion of the extractive sector as the seventh industry in the economic pillar of Kenya’s second Medium Term Plan (MTP) under Vision 2030\textsuperscript{20}. The prominence is due to the revenue potential through increased exports hence higher GDP\textsuperscript{21}

### 2.2.1 Developments in the Oil and Gas Subsector

Exploration of Petroleum oil in Kenya began in the 1950s but not until 2012 when commercially viable oil was discovered by Tullow Oil Company in Lokichar, Turkana County. Thereafter gas was discovered in offshore Lamu Basin\textsuperscript{22}. Exploration has continued over the years with a total of 56 exploration wells having been drilled; 20 wells in Lamu Basin, 15 in the Tertiary Rift Basin, 15 in Anza Basin and 4 in Mandera Basin. So far, a total of 19 companies are in operation and occupy 35 out of the 63 blocks\textsuperscript{23}. Outcomes from the four sedimentary Basins (Lamu, Anza, Tertiary Rift and Mandera) indicate economic viable deposits of hydrocarbons.

At the moment, Lokichar sub-basin has had the most progress with an estimated recoverable resource of 600 Million Barrels of crude


\textsuperscript{21} Institute of Economic Affairs, 2014, A Primer to the Emerging Extractive sector in Kenya: resource Bliss, Dilemma or Curse.

\textsuperscript{22} Accessed From http://nationaloil.co.ke/upstream/ on 29.06.2017

\textsuperscript{23} Accessed from http://energy.go.ke/upstream on 29.06.2017
oil. It is the biggest and most active and where most economic and social development initiatives have began. There has been significant development in the establishment and planning of infrastructure to facilitate the extraction and transportation of the oil, they include: the road network, Lamu Port and Lamu Southern Sudan Ethiopian Transport Corridor.

The production stages which shall involve all activities of commercially extracting the oil are yet to begin. In May 2017, The Oil Exploration Corporation in Lokichar Oil fields planned to carry out an Early Oil Pilot Scheme (EOPS) expected to produce 2,000 barrels of oil in a day. However, the EOPS was suspended pending the passage of Energy Bill 2015. Initially, transporting the crude oil is planned to be by road using specialized containers from Turkana to Mombasa for refining. Other oil operation stages and activities shall include; transportation and storage, manufacturing and selling of products and finally the closure stage that involves the decommissioning of production installation and restoration of the site to an environmentally friendly state. Legal and Policy Framework Governing Social Investments in the Extractives Sector in Kenya.

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25 Accessed from http://www.kpc.co.ke/petroleumsector/ on 29.06.2017
2.3 Legal and Policy Framework Governing Social Investments in the Extractives Sector in Kenya

Image 1: (Source: LDGI/Kimzy, 2017)

2.3.1 The Constitution

The constitution of Kenya provides that all mineral and mineral oils are held in trust for the Kenyan people by the national government. Rocks, minerals, fossils fuels and other sources of energy are described as natural resources in the constitution. Article 69 (a) dispenses that the state will ensure sustainable exploration, utilization, conservation and management of environment and natural resources and ensure that the accrued benefits are shared equitably. The state officers and other persons as per article 10 (1) and (2) (d) are also bound by the national values and principles of governance.

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which include amongst others sustainable development which implementing public policy decisions\textsuperscript{27}. The constitution requires that any transaction on agreements involving exploitation of any Kenyan natural resource be ratified by the parliament if it involves a grant of right or concession\textsuperscript{28}.

### 2.3.2 Mining Act No. 12 of 2016

This Act gives effect to some specific articles of the constitution of Kenya 2010 and provides for mineral and mining activities but not for oil and hydrocarbons.

It is provided for in the Act that, the corporations are required to facilitate and carry out social responsible investment for the local community and also to ensure they implement community development agreements\textsuperscript{29}. To ensure skills transfer and capacity building to the community, the mining cooperation needs to submit a training and recruitment plan to the cabinet secretary\textsuperscript{30}. Section 50 of the Act requires the mining corporation to give preference to material and products made in Kenya, services offered by members of the community and Kenyan citizens and also to companies or businesses owned by Kenyan citizens.

\textsuperscript{27}Government of Kenya (2010) the Constitution of Kenya, 2010 article 10 (1), (2), (d)


\textsuperscript{29}Ibid section (47) (2) (g), (h)

In section 109 (i) the Act requires the holder of the mining license to sign a community development agreement with the community where mining operations are to be carried out. The mining agreement is required to include terms and conditions relating to community development plans\(^{31}\). Under section (101) (2) (j) the mining license applicant must have a plan giving particulars of the social responsible investments for the local community while the Cabinet Secretary may grant a license if satisfied that the applicant’s proposal is socially responsible in engaging in community investments\(^{32}\).

This is a progressive provision and offers a sound foundation for beneficial social investments in the areas where mining is taking place. The requirement for advance plans that are agreed with the community and known to the government offers a basis for seeking accountability.

### 2.3.3 The Petroleum (Exploration and Production) Act, 1984

This is the main legislation in place governing the petroleum industry in Kenya. It regulates negotiations by the government on petroleum agreements that relates to exploration, development, production and transportation.

The Act requires that every petroleum agreement has to ensure that the contractor gives preference in terms of employment and training

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\(^{31}\) Ibid section (117) (2) (j)  
\(^{32}\) Ibid section (103) (g)
to Kenyan nationals in petroleum operations and also use products, equipments and services available locally\textsuperscript{33}.

The Act also requires the corporation to establish a training fund for the purpose of training Kenyan citizens in petroleum operations\textsuperscript{34}.

It is worth noting that this legislation has no provisions relating to community development agreements or plans. This omission leaves SI and other Community Development related projects to be undertaken at the discretion of Petroleum companies.

There are no foundations for ensuring accountability or efficacy in relation to Community Development. This is a major gap in law that exposes community developments to risks of poor design, planning and implementation. It indeed gives room for oil companies to have the discretion of pursuing these projects just as public relation ventures without any due regard for sustainability concerns.

\textbf{2.3.4 The Petroleum Development Fund Act No. 4 of 1991}

This legislation was enacted in 1991 and revised in 2012. This legislation does not specifically address the issue social investments but rather requires the establishment of a development fund whose purpose is to develop the common facilities for the development, distribution and testing of oil products \textsuperscript{35}.

http://www.kenyalaw.org/lex//actview.xql?actid=CAP.%2020308# on May, 19 2017

\textsuperscript{34} Ibid section (11) (1)

2.3.5 The Petroleum (Exploration, Development and Production) Bill, 2015

This Bill is yet to be enacted. It provides a framework where every petroleum agreement is required to ensure that the contractor gives preference to the use of locally available raw materials, products, equipments, manpower services and continuously transfer technology and build local capacity\(^36\). It however does not address Community Development expressly. It leaves a gap similar to the one observed under the 1984 Act. The provisions of the bill are oblivious of the Constitutional requirement that the exploitation of natural resources meets the requirements of sustainability. The failure to set mechanisms for ensuring community developments are planned and implemented in an inclusive and transparent manner is overt.

2.3.6 The Energy Bill, 2015

This bill notes that the licensing authority while considering whether to grant or reject a license or permit for mid and downstream petroleum operation to look at the impact of the undertaking on social, cultural or recreational life of the community\(^37\).


2.3.7 The Draft National Energy and Petroleum Policy, 2015

This policy document proposes to develop a legal framework that will ensure that the local content covering technology and knowledge transfer, capacity building of local community and local employment opportunities in the energy and petroleum sector are well catered for. It however does not make specific provisions addressing community development and the need for specific agreements regarding the subject. It is mute on the subjects of sustainable social investments by corporations.

2.4 Institutional Roles in Social Investments in Oil and Gas Industry, Kenya


2.4.1 legislature (parliament)

It comprises the National Assembly and the Senate. It has the legislative authority in the country derived from the people and assigned under the Constitution. The role of the National Assembly is to enact legislation through bills that are it passes and are assented to by the president while the role of the Senate is to participate in the making of laws by approving bills related to the counties\textsuperscript{39}. The legislature therefore has the duty of making laws that govern the extractives sector.

Article 71 (2) of the Constitution of Kenya 2010, requires the Parliament to enact legislation providing for transactions subject to ratification that involve exploitation of any natural resource. This provision assigns this specific function to Parliament and hence it has a direct and active role in oversight in all transactions in the extractives sector.

2.4.2 national government - ministry of energy and petroleum

The Ministry of Energy and Petroleum on behalf the National Government is responsible for the establishment of a durable and sustainable system of development in energy policy and regulation of electricity and gas reticulation\textsuperscript{40}. The ministry led by the cabinet

\textsuperscript{39} Government of Kenya (2010) the Constitution of Kenya, 2010 Article 93

\textsuperscript{40} Government of Kenya (2010) the Constitution of Kenya, 2010, Fourth Schedule, Part 1, number 22 (d) and 31
secretary indeed has the statutory and executive authority to manage
and regulate the oil and gas sector. It formulates the policies, gives
licenses, negotiates and executes agreements, and directs
investments at exploration, development, production and post
production stages.

2.4.3 Turkana County Government

Chapter Eleven of the Constitution of Kenya, 2010 outlines the
system of devolved governance, including the right of communities
to manage their own affairs and to further their social and economic
development.

The County Governments are tasked with county planning and
development of electricity and gas reticulation and energy
regulation. In Turkana County, the following Ministries,
Departments and institutions play relevant roles in the oil and gas
subsector:

(a) Ministry of Energy, Environment and Natural resources
(b) Ministry of Lands, Survey, Housing, Physical Planning and
    Urban Area Management
(c) Ministry of Finance and Economic Planning
(d) Ministry of Education, Social Services and Culture (Department
    of Social Services)
(e) County Assembly

The County’s Ministry of Energy, Environment and Natural
Resources oversees oil company’s activities, checks adherence to

41 Ibid Fourth Schedule Part 2, number 8 (e)
legislation and policy provisions and supports engagement with the Communities.

Image 3: Turkana County Ministry of Energy, Environment and Natural Resources in Lodwar Town
(Source: LDGI, 2017)

The Planning Department under the Ministry of Finance and Economic Planning is expected to work with the oil corporations in ensuring conformity and alignment to the CIDP and other County development plans.

The Ministry of Lands, Survey, Housing, and Physical Planning & Urban Area Management has the duty of supervising issues of oil corporations’ access to land including payment of lease fees to the County Government.
3. Methodology and Study Site

3.1 Study Site

The study was conducted in Turkana County. The County is one of the 47 counties formed under the 2010 Constitution of Kenya and the 2012 County Government’s Act. It is located in North West Kenya and in size is the second largest county covering more than 13% of Kenya’s surface area with approximately 77,000 square kilometers. It is also one of the driest counties of Kenya with a semi-arid climate.

The study focused on Block 10BB in Turkana South Sub-county which is the most active block to date in terms of number of wells. Tullow Oil has a total of 34 wells in the county, 16 of which are in Turkana South Sub-County. The first oil strike was in Ngamia 1 and the most recent is Amosing 6 (both within Block 10BB).

Image 4: A researcher in a key informant interview with an Officer of the Turkana County Government (Source: LDGI, 2017)
3.2 Ethics

In undertaking the study, the respondents were informed about the purpose of the research and how the information would be used. Interviews were conducted after receiving their consents.

3.3 Data Collection

At the beginning of the study, a reconnaissance was conducted. This helped to, familiarize and connect with the community members and liaison officers from the study area. The visits also involved transect walks to identify key areas and persons for data collection. Later, questions were formulated to guide the different groups that were interviewed.

During data collection, purposive sampling method was applied. Key informants interviews were undertaken with select individuals from the communities, county government, Civil Society Organizations and officers from the corporations.
4. **Findings**

In this section, we summarize the findings of the assessment, relating to the nature, suitability and sustainability of Social Investments projects being undertaken in within the selected sites of Turkana County by Tullow Oil Corporation.

4.1 **Tullow Oil Corporation in Turkana County**

![Image 5: (Source: Land Development & Governance Institute/Kham, 2017)](image)

Tullow Oil is a multinational oil and gas exploration and production company operating across 25 countries. In East Africa, Tullow Oil operates in two countries i.e. Kenya and Uganda and with over 17 exploration and production licenses. In 2010, Tullow Oil obtained its first operating interest in Kenya and since then on it has discovered over 600 million barrels of oil resources in the South Lokichar sub-basin, Turkana County.
Since the commencement of oil exploration in Turkana County, the Oil Company has had intensive activity in the Lokichar sub-basin. As a result, the community in this area has had the most engagement with the Company.

4.2 Social Investment Projects

The Company first applied the SI model for community development projects upon entry into the Lokichar sub-basin. This approach applied a top-down style of management and the community had little involvement in selecting the projects to be implemented. The community development component is solely managed by the Social Performance Department on the company’s part.

Social Investment projects implemented by the Company include: Community Resource Centres which have been equipped with a library and internet access; Water project that involve sinking of boreholes and pumping the water to storage tanks; trainings on business skills; construction of hospitals; scholarships for courses in oil and gas this is under the Company’s Group Scholarship Scheme; bursaries; supply of textbooks to the already existing and new schools; construction of classrooms and provision of furniture, construction of dormitories; and supporting locals undertaking technical courses in Lodwar.
Currently, development projects target:

i. **Water**: The Company has drilled boreholes at Nakukulas and Lokicheda villages. Water tanks have been installed at various points which are filled by a bowser at least once weekly under the water injection project. 23 community water points have been connected to clean water across Turkana South (14) and Turkana East (9) Sub-counties.

*Image 6: A water tank installed by Tullow to serve the community around the Ngamia wells*

*Image 7: Borehole and water pump installed at Lokicheda Village*
ii. **Education:** Classrooms have been built at Lopii Primary School and Nakukulas Primary School and dormitories at Nakukulas Primary School, as well as university and secondary scholarships and bursaries benefitting Turkana County residents. In Keroi Boys Secondary School, the cooperation has installed a solar powered lighting system for classrooms, dormitories, laboratories and administration offices. The Company also introduced new courses at the Lodwar Vocational Training Institute and equipped the mechanics, ICT, plumbing, carpentry and masonry departments in a bid to build local capacity and create more opportunities for their involvement in the company operations.

![Image 8: Lopii Primary School, Source LDGI](image)

Image 8: Lopii Primary School, Source LDGI

![Image 9: New classrooms constructed at Lopii Primary School by Tullow (Source LDGI)](image)

Image 9: New classrooms constructed at Lopii Primary School by Tullow (Source LDGI)
iii. Health: The oil company has constructed health centres at Lokichar, Lokori and Lodwar, and renovated Kasuroi Dispensary. Additionally, it has supplied drugs to Lodwar County and Referral Hospital and Lokichar Dispensary. The Lokichar Health Centre construction is already complete, but it is not operational.
iv. Employment opportunities:

The company’s presence in the Lokichar sub-basin has resulted in job opportunities for the local community. Locals have gotten short-term employment from the company as security guards, site marshals, field marshals, VSOs and other unskilled occupations. Most jobs are temporary positions that are held for a period of not more than 90 days. *It should be noted that, initially local*

*Communities were to get 50% of employment opportunities, with the other 50% coming from other communities/ sub-counties. Currently, local communities want to get 100% of the employment opportunities available.*)
4.3 Engagement between the Community, County Government and the Corporation

The company’s engagement with community is on the basis of operations that are ongoing within a village/locality. The Company engages the community regularly on: progress on implementation of previous projects, and new developments in the Company operations among other things.

Image 12: *(Source: LDGI/Igah, 2017)*

The Company engagement with community is through:

i. **Community Resource Centres**:

These are centres located in Lodwar, Lokichar and Lokori, with a fourth coming up in Nakukulas. Officers in these stations attend to walk-ins from the community who want to get details on progress of community development plans as well as any other relevant information.
ii. **Village Socialization Officers (VSOs):** VSOs are recruited from the communities/villages living in areas where the Company has operations. VSOs report to the Lokichar office to get updates on any new developments and to share any relevant information/issues communities are facing with the social performance team.

iii. **Community Liaison Officers (CLOs):** CLOs reach out to communities to give information on the Company activities but aren’t necessarily picked from the community they engage with.
iv. **Community Outreaches:** Community Outreach meetings or *barazas* are meant to give updates on community development projects, respond to issues from the community and give information on opportunities such as upcoming trainings on business management.

v. **Field Stakeholder Engagement Officers:** These officers have a role of reaching out to villages daily to find out if there are any issues and get ideas on how to improve development projects.

vi. **Visitation to sub-county offices:** The Company regularly engages with the deputy county commissioners, assistant county commissioners, chiefs and sub-county and ward administrators on project updates and to respond to queries coming from locals as reported to their respective offices.

The company’s engagement with community is more concentrated in Nakukulas, Lokicheda areas, this is where there is high activity and less intensive in Lopii, Loperot villages. Due to lack of clarity by the communities on the rationale behind this, there is a feeling that more benefits go to areas where there is regular company presence such as Nakukulas and Lokicheda villages.

An emerging perception by the community is that CLOs and VSOs are siding with the Company on issues and not fully representing the community member’s views. In their view, the CLOs and VSOs are
obliged to speak for the Company, and not to represent the community due to the fact that the Company remunerates these officers. This is despite being CLOs and VSOs being members and part of the community. The change in the social performance officers in line with oil operation employee cycles is also a cause of discontinuity in engagement.

4.4 Engagement with National and County Government

The oil company also interacts with the national and county government though the Ministry of Energy and Petroleum, and the various county departments including the Governor’s Office. At the beginning of their operations in Lokichar sub-basin, the company’s engagement was mostly with National Government. This resulted in poor relations with County Government. The relations with the devolved unit have improved over the last year, more so with the introduction of the Company and Turkana County Government joint committees.

The joint committees, led by the Governor, a company representative and a representative from the National Government ministry, to cover issues of: land, local content, security, water, finance, and have representation from the respective county departments under which the issues fall. The Company also engages with the national and
county government administration through weekly updates to area chiefs, sub-county administrators and ward administrators.

4.5 Project implementation

Previously, the Company solely had the mandate of overseeing implementation of community projects through its Social Performance team. This has since changed with the introduction of well-pad committees which increased community participation in the process.

Project implementation in the past has experienced interruptions mainly due to delays in the contracting process. The Company attributes this to challenges in matching standards in supply of services with the local capacity available in Turkana to deliver the services. Additionally, the fall in international oil prices resulted in the company scaling down of its activities worldwide, and this affected some of its community development projects in Kenya.

4.6 Project monitoring

The Company monitors project implementation progress through their existing internal instruments and departments. The company’s monitoring structure is for internal use and isn’t available nor accessible to the community or other external parties.
On the community’s part, community members have no clear systems to monitor implementation progress of the projects as agreed to with the Company. Other than the physical developments such as classrooms, dispensaries, boreholes communities know little of the progress in implementing the development projects. Similarly, the communities have little knowledge of the reason for some of the delays in project implementation. The lack of a proper system for the community to monitor projects has resulted in loss of trust on the community’s part.

The County Government’s department of planning, monitoring and evaluation has a committee with representation from each Ministry that monitors county projects. This committee meets on quarterly basis to get updates on implementation progress. Under the newly formed joint committee between The Company and the County Government, the County Government has a more direct way of monitoring community investments implemented by The Company.

4.7 Grievance mechanism

The Company follows a systematic procedure (to resolve grievances related to their operations as brought up by communities. A community member with a grievance fills up a grievance registration form giving details including: location where grievance is related to; a description of the complaint; and the block the grievance is related to. Upon filing of this form the issue is handled internally by the
Company and thereafter a resolution is detailed and recorded on a *grievance mechanism form*.

The community views the company’s grievance mechanism system as a lengthy and complicated procedure. The few who have used this procedure report never getting redress from the Company. Local communities have resorted to protests and blocking access roads to the company’s areas of operation as a way of getting the company’s attention and quicker response to issues.

In addition, changes in the officers engaging with the community have resulted in discontinuity and loss of impetus in communication between the two parties.

The community also try to communicate grievances to the Company through elected leaders (MCAs, MPs), as is the case for Lopii village. However this approach has led to loss of ownership in the representation of issues, as well as misrepresentation.

### 4.8 Gaps in the Implementation Framework and Process that Hinder Sustainable Development

The Oil and Gas Industry in Kenya is relatively new to the country, especially with respect to the upstream activities. The company’s operations in Turkana are also the company’s first inland operation. These factors have meant that while some of the components of
community investment initiatives and systems have been effective, there has been a need to try out new systems along the way that would take into account the realities of the community and the changing dynamics.

For the case of the company’s operations in the Lokichar sub-basin, the main emerging issues that are affecting the sustainability component of social investments include:

1. **Lack of specific provisions in legislation to guide Community Development in the sector:** The Petroleum (Exploration and Production) Act, 1984 fails to give adequate provisions to guide community development and as a result the industry is operating with limited legal regulation. This is despite the numerous gaps that are emerging with respect to issues of specific benefit sharing, community gain, allocation of revenues from oil, and social investments. Consequently, communities continue to feel shortchanged as the company tries out different approaches to community investment, without conformity to any law.

2. **Information flows/ Communication:** Despite the multiple avenues for engagement, the Community remains underinformed on the full scope of the company’s activities in Turkana. The Community acknowledged that the Company engaged them prior to their entry but only a small number
understand the company’s activities beyond exploration and drilling, or the opportunities that ensue in the mid-term and the long-term.

As a result, the Community is expecting more than what the Company is delivering in terms of social investments so far. Secondly, the Community has little understanding of the workings of the Company and the industry at large. In 2016 global oil prices went down and the Company downscaled some of its activities in Kenya such as the social investment projects. As communities lacked clarity on the details, this resulted in loss of trust between the two parties. The inadequacy of information on the company’s plans to down-scale projects led to community hostility.

Poor communication of such information can in the long run erode the social capital the in the earlier years of operation. This led to a situation where development initiatives, while focused on benefitting the community, were at risk of duplicating county government efforts. Another scenario would be development projects not being aligned to national and county government agenda.
3. Growing Dependency on the Company for Development:

![Image 14: (Source: LDGI/Kimzy, 2017)](https://example.com/image14.jpg)

Turkana County is categorized as marginalized and as such has felt minimal impact of development by government in the past. The County’s Human Development Index, a factor of life expectancy at birth, literacy rates, enrollment levels and the GDP, is lower than the national average. Turkana County’s Human Poverty Index and Gender Development Index are also below the average for the whole country.

The entry of the Company and the initial phase of social investment projects can create dependency which can have negative effects in

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the long run, e.g. in the event of fluctuation of prices and exchange rates. In 2016, the community felt the negative effects of such dependency with the fall of global oil prices that resulted in the Company scaling down on its social investment projects.

4. Limited Local Technical Capacity:

Image 15: *(Source: LDGI/Igah, 2017)*

The Turkana County Integrated Development Plan, 2013 – 2017\(^{44}\), identifies the need to build capacity of locals through increasing post-secondary training programmes to suit the county’s employment needs. This has been a challenge for the

Company in terms of maintaining qualification standards when recruiting the local community to available employment opportunities.

Majority of the opportunities that the local communities have benefitted from require unskilled labour and are temporary in nature. Limited capacity has also hindered local communities and groups from meeting standards set for provision of goods and services.

5. **Sustainability aspects in the Social Investment:**

![Image 16: (Source: LDGI/Kimzy, 2017)](image)

It was evident that the current approaches to community development lack in ensuring projects are managed sustainably beyond the project periods. Most projects are looking at responding to immediate needs and would suffer in the event of the company’s exit, or as has been experienced, in the event of fluctuation in market prices. There were no clear structures for ensuring youth, women, and vulnerable groups were involved in the planning, design, implementation, and running of
the community development projects. It was observed that clear mechanism of accountability to the local communities in terms of resources invested and their recovery as operation costs by the corporations were not in place.
5. Conclusion

Image 17: (Source: LDGI/Igah, 2017)

The current gap in the legislations guiding the sector, is the main limitation to sustainable community development. The Petroleum (Exploration & Production) Act, 1984, only refers to employment opportunities and local content development, but gives no guidance on social investments in the local community.

The result has been community development being implemented without sufficient policy or legal guidance and falling short in terms of engagement strategies and community capacity to hold corporations and government accountable. Moving forward, specific legal provisions to give guidance on issues of community
development, community rights, planning of social investments disclosures and sharing of information are key.

On the other hand, limited knowledge of the oil and gas sector, coupled with limited capacity in terms of technical skills and business skills has meant that communities play a much smaller role in the sector than expected. Capacity building on the sector, legal provisions, community rights and calling for accountability is necessary to ensure host communities fully benefit from extraction of oil from their land. County and national government capacity on sustainable development and strategic social investment should also be enhanced to ensure they play their role effectively.

Lastly, the company’s overall approach for social investment should take into account project sustainability. Most of the company’s social investment projects have sought to address immediate solutions, and some may not be sustained in the event of the company’s exit. A long term plan for development can increase the impact of projects and reduce dependency.
6. Recommendations

The study recommends a number of improvements that can be implemented to ensure sustainability of community investments in the oil and gas industry, and the extractives sector as a whole. The recommendations, applicable to the national government, county governments and corporations in the sector include:

1. **Complete legislative framework to guide Community Development in the sector including provisions on community engagement, benefit sharing, and local content:** The Petroleum (Exploration, Development and Production) Bill, 2015, should be enacted to give direction in the sector in terms of community social investments and other avenues for community benefit sharing from oil and mining operations. Additionally, it is vital for the sector to fast-track enactment of legislation to guide other aspects of community development.

2. **Improving the communication and reporting approaches:** Corporations should look into developing / improving how they currently engage with the community, national and county governments to share information more effectively on social investments with these stakeholders. Improved communication should be able to clearly break down the company’s activities, social investment projects, and the progress of each of project to
the community and county government. For example, communication on available opportunities in the oil and gas sector should go beyond the current opportunities for the community and cover mid-term and long-term activities of the Corporation. This would go a long way in improving the communities’ understanding and managing their hopes. This will also contribute to building the corporations’ social capital, and communities’ confidence in their operations. Strategic communication and engagement between companies in the extractives sector and host communities is crucial to managing community expectations.

3. Harmonization of community development initiatives at county level: The underdevelopment that is seen in Turkana has over the years led to a number of development partners implementing projects aimed at improving livelihoods. Inclusion of all development partners working in the county to harmonize efforts towards community development can ultimately contribute to sustainability by eliminating any form of duplication and guaranteeing alignment to county development agenda. One way for the harmonization to take place would be through the establishment of an engagement platform for development partners at county level. The county government’s planning department can steer and coordinate such a platform that would exist solely to ensure development programmes complement each other..
4. **Building communities’ understanding of the extractives sector including legal dispensation, principles of sustainability, and clarity on social investment**: There is need for the community to be trained on the workings of the oil and gas sector. This training should also cover issues of legislative and institutional framework of the sector, avenues for engagement, sustainability in social investments, and existing opportunities throughout the oil and gas lifecycle. This knowledge can go a long way in promoting sustainability, increasing community participation in the processes and holding the corporations, County Governments and the National Government accountable.

5. **Social investment focus on skills transfer, community capacity building and diversifying the local economy**: The oil company has shown interest in cutting back on community development and other social investment projects, and focusing more on skills building for the local community. This was informed by the community’s desire to supply basic commodities and services to support the Company activities but having limited capacity to do so while keeping with the expected standard. Developing inclusive business models that will include local businesses can further promote social and economic development through the indirect opportunities and consequently have greater
impact. Additionally, a long-term plan for social investments looking to improve and diversify the local economy as opposed to stop gap initiatives can also contribute to reducing cases of dependency. For example, a contribution to an irrigation project would do more in creating opportunities for the locals than weekly supply of water to a water access point. Once communities see the greater opportunities emerging from investments focused on growing the local economy (e.g. in opportunities such as irrigation initiatives), the risk of dependency on the Company, and the negative effects that result from external factors such as fluctuation in market prices can be mitigated. One way to improve the outcome of this initiative would be to invest in building capacity of locals in areas that would directly feed into the ‘opportunities wheel’ (See Annex) and the longer term lifecycle of oil production.

6. **Sustainability requirements in corporations’ Social Investment strategy:**

There is need for corporations in the extractives sector to ensure their organizational plans for community development in areas where they operate meet requirements for sustainability. Social Investment projects should meet the requirements of participation of all stakeholders, organizational development and strengthening of local institutions, application of business rationale, planning and budgeting processes, and focus on building the community’s skills and capacity. Additionally,
infrastructure developments should be aligned to long-term
development agenda. One key adjustment to social investments
that corporations can consider is that of managing this function
within a separate (independent) trust fund, as opposed to a
department under the organization. This entity can then develop
the strategy for community investment separately while still
applying standard management practices as would have been the
case for a profit-making organization.
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