



**DEVELOPMENT
CORRIDORS
PARTNERSHIP**

IMPACT ASSESSMENT FOR CORRIDORS: FROM INFRASTRUCTURE TO DEVELOPMENT CORRIDORS

Edited by:
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2022

The Development Corridors Partnership

The Development Corridors Partnership (DCP) is a research and capacity development initiative. It is a collaboration between institutions from China, Kenya, Tanzania and the UK. The main objective is to deliver effective research and capacity-building to help improve corridor planning and management. It aims to ensure that development corridor decision-making is based on sound scientific evidence and effective use of available planning tools and procedures, to ensure that risks are

avoided and opportunities exploited. The DCP comprises partners from the University of York, the University of Cambridge, London School of Economics, Sokoine University of Agriculture, the University of Nairobi, as well as the UN Environment Programme World Conservation Monitoring Centre (UNEP-WCMC), African Conservation Centre, the World Wide Fund for Nature (WWF), the Chinese Academy of Agricultural Sciences and the Chinese Academy of International Trade and Economic Cooperation (CAITEC).

DCP Partners:



For the purposes of this publication, DCP collaboration was extended to experts representing Netherlands Commission for Environmental Assessment, the Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee, the University of Queensland, the Columbia Centre on Sustainable Investment, the GOBI

Framework for Sustainable Infrastructure Initiative (comprising the University of Oxford, University of Central Asia and the Independent Research Institute of Mongolia), The Biodiversity Consultancy, the Wildlife Institute of India, the Endangered Wildlife Trust and Ecotecnia Ingenieros Consultores SRL.

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Foreword

In the course of a long and varied working life, I have been privileged to work with, or learn from, a stimulating panoply of individuals who are committed to contributing to the economic, social, and environmental development of all aspects of the United Nations Sustainable Development Goals.

Jon Hobbs and Diego Juffe-Bignoli are, thankfully, two of these individuals. I was delighted to learn that they had come together to produce, for the Development Corridors Partnership, a rich and stimulating collection of research reports, case studies and assessments relating to the array of efforts made under the rubric of 'development corridors'. They were determined to express the conviction that decisions made, primarily by governments, regarding the planning and building of Corridors, really must be informed by an evidence-based understanding of the consequences - positive or negative - of these decisions. And they have succeeded. But Jon Hobbs will never read these words. He was hospitalized after the bulk of the work was complete, and, to the deep sadness and regret of all who knew him, he passed away at the end of September, 2021.

Jon and Diego sought out and recruited a daunting array of researchers, scholars and stakeholders to shed light on the processes currently underlying the world of development corridors today. They certainly succeeded.

The work was initiated before the onset of the COVID-19 pandemic, and as governments turn to the formidable challenge of restoring

economic vitality without further damage to the climate, it becomes even more imperative that impact assessment be understood, embraced and improved. Jon and Diego have shown us the way forward for a journey which absolutely must be embarked upon.

They would be first to recognise that the Development Corridors Partnership as a whole must be commended for showing - in many different ways and places - that, not only is the need for impact assessment clear and present, but so are the skills and commitment of researchers, scholars and stakeholders. These are to be found in an impressive coming together of universities, civil society organizations and business groups, and communities.

All are part of an outstanding initiative, funded by the UK Research and Innovation Council, and managed by the UNEP-WCMC. This initiative has been embraced by some of the best minds that have been turned to the task of ensuring that - while we attempt to bring economic and social benefits to people, in line with the United Nations Sustainable Development Goals - we do not risk significant environmental and social costs, and thus actually undermine long-term development successes.

So, I urge you to read this book, and figure out how you might improve your own contribution to the challenges ahead. Jon and Diego have set out a case. It needs to be taken up, not set aside; acted on, not just talked about. It is in your hands.

John Harker

Chair of the Development Corridors Partnership Independent Advisory Board,
Nova Scotia, Canada.

Dedicated to the memory of Jon Hobbs
who was the architect and driving force of this book

Executive Summary

Driven by increasing globalisation, the development aspirations of nations, and the need to access resources, an infrastructure boom is impacting many regions of our planet. New infrastructure projects are traversing diverse landscapes over hundreds of kilometres, often crossing international borders and penetrating into remote areas previously unaffected by industrialisation and urbanisation. These large-scale projects, mostly spanning several regions in a same country, but often linear and transnational in nature, are generically called corridors. Depending on the nature and objectives, they can be transport, infrastructure, growth, resource or economic corridors.

The rapid development of corridors globally presents environmental planning professionals with numerous challenges. **The primary need is to ensure that decisions about these developments are informed by an evidence-based understanding of their consequences - both positive and negative.** This will enable infrastructure development to meet development needs without adversely impacting ecological systems or human welfare. Improving the quality of infrastructure policies, plans, programmes and projects, by ensuring they include the necessary environmental and social scrutiny, is urgently required now - and will be for the foreseeable future. This challenge is the unifying theme of this publication.

Using insights from Africa, Asia and South America, this sourcebook compiles 24 contributed papers written in 2021, covering many facets of the

opportunities and challenges presented by the rapidly growing number of infrastructure and corridor developments around the world. Prevailing planning practices are reviewed through case studies along with the efficacy of some of the available tools to conduct systematic and comprehensive impact assessments. The latter includes Strategic Environmental Impact Assessment (SEA) and Environmental Impact Assessment (EIA).

As the title suggests the underlying thesis of this publication is that, where they are justified, **there are significant benefits in ensuring that corridors that contain single purpose infrastructure developments (utility, infrastructure or transport) progress through a carefully planned sequential process of diversification and expansion to ensure the maximisation of benefits in full-blown 'development corridors'.** In this book, development corridors are therefore aspirational. They comprise areas identified as priorities for investment to catalyse economic growth and development. They should be developed with multiple stakeholders and social, economic and environmental interests and interdependencies in mind. With the integration of sustainability principles and appropriate environmental and social standards, development corridors could become true '(sustainable) development corridors'. They should be planned to maximise positive opportunities and minimise negative risks. Without this, today's short-term successes will become tomorrow's challenges and long-term human welfare and ecosystem integrity will be undermined.

Overview of contents

This book brings together a wide range of perspectives from experts, researchers, and practitioners around the world with the purpose to foster greater collaboration and increase our global understanding of corridors and their benefits and potential negative impacts. 13 of the 24 chapters are written by independent experts and researchers from Australia, Bolivia, Brazil, China, India, Kenya, Mongolia, South Africa, Tanzania, UK, and the USA. The book also includes 11 chapters containing material gathered by the Development Corridors Partnership, a programme of work led by UN Environment Programme World Conservation Monitoring Centre (UNEP-WCMC) and funded by the UK Government via their Global Challenges Research Fund.

The collection of papers in this sourcebook is divided into five sections. First an introductory section where we introduce some key terms and definitions that underpin this work ([Chapter 1](#)). We then explore some key principles and aspirations of corridors such as delivering the Sustainable Development Goals ([Chapter 2](#)), ensuring theory and practice align ([Chapter 3](#)), ensuring financial sustainability ([Chapter 4](#)), properly assessing environmental sensitivity ([Chapter 5](#)) respecting human

rights ([Chapter 6](#)), or maximising, co-benefits ([Chapter 7](#)).

In the next three sections, we present 15 case studies from three continents: Africa, Asia, and Latin America. These case studies explore key challenges and lessons learned from specific planned, ongoing, and already implemented developments. They are presented as individual stories that readers can explore.

The final and fifth section aims to summarise lessons learned from a 4-year research and capacity building programme specifically aiming to understand the key challenges and opportunities around corridors and that has been the major driving force of this work: The Development Corridors Partnership project (DCP). DCP is a collaborative partnership across UK, Kenya, Tanzania and China, funded by the UK Research and Innovation Global Challenges Research Fund (see [Chapter 23](#)).

The book finishes with an overview of the lessons learned from the contributed papers included in this book and develops ten principles for corridor planning and delivering a meaningful and comprehensive impact assessment ([Chapter 24](#)), which we summarise here as ten key messages.

Key messages

1

Corridors must seek to achieve positive sustainability outcomes:

The mindset underwriting environmental planning of most infrastructure developments has been to mitigate negative impacts. The planning of few existing corridors is based on their role in supporting a sustainability vision for a country or region in which they are situated. Corridor developments must therefore be based on sustainability principles and support progress towards national, regional and international sustainable development goals. A true development corridor will seek to do good, as well as to mitigate negative impacts.

2

Integrated and inter-disciplinary approaches are needed:

Corridor developments are extensive, complex, multifaceted features traversing many landscapes. They can bring about significant transformational change to physical, economic, social, and cultural systems, and serve as interconnecting features. Yet engagement in corridor planning is often constrained by limited disciplinary and institutional involvement, with projects often superimposed upon communities. Corridor developments need diverse expertise and experience in their planning and management, including local stakeholder knowledge, avoiding disciplinary, institutional, or sectoral silos, that can result in policy conflicts, contradictions, and inconsistencies.

3

Corridor proponents should clearly demonstrate consideration of alternatives:

Corridor options should not be limited to a preferred proposal favoured by an elite. Corridor developments must consider all feasible alternatives (including maintenance of the status quo and no corridor development) and make the risks and opportunities of each option explicit and transparent through meaningful consultation. An important requirement in all corridor planning is to justify the need for a wide choice of options and an explanation of the potential benefits it will bring and to whom, in comparison with the alternatives. Any necessary trade-offs and how any significant potential negative impacts will be effectively managed, and opportunities created must be explained.

4

Public participation and stakeholder engagement should be at the core of corridor planning:

Corridor planning frequently fails to include meaningful participation of all stakeholders. Corridors can profoundly affect the lives and rights of indigenous peoples and local communities, potentially for generations. A common failing is that the first opportunity for local stakeholders to engage arises only after all strategic decisions have already been made and the only option remaining is for them to react negatively to a fait accompli. The meaningful engagement of all stakeholders is necessary to ensure their role is more than reactive. The way corridors are viewed by different stakeholders must be identified, understood, and addressed. Corridor developments must ensure that all interested and affected people are provided with adequate information about a proposal and have meaningful ways to engage in decision-making processes from the outset of strategic planning.

5

Mainstreaming and tiering are fundamental for corridor success:

Corridor planning requires a tiered assessment process, ensuring that environmental and social issues are considered alongside financial and technical considerations from the start of strategic planning or programme development, right through to project specifics. Conceptual corridor planning is frequently dominated by technical and financial suitability criteria with environmental, social, cultural, and human rights sensitivity issues being considered, at best, as externalities, retrospectively, once issues and problems arise. Strategic planning is important because it is when the full range of options is still open for discussion. It also establishes the parameters that will frame and implement a corridor plan or programme. Environmental and social considerations (and the interactions between them) should be considered early in strategic decision-making alongside (and to inform) technical, financial, and economic considerations.

6

An iterative process is needed:

Corridors exist in dynamic environments and need to be responsive to changing circumstances and priorities. Planning must adjust as circumstances and available information changes. The process should identify, map, and engage all interested and affected stakeholders from the earliest stage of corridor planning and throughout the planning and management of the corridor. New concerns and evidence will likely emerge as a corridor development progresses. Corridor planning frequently places undue emphasis on the production of a report (Environmental Impact Report) and its influence on the decision to proceed. The process may not be so linear in nature. It may involve many adjustments and decisions as new evidence emerges and predictions improve. A good-quality report and recommendations is necessary, but they are dependent upon a comprehensive process of ongoing dialogue and engagement with all stakeholders.

7

Corridors must ensure effective use of available tools:

Many corridor environmental impact assessments fail to meet required international standards. Corridor planning and management should make systematic and adequate use of available impact assessment procedures, methods, techniques, and tools to ensure good-quality decisions. The available procedures discussed in this publication (notably Strategic Environmental Assessment and Environmental Impact Assessment) and their associated methods, tools and techniques should be used when appropriate to help ensure that a systematic process identifies all significant potential benefits and development outcomes, and that they outweigh the costs and risks to affected people and their livelihoods and environments. The objectivity and quality of corridor decisions are dependent upon the effective use of the available tools.

8

Plan corridors with resilience and adaptability in mind:

Prevention will always be better than cure in addressing the negative impacts of corridors, and this should be the priority. However, some circumstances dictate an inevitability of negative impacts. Corridors, therefore, need to be designed to be made resilient to anticipated changes and adaptation measures may be necessary as 'coping' mechanisms or to offset unavoidable impacts, such as the impacts caused by climate change. The suitability of measures will require ongoing monitoring and adaptation as needs arise.

9

Seek impact, influence, and implementation capacity:

The decision to proceed with a corridor is ultimately the responsibility of decision makers. They are usually the representatives of all stakeholders' interests and custodians of their natural resources. Any impact assessment report must provide adequate information to ensure sufficiently good-quality decisions. If they are to be effectively implement the recommendations provided. Attempts to improve the performance of planning and associated assessment processes of corridors must tackle the ways in which outcomes are shaped by political contexts and institutional capacities. Approaches to working on assessment processes should integrate political economy analyses and institutional capacity assessment from the outset and on an ongoing basis. Resulting insights should inform the design and implementation of interventions intended to improve planning practice.

10

Evolve from Infrastructure to Development Corridors:

The prospects for linear infrastructure projects to evolve into comprehensive development corridors are often left to chance and spontaneity. Infrastructure projects are often developed in isolation and in an incremental way. For infrastructure projects to progress and become true development corridors, the transition must be systematically sequenced into planning from the start. Assessments must include consideration of potential induced, secondary, synergistic, transboundary, and cumulative impacts likely to result from the corridor development. The progression from infrastructure to development corridors must be based on a systematic, comprehensive, and integrated assessment of the potential positive environmental, social and economic opportunities and the rigorous avoidance or management of negative impacts.

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Community Engagement in Corridor Planning and Implementation in Kenya

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ABSTRACT

In the last decade, the economic prospects for sub-Saharan Africa have been described as “Africa Rising”, reflecting a future ripe with investment opportunities and economic growth, with development corridors seen as instrumental to this optimism. Some countries have aligned their national industrial development policies directly with China’s Belt and Road Initiative (BRI). In Eastern Africa, for example, Kenya has become a champion of national industrial development advanced through the BRI. It is currently implementing two megaprojects that are central to Vision 2030, its national development plan to achieve a middle-income status in fewer than two decades: Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) corridor and the Standard Gauge Railway (SGR). This paper will critically review whether these large-scale infrastructure projects are developed in an inclusive way and will ultimately benefit the most vulnerable groups of people in Kenya. It will also consider if and how genuine community engagement can be included in corridor planning in order to achieve a long-term equitable distribution of benefits to all stakeholders.

13.1 Introduction

In the last decade, economic prospects for sub-Saharan Africa have been described as “Africa Rising”, reflecting a future ripe with financial investment opportunities, economic growth, and the upward socioeconomic mobility of its populations. Development corridors that are supposed to provide connections for markets to develop and flourish are seen as instrumental to this optimism. In this context, some countries have aligned their national industrial development policies directly with China’s BRI. Adopted in 2013 by the Chinese government, the BRI supports infrastructure development and related investments in nearly 70 countries across Asia, Europe and

Africa (World Bank 2018). In Eastern Africa, for example, Kenya has become a champion of national industrial development advanced through the BRI. It is currently implementing several megaprojects that are central to its Vision 2030 national development plan, which aims to transform Kenya into “a newly industrializing, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment” (Government of the Republic of Kenya 2007, p.1).

The first of these projects is the LAPSSET corridor. Labelled the most ambitious infrastructural megaproject in Eastern Africa, LAPSSET is meant to connect land-locked countries in

the region - that is, South Sudan and Ethiopia - and to give them access to the Indian Ocean via Kenya, thereby avoiding potentially "hostile" Sudan. Initiated in 2009, LAPSSET includes a deep-water port at Lamu on the Indian Ocean coast of Kenya, a highway, and a railway system from Lamu to the main economic hubs in Kenya and on borders with Ethiopia and South Sudan, and a pipeline for

crude oil exports from the Eastern Africa region. The wider project also includes modern resort cities, new airports, as well as agricultural commodity processing and export hubs, which are expected to generate economic growth and socioeconomic development (LAPSSET Corridor Development Authority 2016).



Image credits: Rob Marchant

The second national megaproject is the SGR. Entirely funded with financial loans from the Exim Development Bank of China, the SGR now connects the largest Kenyan port of Mombasa with the capital city of Nairobi (487km), and then stretches a further 120km into the northwest of the country, with additional developments planned to reach the Ugandan border.⁷⁸ Initiated in 2012, under the East African Railway Master Plan, the Kenyan SGR is supposed to be linked with other SGRs being built in Eastern Africa, thereby completing the regional master railway plan

and thus bringing prosperity and development to Kenya and the wider region.

Both of these megaprojects embedded within the official state narrative of national development articulated in Vision 2030 are supposed to provide opportunities for long-desired development and prosperity in the country. As the policy document specifies, "the 'Vision 2030' aspires for a country firmly interconnected through a network of roads, railways, ports, airports, water and sanitation facilities, and telecommunications. By 2030, it will become impossible to refer to any region of our

⁷⁸ Phase IIB that includes the further extension of the railway line to Kisumu in Lake Victoria, has been put on hold due to the lack of funding (Railway Gazette 2019).

country as 'remote'" (Government of the Republic of Kenya 2007, p. 6).

These megaprojects present significant opportunities for industrialization and socio-economic development across diverse landscapes of Kenya. As research on Kenya shows (Elliot 2016; Kochore 2016; Enns 2017), as large-scale investments take place, local landscapes start to change at a rapid pace, accelerating the previously limited opportunities for finance, business or employment for some segments of local or migrant populations. However, these potential positive changes are only a part of the story of corridor development.

However, megaprojects such as LAPSSET or the SGR also result in the exclusion of some population groups, particularly those who historically have been marginalized within the socio political structure of Kenya and thus do not have the capacity to influence or benefit from investment projects. Reflecting on several examples from the ongoing independent academic research on social and political effects of large-scale infrastructural investments

in Kenya, this chapter suggests that in Kenya - although national standards for community consultation and participation should be followed - do not, in fact, undertake community engagement in corridor planning and implementation in a meaningful way. As a result, development corridors are not implemented in a socially inclusive way that would effectively address the concerns and interests of the most vulnerable population groups.

In the light of this argument, the paper considers if and how genuine community engagement can be included in corridor planning and implementation in order to achieve a long-term equitable distribution of benefits to all stakeholders. It argues in particular that consultation that focuses on genuine consent before, during and after project implementation is essential to ensure the social sustainability of development corridor projects. This highlights that community engagement, rather than approached as an administrative formality, should be understood as an ongoing process of dialogue and not as a single point in time, after which consultation ends.

13.2 National regulations on community engagement in Kenya

In Kenya, environmental and social impact assessment of any large-scale project are an integral part of the procedures of the Environmental Impact Assessment (EIA) and audit regulations specified by the Kenyan government in the Environmental Management and Co-ordination Act (EMCA) 1999. Amended in 2015, this is the main legislation that governs environmental and social impact assessment (ESIA) studies in Kenya (Republic of Kenya 1999). Under Schedule II of the Act, large-scale projects are required to be registered with the National Environment Management Authority (NEMA), as well as to develop an ESIA to avert the potential adverse impacts of a project in question and propose recommended mitigation measures. Public participation within ESIA in Kenya is referred to as

consultation and public participation, which is supposed to be conducted during the project report and EIA study stages (National Environment Management Authority 2002; Republic of Kenya 2003).

In practice, this means that if approved, any large-scale project needs to develop an appropriate environmental and social management strategy of the project. The core outcome of this is an environmental and social management and monitoring plan, which ought to be used to enhance the positive and mitigate the negative impacts of the proposed project.

Under this plan, specific tasks might include:

- » Evaluation of the existing situation at the project proposed sites;
 - » Appreciation of the project concepts through studying design documents, construction and intervention layout, feasibility of the project and other documents;
 - » Identification of potential impacts associated with the proposed projects;
 - » Identification of suitable mitigation and preventive measures appropriate for project impacts;
- » **Development of a comprehensive environment and social management plan for integration into the project implementation.**

However, while the ESIA of any proposed project is supposed to adhere to robust national standards, the actual practice on the ground does not necessarily reflect these national legal regulations. This is demonstrated by several cases of megaprojects in Kenya, which are briefly reviewed below.



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13.3 Case study: LAPSSET

On 2 March 2012, the Kenyan president Mwai Kibaki, at the inauguration ceremony of the LAPSSET Corridor in Lamu stated, “I have no doubt that this day will go down in history as one of the defining moments when we made a major stride to connect our people to the many socioeconomic opportunities that lie ahead” (BBC News Africa 2012). At the event, which was attended by the presidents of South Sudan and Ethiopia, and local and international media, Kibaki’s words highlighted how LAPSSET, as an integral part of Kenya’s Vision 2030, is supposed to bring development to Lamu County, and to Kenya more broadly.

A new planned modern port of 32 berths is a focal point of LAPSSET. The Kenyan national authorities expect this corridor development to attract more than 1 million newcomers to Lamu County that, with the planned urban developments, will provide numerous opportunities for economic growth (World Bank 2018; LCDA 2016). As one civil servant observed, “the master plan [of the Special Economic Zone in Lamu] is full of spectacular investments that the Kenyan government wants to bring - casinos, hotels, laboratories, even an opera house; it is going to be like the Middle East” (Nairobi, November 2019).

In this context, for the LAPSSET Corridor Development Authority, large-scale infrastructures are “the driver to socioeconomic growth and development that defines the path to transformation and evolution of human society; It increases efficiency in the delivery and management of public services; It allows societies to expand their opportunities, to exploit their full potential; and to realize a peaceful living environment” (the presentation made in 2016 by LAPSSET Corridor Development Authority).

The story on the ground, however, is rather different. In the context of the anticipated changes in the governance of natural resources and the projected influx of 1 million newcomers to Lamu County, the construction

of Lamu Port has resulted in local civil society mobilization that has challenged the exclusionary nature of the infrastructure-based development in the region, and in Kenya more broadly. In 2010, several locally and nationally active civil society groups that work on human rights, local development, and community empowerment formed the Save Lamu alliance. The main point of this mobilization was that the local population of Lamu - including artisanal fishermen, small-scale farmers, mangrove cutters, pastoralists, hunters and gatherers that historically have been marginalized within the socio political structure of Kenya - were not consulted in the process of LAPSSET planning.

In this context, Save Lamu has focused on the meaningful inclusion of the populations local to Lamu in the LAPSSET development processes, and specifically demanded a comprehensive environmental and social impact assessment of Lamu Port. In the face of landscape-changing infrastructural developments, Save Lamu deemed the Kenyan State’s efforts to represent the real development aspirations of Lamu’s population to be fundamentally limited and ineffective to ensure their meaningful participation in matters of infrastructural development that directly affect their lives by drastically changing their relationship with the natural environment.

In 2014, Save Lamu submitted a court case against the LAPSSET Development Authority for not taking into consideration how the project is going to affect local people’s livelihoods. Challenging the Kenyan state for failing to meaningfully follow the national legal regulations in the implementation of large-scale development projects, the legal case fundamentally questioned the deliberate exclusion of certain historically marginal populations from the national legal regulations. As one civil activist observed, “the problem with these projects like LAPSSET is that they are not done according to the law, and that they do not include local communities. People are

left out, as if they were outside the law, as if they were not supposed to be properly presented by the national law of Kenya" (Lamu, January 2020).

On 1 May 2018, in an unprecedented High Court ruling, Save Lamu won against the LAPSSET Development Authority. The case was successful on all eight grounds. The three-judge bench in the High Court of Malindi ruled that the Lamu Port construction resulted in clear violations of: (1) the right to public participation, (2) the right of information, (3) the right to a clean and healthy environment, and (4) the right to culture; as well as (5) not involving the local county government in the LAPSSET project planning and implementation. In relation to the livelihoods of the artisanal fishermen, the court ordered the Kenyan government to (6) report the external costs of the project, (7) recognize fishing rights as amounting to property, and (8) pay US\$ 170 million in compensation to 4,700 fishermen displaced by the construction of the port. In the context of this, the court ordered the ESIA report of Lamu Port to be sent back to NEMA to meaningfully address all eight points specified in the judgement.

While this ruling was celebrated by Kenyan civil society as an unprecedented case in the history of human rights in Kenya, it was immediately appealed by the government on all but three points that directly concerned the financial compensation for the fishermen in Lamu.

However, at the time of writing, no meaningful progress has been made and the fishermen are yet to be paid the financial compensation allocated by the High Court. Their representatives fear that the compensation process is being hijacked by different interest groups - local political elites, private suppliers of modern fishing equipment, or the Ministry of Agriculture, Livestock and Fisheries interested in developing Blue Economy - competing over central financial resources.

This case demonstrates how, in spite of the existing legal regulations of ESIA that are meant to ensure social sustainability of development

projects, vulnerable populations are excluded from large-scale development projects without any form of meaningful consultation. Even if civil society is able to successfully contest these forms of injustices - resulting in the ordering of financial transfers to the affected communities, in the case of the fishermen in Lamu, for example - this does not result in the needed mitigation.

As others have observed, without proper planning and consultation, the monetization of mitigation (i.e. offering financial compensation, rather than addressing the issue), even when completed, can exacerbate the social impacts experienced by vulnerable peoples (Burdge and Vanclay 1996; O'Faircheallaigh 1999). This is even more so in such cases where compensation is not even paid and the project is ongoing in spite of the fact that it breaches national regulations. In legal terms, when the ESIA conditions are not fulfilled, the project license ought to be suspended until the conditions are fully met. However, as in other contexts (Santilli 2013), the case of the ongoing Lamu Port construction - with the completion of the first three berths projected for 2021 - reveals that the project construction is intended to meet its schedule, while mitigation measures lag far behind.

This case demonstrates that, regardless of the existing national regulations, some affected communities, particularly those who historically have been marginalized and excluded from national development projects only find out about development projects when excavations or constructions start to take place. In this context, where projects commence without environment and social impact assessments, these communities, are the victims of the promised development. The negative impacts of LAPSSET project are not effectively addressed in spite of civil society's mobilization and the favourable court ruling. This demonstrates that, in order to achieve social sustainability of the project, community engagement needs to be an integral part of the planning process, not just in law but also in practice.

13.4 Case study: SGR



Not all megaprojects ignore the national regulations for community engagement in project planning and implementation processes. In this regard, the SGR presents a different case study. Just like with LAPSSSET, the Kenyan government has celebrated the SGR as a promise of greater connectivity, prosperity, and development for Kenya and its people. Speaking at the inauguration of Phase I of the SGR project on 1 June 2017, President Uhuru Kenyatta, for example, noted: “This is a historic day and it is a day that everyone of us should feel proud to be a Kenyan. [...] Today, despite criticism and opposition, we have launched the Madaraka Express to reshape the story of Kenya for the next 100 years” (Railway Technology 2017).

This new railway service between Mombasa and Nairobi has largely replaced the existing old meter gauge railway – the Uganda Railway – that was constructed more than 100 years ago during the British colonial period, and was central in establishing the Kenya Protectorate as an important colonial project of

the British Empire (Hill 1949, v). Previously, the unavailability of an efficient railway system between these two cities had put enormous pressure on the highway from Mombasa to Nairobi, resulting in increasing delays and rising costs in passenger movement and cargo transport. The introduction of SGR services is, therefore, expected to effectively address these problems, contribute to the growth of the national economy and facilitate industrialization across Kenya.

Even though the SGR project harbours some potential to transform Kenya’s economy, it has resulted in a number of daily difficulties for populations living in close proximity to the new railway infrastructures. On the one hand, the railway project has changed people’s movement across the landscape by dividing villages, family and individual lands, and thus has presented severe challenges for the mobility of local populations, particularly pastoralists and those dependent on easy access to their land holdings.

On the other hand, the new railway system and new national regulations that require all containerized cargo entering Mombasa Port to be transported by the SGR, has had a serious impact on the populations that are dependent on the pre-existing national transportation systems. This means that 40 per cent of all the city's trucks are parked empty in its side streets, drivers are sitting idle and storage yards are without containers. These changes also impact the livelihoods of rural populations that are dependent on the traffic of the Nairobi-Mombasa Road and the opportunities of commerce and economic exchange that it provides, including food, hospitality, car maintenance and other services.

It is inevitable that any large-scale project such as the SGR will have undesirable impacts and trade-offs. However, what is striking about the SGR is how little contingency planning seems to have gone on at the coast and the informal livelihoods dependent on the Nairobi-Mombasa Road. The ESIA is meant to address and mitigate such concerns to an extent. According to Kenya Railways Cooperation, the project-implementing national agency, the SGR has undergone a community consultation process in the planning stages of the project. Kenya Railways recruited a team of community liaison officers from the areas that the SGR passes in order to communicate the issues and concerns between the local populations and the project implementors. This was supposed to address any potential issues during the construction and operation of the SGR project.

However, according to civil activists local populations, instead of being consulted about potential social, economic and ecological impacts, were only informed about the SGR project after all key decisions about project priorities, design and implementation had been made. As one community liaison officer (who preferred to remain anonymous) recounted, "we did not really ask what these local communities really want and how they see the development going for them. Before we reached them, everything was already decided - the route, the bridges, the underpasses. All of that was done. The instruction for us was to get the community on board, so they [do

not] oppose the project, and [do not] cause us problems later" (February 2019).

This form of consultation usually took place at a community meeting, where government officials and community liaison officers presented the SGR project to village elders and household heads, which were usually men. In order to prevent any potential discontent emerging at local level, these presentations were often dominated by narratives of "better life", "development", and "lifelong employment" that were used to convince the representatives of local communities to support the SGR project. As one village elder in the county of Kajiado East recounted, "we were told about the [SGR] project and that it will bring us benefits like employment, so we accepted it, because employment is something that everybody needs here" (anonymous interview, March 2019).

This, however, is not specific to Kenya. Experiences in community engagement elsewhere show that, even with a regulated social and Environmental Impact Assessment process, fraud, bribery, box-ticking, and rampant disregard of the interests of local population groups continue unchecked, and proponents still attempt to "engineer consent" (Cariño and Colchester 2010). In the case of Kenya, this consent is evidenced by government officials (or consultants working on behalf of private companies) who are keen to provide photographs of meetings with local populations to demonstrate community engagement. Local critics of this process, however, indicate that physical presence in these meetings does not equal consent, nor the genuine engagement of the local population. As one local informant observed, "it is easy to get the people to come to a *baraza*. It is easy to take pictures of them and say that this was a community engagement. If these people actually understood what was going on, and how [the project] is going to affect them, is a different story altogether" (anonymous interview, May 2019).

Besides the questionable nature of these meetings, another problem is that there has been no continuous engagement of the affected populations in the implementation

stages of the SGR project. In several villages alongside the SGR line, the representatives of affected populations indicate that, during the construction and after the completion of the project, there has been no formal procedure for how to voice concerns and issues in relation to the project. These include the damage done to housing during the construction, such as cracks in house foundations caused by the movement of construction machinery, redirected water systems or altered mobility patterns. As one man observed, “we do not have anybody to complain to. When we talk to the local government, they say that it is the central government project. And how can we reach the central government? For us - it is impossible” (anonymous interview, March 2019).

The short-lived nature of the community consultation process is not unique to Kenya. In other contexts, it has also been observed that, besides participation in the ESIA at the planning stage, the affected populations are not given an opportunity to participate in the follow-up of the ESIA process (Morrison-Saunders and Arts

2004; O’Faircheallaigh 2007), a requirement that should be documented in a social impact management plan or a similar instrument (Franks and Vanclay 2013).

What this case of the SGR demonstrates is that, regardless of existing national legal regulations, the affected communities are offered only a limited form of community engagement in the planning stage of large-scale development projects, and have no opportunity to engage in the implementation stages of the project. This fails to count as a meaningful form of community engagement - for the consultation only takes place as a one-time event. The nature of this engagement - and whether it is an actual consultation or the delivery of information about the upcoming project - is also questionable, as the case discussed above demonstrates. In this context, the SGR project does not result in the socioeconomic development promised by the Kenyan government. Instead, it disadvantages the affected populations as those circumstances are not mitigated after the project completion.

13.5 Conclusions

The examples of megaprojects and corridor development in Kenya show that community engagement in corridor planning and implementation is not a procedure that investors and the national government readily follow. In some cases, ESIA assessment is only adhered to after civil society mobilization to hold project implementing agencies accountable and to make them address the concerns of affected populations. On the other hand, when undertaken, ESIA is understood in a limited sense as a one-time event to inform impacted communities about the upcoming development projects. Therefore, as Kimani (2010) and Mwenda *et al.* (2012) observe, in the case of Kenya, community engagement remains a mere administrative formality.

As in other national contexts (Lane and Corbett 2005), these dynamics highlight that national legal requirements for community participation in ESIA, even if existent, as in the

case of Kenya, are not sufficient to ensure a meaningful community engagement in corridor planning and implementation. Instead, of fundamental importance is a political will to meaningfully involve affected populations in corridor planning and implementation.

This political will ought to be demonstrated through a continuous engagement with affected communities throughout all stages of project planning and implementation. This must be done with the actual existing possibility for affected populations to non-consent when the project in question is determined to be too disruptive to their environments and ways of life.

To realize large-scale infrastructural investments projects in a socially sustainable manner and thus achieve a long-term equitable distribution of benefits to all stakeholders in the process of corridor development, in the

light of the case studies discussed, it is recommended the following are focused on.

- » A defined and effective processes for continuous and iterative community engagement before, during and after the implementation of the project. Rather than being undertaken as a one-off mechanism to obtain approval to proceed, after which consultation ends, community engagement in a form of ESIA needs to be understood as an ongoing process of dialogue. In practical terms, the requirement for ESIA must apply at each stage of a specific project life cycle, from concession application, project implementation, through to project closure. The approval at each phase of a project must be regarded as only valid for that specific stage in the process of project implementation.
- » Central to this process of continuous engagement must be a genuine commitment to reaching legitimate community consent, and not just consultation.

As shown in other contexts (Lane and Corbett 2005; Barelli 2012), mere consultation by itself does not equal actual consent, nor can it ensure meaningful community engagement. What is instead needed is a defined and effective process for participation to reach consent and community approval, with early engagement, trust between parties, respect for the community's right to disagree, a long-term outlook, and sufficient time and human resources to facilitate this process.

- » Following the point above, community engagement in ESIA should only be encouraged when the process is legitimate and affected communities have a chance to influence the outcome. If it is only a tick-the-box process, with no genuine commitment to engagement, then non-participation ought to be considered and supported as the appropriate strategy for affected populations.



Image credits: Rob Marchant

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