POLICY BRIEF

Extractive industries, political settlements and conflict

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Will devolution lead to inclusive development of Kenya's oil, gas and mineral resources?

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Introduction

Kenya's oil and gas discoveries have coincided with the devolution of political power and resource distribution under the 2010 Constitution. The mining sector has also expanded during this time with investments in titanium, gold, coloured gemstones and other minerals.

This presents Kenyans with a unique opportunity to leverage gains from the emerging extractive industries, despite ongoing conflict risks and declining global commodity prices. The location and timing of oil and gas discoveries in Kenya cannot be changed. But consolidation of a more stable, inclusive politics could improve prospects for long-term resource development.

Approach

This policy brief summarises a paper on the prospects for harnessing extractive industries for more inclusive development and conflict transformation in Kenya.

Comparative evidence from 20 resource-rich developing countries was reviewed to understand the relationship between extractive industries, political settlements and conflict. Implications for Kenya were analysed, drawing on secondary sources about Kenyan politics, economics, conflict dynamics and natural resources.

Planning for the long-term

The competition between elite coalitions for power in recent years has deepened democracy in Kenya, but risks subordinating policymaking to short-term electoral cycles. Evidence from multi-party African states like Ghana, Nigeria and Zambia is that competitive politics can limit long-term planning for the use of petroleum and mineral revenues. Extending the horizons of sound policy on natural resource governance requires national and subnational dialogue, negotiation and agreement-making. A sovereign wealth fund is also an important mechanism to safeguard long-term gains from non-renewable resources.

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Transparency and anti-corruption

Although still emerging, the extractives industries earnings increased by 6.1 per cent from Ksh 19.8 billion in 2013 to Ksh 20.9 billion in 2014, on account of new production of titanium in Kwale (Kenya National Bureau of Statistics, Economic Survey, 2015: 176). Growing a diversified mining portfolio further could mitigate the steep decline in spot oil and gas prices since mid-2013. Global commodity markets are unpredictable, but preparing to extract maximum value from non-renewable national assets will not be a wasted effort in the long-term.

Lack of transparency around beneficial ownership in the extractive industries is a global issue raised by a new rule of the Extractive Industries Transparency Initiative (EITI, 2013). The Kenyan Government's announcement in 2015 of EITI implementation should be encouraged to cast light on this aspect of resource governance, in addition to revenue transparency.

Revenue-sharing and delivering benefits

Contrary to expectations, subnational resource revenue transfers have increased localised conflict in some countries, such as Peru and Nigeria. The lesson for Kenya is not so much *whether*, but *how* to transfer a portion of revenues back to the resource-rich counties to ensure tangible development outcomes for subnational elites and their wider constituencies. The new laws before Parliament at the time of writing address different aspects of revenue- and benefit-sharing of various natural resources. Differences in the share of revenues distributed for petroleum, minerals and other resources should be carefully and clearly justified to diffuse tensions over perceived inequities between counties and national government.

The stabilising effect of shared oil, gas and mining revenues tends to follow many years after the initial discovery or investment. For example, first oil production in Turkana county is set for 2020 (Tullow Oil, 2015). This is a long time, both in Kenyan politics and global commodity markets. The challenge for the ruling coalition is to empower subnational actors without losing their support before the resource revenues begin to flow. Local jobs and business opportunities along the supply chain, especially during the exploration and construction phase of extractive projects, are important to deliver immediate benefits from new extractive projects.

Conflict mitigation and inclusive development

Resources located in remote zones of weak state control are associated with insurgency and civil war in resource-rich developing countries. Many of the regions in Kenya where minerals, oil and gas are found are not only in arid areas, but are largely underdeveloped due to historical neglect by successive Kenyan governments (Report of the Truth, Justice and Reconciliation Commission, Volume 4, 2013). Mitigating the considerable conflict risks will require multi-stakeholder strategies of political and economic inclusion, human security and defence of key infrastructure. Devolution is unlikely to counter the radicalisation of disaffected youth to prevent extremist insurgency (Marchal, R., 2009, "A tentative assessment of the Somali *Harakat Al-Shabaab"*. *Journal of Eastern African Studies*, 3(3), pp. 381-404). Greater inclusivity of Kenya's sizeable Muslim population is nevertheless important to broaden and stabilise the political settlement. More targeted strategies are also needed to reach the most socially marginalised within and beyond Kenya's borders, including displaced youth in the Somali borderlands region.

Greater participation of women in the extractive industries and along the value chain is vital for inclusive development in Kenya. The 2010 Constitution ensures greater political representation and participation of women with the provision that not more than two thirds of the elective posts be occupied by either men or women, and the introduction of women representatives in all 47 counties. Evidence from neighbouring countries shows that formal power does not necessarily translate into influence for women, however, particularly in local government. Informal networks are also important to empowering women in politics and business.

Policy recommendations based on this research

Stakeholders in Kenya's goals for development, political stability and peace include the government, private sector (foreign investors and local business associations), development partners, regional organisations and civil society organisations. These actors should:

Transparency and Anti-Corruption

- Support the Government of Kenya's decision to implement the EITI and when established, encourage the Kenyan EITI multi-stakeholder group to pilot the new EITI rule for reporting beneficial ownership in the extractive industries.
- Promote inter-ministerial co-ordination within government and multi-stakeholder dialogue with industry and civil society to align Kenya's internal security and regional defence strategies with extractive industries and related infrastructure development plans.

Revenue-sharing and delivering benefits

- Focus support on the procedural aspects of agreement-making at county and local levels, in addition to institutional capacity-building, when implementing the Natural Resources (Benefit Sharing) law and other revenue-sharing provisions of the Mining, Energy and Petroleum laws.
- Support early implementation of local employment, procurement and enterprise development by oil, gas and mining companies, including small- and medium-sized prospectors.
- Harmonise the revenue-sharing provisions of the Mining Bill, 2014; the Energy Bill, 2014; the Petroleum (Exploration, Development and Production) Bill, 2015; and the Natural Resources (Benefit Sharing) Bill, 2014.

Conflict mitigation and inclusive development

- Support programmes targeted at organising fragmented marginalised groups at subnational levels to broaden inclusivity of county committees representing their interests.
- Encourage initiatives for gender inclusivity in Kenya's extractive industries, such as 'women in mining and petroleum' business associations. Evidence needed to support policy-making should include gender-specific data collection as well as analysis of the power dynamics that advance or hinder the interests of elite vs. more marginalised groups of women and men.
- Regulate and implement a sovereign wealth fund to save a portion of oil, gas and mining revenues for long-term development.
- Regulate and implement a stabilisation fund to shield the economy from the volatility of global commodity prices.

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