



Socio-Ecological Impact of Mining in Africa: An Examination of Fluorspar Extraction in Kerio Valley Kenya

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“We have been told that we must go from our land, from the land of our ancestors. But it is very difficult thing to uproot an old oak of many years. The roots of such a tree are very deep. Certainly, one can take an axe and cut down such a tree, that is easy, but the roots remain and are very hard to dig up. So, you see, the tree really remains. The tree goes on.”

Abstract

Over the last decade, there has been concern over environmental consequences of resource extraction in Africa. Academic discourse in social sciences hold divided opinion that mining companies are sources of economic growth and employment possibilities for the host communities. While the damage to the environment, security and health in general seems to outweigh the said benefits, there is need to offer a balanced view. These complexities challenge researchers and policy makers to address the dynamics of economic intensification and local scale land-use systems and their long terms implications. Fluorspar Mining Company's presence among the Keiyo of Kenya has traditionally produced opportunities for direct and indirect employment for the local population as well as new opportunities for commerce and exchange, thus reducing poverty and fostering economic progress. The operation of mining company, however, inside these areas, and their subsequent closure, may have presented environmental and economic difficulties for the local community, high crime rates, extensive unemployment, and rising dependency. This study thus addresses these controversies and how in particular, problem of environmental degradation directly impacts host communities. The paper examines the experience of Keiyo's despoliation by the Kenya Fluorspar Company to demonstrate the scope and dynamics of the challenge and highlight the significance of the role played by individuals and civil society organizations in securing accountability for one of the most difficult aspects of economic globalization. It employs legitimacy theory with the environmental justice theory to explain how mineral explorations affect the environment. By doing this, the social processes that have taken place under these circumstances will help to clarify the nature of the Keiyo economy's issues. Ultimately such an approach is best able to reveal the reasons for the poor performance of many African societies in post-colonial era. The study considers not only shifts in land use and valuation but also the ways that the Keiyo have come to conceive of, and work with local ecological dynamics.

Introduction

The history of the Keiyo has been tumultuous. Having established as one of Kenya's most influential precolonial ethnic groups, they were soon to be seen as "a pool upon which the British drew migrant laborers" and later as "backward" pastoralists or rather 'noble savages. At other times, they were virtually cut off from that very market. Ochieng (1998) claims that the people had to experience crises of the worst kind in practically every decade of the previous century, changing from a wealthy, arrogant, and independent-minded pastoralist group into petty commodity

peasants, cattle rustlers, and famine relief-clients. But despite all of the capriciousness and disruptions, there has been one outstanding continuity: their unique history, intricate relationships with one another, and intriguing ways in which they have responded to such forces of change. They are "surprisingly honest people" who, according to J.A. Massam, "do not know lie and steal" in their culture; they do not readily make or take advances; instead, they are courteous to anyone who has lived among them long enough to earn their trust He goes on to say, that:

They have their standards, which on the whole strictly observed (230-250). However, of a friendly nature, the Keiyo people had

been forced sometime to fight and to defend their land. In the time of peace, they interacted peacefully with their neighbors and made better trade with them. They traded with Swahili people from the coast, selling them some ivory (Massam, 187).

Africa or Africanist scholars have greatly contributed to the rapidly expanding field of Keiyo history and anthropology by revealing the intricate linguistic, ritual, agricultural, and social organization. They have also tended to work toward theoretical and practical understanding of the process of politico-economic transformation. With a stronger hostility to land consolidation and registration, anthropologists have long viewed Keiyo land as a "problem area" with regards to "development," citing the low levels of production and poor-quality stocks on which they focus too much (Grim, 1994). For instance, one author said that the slow pace of economic development was due to Keiyo's adherence to the ritualistic value system and the fact that the majority of their desires were for brides and cattle. The Keiyo peasants are often stereotyped as being staunch conservatives, but this study dispels that notion and shows that the late Nineteenth Century saw the highest rate of economic change of any later era.

Carefully reading the already stated Africanist literature, one can discern many viewpoints, particularly those that contrast the administrative approach with that of white settlers and missionaries, not to mention Africans. However, a superficial characterization of people based on their occupation, economic priorities, class, race, or even religion can be used to distort their contributions to knowledge or to determining the course of evolution. While each was unmistakably a product of his time and space being sons of Anglican clerics, Huntingford and Leakey, for example, were both of British ancestry and engaged in anthropological and ethnographic research during the 1920s and 1930s, it is striking that neither perfectly fits into any neat category of European society in colonial Kenya. They both occasionally took on tasks for the Kenyan government and were always willing to share their knowledge of "local customs" and mentalities whenever naive authorities, uncaring settlers, or enthusiastic missionaries encountered mistrust or overt opposition. Massam admitted that the Keiyo were pagans when he claimed that their religion was too nebulous to provide them with any defense against magic.

The Keiyo have long endured a torrent of negative and false perceptions and narratives that have harmed their well-being, like many other pastoralists in Kenya. These are determined by their means of subsistence, their surroundings, or their cultural customs. The marginalization, exclusion, and discrimination of these populations have been reflected in, or have contributed to, these stereotypes and myths, which is significant. According to Ochieng (1990), the Sessional Paper Number 10 of 1965, which served as the foundation for later policy and the marginalization of dry regions, left behind compelling narratives about the Arid and semi-arid lands (ASALs). These include the security/insecurity/conflict narrative that the emergency condition of affairs has perpetuated (specifically, insecurity). "The region and the people started to be perceived mostly in terms of security, and relationships between them and organs of the state were characterized in the same terms," the author writes. Security and law and order received the majority of government funding in these sectors, though with little regard for the rule of law (Ochieng 122). The narrative that mobile pastoralism was irrational, unproductive, and environmentally destructive was essentially an all-embracing narrative with economic, socio-cultural, and environmental overtones.

"It had devastating effects on the way both policymakers and the rest of the society viewed pastoralists – largely as backward

and resistant to change, refusing to modernize and take advantage of the benefits of civilization and development. Anthropological explanations such as 'cattle complex' were used to validate such characterization." (Ibid, 124).

The above was thus characterization of the pre-mining Keiyo society. The Pre-colonial Keiyo as we are going to see in the next section, had developed a wide diversity of politics and government, all related to the type of economic systems practiced. Pre-colonial Keiyo faced greater economic and ecological challenges than many parts of the world. The Keiyo had in turn a practical determination to survive and accumulate, which could have negative consequences for the environment. To them, the natural world was a source of power and wealth, and therefore it had to be managed. They like many other African, were not passive victims of these conditions. They were innovative and good at adapting. Their production systems had to be flexible to deal with the existing conditions. Pre-colonial Africans could make an impression on nature. Until they were in touch with western capitalism which tended to exploit and expropriate its natural resources for profit making.

The Keiyo Indigenous Environmental Management

The Keiyo have historically been able to adapt to environmental changes due to deforestation, assault on the land, and soil throughout and after the Nineteenth century. However, the increasing industrial usage, population density, loss of traditional attitudes toward the value of the land, and changes in forest cover in the post-colonial era are to blame for the land-use changes that have occurred over the past 50 years. Indigenous forest cover has been replaced with small-holder agriculture, and mining. The Keiyo appears to be coping with such loss and ecological change of the forest and landscape-ecological parameters.

Before engagement with intensive global capitalism, Massam commended the Keiyo's flora and fauna as a beautiful region with a wide variety of flowers, birds, reptiles, and other species (Massam, 299). People were grateful to nature for providing them with food to eat, clothing to wear, medicines, and spiritual inspiration through the land. Keiyo people were governed by the totemic system and taboos and shared a symbiotic relationship with nature. Unfortunately, the alterations have harmed the flora, and numerous species are vanishing on a yearly basis. To make room for trees suited for the wood industry, the old trees have been taken down. The fauna is rapidly disappearing.

The Keiyo land was not constructed to wage war with nature. There was no straight forward opposition between the domesticated homestead and the untamed bush, such as the Randall Packard describes comparable situation among the Bashu. Natural forces were feared, respected, and venerated. As Beattie points out on the Nyoro people, elements of the physical and cultural environment had both auspicious and inauspicious aspects. Wild places were associated with fertility and healing, and were a source of game, wild foods, and medicines. Bushes were burnt annually to get rid of tsetseflies which vectors of Yellow Fever and other diseases on Livestock. If this proved inadequate, the community "befriended people from other villages and they cultivated in that piece of land where the bush existed". The Keiyo had a hard-headed determination to survive and accumulate, which could have negative consequences for the environment. To the community, the natural world is critical to survival, power and wealth and health.

Until recently, there is still a strong belief in Keiyo that forests were mystical places. Stories were told of young men who tried to cut down huge trees in the forests without permission or pressing need and abandoned their attempt when the trees began to bleed, walk, or talk. It was said that elders circulated these stories, apparently with an interest in conservation, though whether this was primarily aesthetic conservation or the protection of resources for the future was debatable. There is, nonetheless, some evidence of a spiritual conservationism. Certain animals and trees were universally considered to have sacred power, and each clan had its own sacred tree, the people of Kimwarer for example, venerated the oak. Some trees were so revered that no one was allowed even to cut them and were very carefully guarded during the time of grass fires.

The Keiyo recall that "some people revered trees—huge trees that they thought had a great deal of power," in part because of their size. To show respect for natural resources and to reassure the gods of woods and wild animals that their activities were motivated by genuine necessity, hunters and tree-fellers presented offerings to them. The strength of the Keiyo society was derived from specific creatures, plants, and locations. The Keiyo believe that large share of their vital forces is constantly released by the act of creation. Thus, respect for the natural world also stemmed from 'an appreciation of the beauties of nature, and the communion of man with his world.'

The paper argues that mining and extractive activities are responsible for the recent environmental and climate change in Kerio Valley. A study of the native Keiyo grazing practices and environmental management demonstrates that the Keiyo were not ineffective environmental managers and that the main causes of soil erosion and other related issues at the end of World War II and in the post-colonial era were ineffective environmental management. The system of cultivation was solely based on western sociocultural and ideological frameworks that stressed the domination and "domestication" of the African "wilderness," including human communities and the environment. The Keiyo community played a role in knowledge generation based on a sophisticated understanding of their environment. This relationship that ensued during the postcolonial period that manifested in the role government played in its adulteration with multinational corporations such as Fluorspar Company.

Indigenous intelligence has been disregarded and denigrated by outsiders, especially in the context of African indigenous ways of knowing. For instance, in response to conflicting pressures for maintaining and reducing tree cover, the Keiyo have long developed agroforestry strategies such as selective cutting, protecting woods, and intercropping. The preservation of trees was aided by common property resource tenure, agricultural forestry practices, and traditional religious beliefs. Here, it is stated that by using valuable multifunctional trees in local production systems, indigenous agroforestry techniques and strategies reduced the negative effects of deforestation.

The fact that so much time and energy is now being devoted to comprehending the principles behind indigenous resource management suggests that attitudes that were once held against indigenous knowledge during the colonial era are starting to change. A review of the published literature during the colonial era does reveal enlightened individuals who understood the value of the indigenous knowledge. Louis Leakey, for example, described in eloquent detail Kikuyu agricultural knowledge and how it provided the basis for many Kikuyu farmers to reject European farming techniques being promoted in Kenya at the turn of this century by British agricultural officers.

In anthropological folklore, the Keiyo described as these "cliff dwellers" evolved a system of principles and tactics that allowed them to meet their physical and social demands in an environment that was frequently unpredictable. The equilibrium between agropastoralism and the frequently stressed environment has recently been disrupted by aggressive influx of speculators, rapid population growth and several external stressors, such as increased demand for fuel wood in both urban and rural areas and indiscriminate water development.

It is becoming increasingly clear that many traditional Keiyo environmental control strategies are no longer useful for the Keiyo to achieve their needs. Many were changing their methods, diversifying into crop cultivation, trading, or relocating to urban or semi-urban areas with the adaptability that has always characterized Keiyo. In the process, many of the traditional techniques and systems of management were being partially or totally abandoned. Critically examined, indigenous land and woodland management techniques including mobility and pasture rotation strategies; harvest, regeneration and protection of trees and shrubs; grazing and forest reserves; sacred groves; and traditional social controls shows that modernity and environmental change has continued to undermine these modes of indigenous production.

By using several measures to mitigate harsh weather conditions, they inter alia used donkeys for transportation from late nineteenth century, the Keiyo, like the Maasai, frequently enlarged the grazing radius and postponed entering the dry-season area. To boost the carrying capacity of woodlands in some ecological zones, rotation systems based on purposeful overgrazing were employed. Overall, there was very little information available on traditional rotational techniques, presumably because so few natural resource specialists had participated in the research on traditional systems.

Furthermore, there is still information on the trees and shrubs that the precolonial Keiyo pastoralists employed that is much more comprehensive than our understanding of how these were managed, that is, how, when, and to what extent they were harvested, regenerated, and safeguarded. In truth, the Keiyo were masters of land management and grazing practices; each pastureland was meticulously categorized and grazed in line with predetermined rules.

Despite practicing sound ecological practices during the precolonial period and after, the Keiyo people and land became social site or arena of the struggles between capitalism and resource extraction. The state on the other hand when called upon by the many different competing agents to mediate their access to nature. Evidence from Keiyo as we have seen, shows that environmental policies and adjustments have been the outcome of this complex social interaction. However, the emerging ecological restructuring of capitalism cannot guarantee its ecological sustainability. In particular, it gives rise to new problems and contradictions rendering ecological sustainability of capitalism uncertain as seen with the outcome of mineral extraction by the Kerio mining company.

2. Multinationals in Kenya: A Synopsis

Fluorspar mining company of Kenya established in 1969 by the government of Kenya has been central to a number of noteworthy events in Keiyo history. Mining enterprises, like the majority of which are MNCs, are frequently presented as financial boons to rural communities. They can, however, also produce enduring structural injustices in the communities where they are present. These findings demonstrate that patterns of inequity emerge near

areas of extraction, where boom-bust cycles, persistent poverty, and spatial isolation continue to be important sources of structural inequity, regardless of how one views the resource curse, natural resource dependence, or the lifecycle of resource communities (Mayer, Malin, and Olson-Hazboun 2018; Brown and Schafft 2011; Carr and Kefalas 2010). Africa's ecology, development, and governance have all been significantly impacted by the actions of transnational corporations (TNCs) engaged in mineral exploitation on the continent (Yusuf 2008, Frynas 2010, Wettstein 2010). In the key mineral-producing regions of Kenya over the past 15 years, there have been instances of demonstrations and violence. Local reactions to TNC initiatives that were apparently in line with corporate social responsibility (CSR) have included acts of violence (Idemudia and Ite 2006, Yusuf 2008, Ojajorotu 2009).

It is similarly significant to note that extractive industries hardly adhered to best practices while defining what it believed to be their CSR duties (Lambooy et al. 2011). On a variety of fronts, including national and regional ones, the Civil Society may play a significant part in the reconfiguration of global openness and accountability (Scholte 2011). Globalization and political freedom in formerly colonized areas have created opportunities for civil society organizations to challenge TNCs. The so-called "third wave of democratization," which has swept through many emerging nations, has served to emphasize this (Huntington 1991, Pretorius 2008). As a result, many attempts to seek redress against TNCs have been made over time, and there has been some worldwide awareness of the crippling impact of their actions in the developing world. Oshionebo has highlighted the necessity of civil society organization operations in the unique context of Kenya's extractive industries for achieving TNC accountability in the nation's notably permissive regulatory framework (2007). This study examines how the Keiyo-host community has responded to the issues of environmental irresponsibility by primarily drawing on environmental justice theory and legitimacy theory.

In Kenya, there exist numerous studies on role of multinationals on environment from both the colonial and postcolonial eras. However, there have been very few research on MNCs focused on mining. As a result, this work fills more gaps. One of the main debates in the literature on international political economy over the last three or four decades has focused on the function of multinational corporations in the third world. Multinational businesses are often viewed as the worldwide economy's agents by their detractors, while by their supporters, they are often seen as combating the underdevelopment dragon (Asogwa, 2000). Multinationals, according to those who see them as engines of development, provide resources that are typically unavailable or insufficiently available, such as capital, technology, managerial abilities, and marketing expertise. They also claim to create jobs and reduce balance of payments deficits in their host countries through industrialization and import substitution.

This view is utopia and deceitful. There are three main issues that critics of multinational firms that operate in developing nations have. First, they assert that the economies of their host states have generally been negatively impacted by multinational activities (Chukwuemeka and Obingene, 2002). Although detractors acknowledge that multinational businesses may have produced jobs, they assert that, overall and when compared to domestic businesses, multinationals actually destroy jobs because they use capital-intensive technologies.

Wright (1992) states that MNCs rarely see an increase in exports as a result of the technology transfer to less developed nations, and that MNCs also have a history of prioritizing their

own business interests over those of the host nation. According to Robert's report from 2001, multinational corporations are causing new social, economic, and political divisions. Multinational corporations, for instance, have produced a sort of new class structure in Nigeria, which tends to spark new social controversies unsuited to regulating the country's established standards. Weather (2000) defined "four basic relationships that an MNC assumes with a host country" in acknowledgement of the benefits and drawbacks of multinational businesses' contributions to the global economy. They can either contribute positively to the development of the nation and /or negatively, weakening its culture, simultaneously. The negative impacts of multinational corporations' activities on the region's economic development further exacerbate the implications of their existence for future regionalism in African countries.

Multinational Corporations (MNCs) have increased their influence in the majority of developing nations, Kariuki Muigua (2018) claims, and now dominate the key activities involved in the exploration and exploitation of natural resources. He contends that this is mostly due to their enormous financial might and technical know-how in relation to these activities. These nations anticipate that working with these firms will be beneficial, and frequently it is. However, there is a drawback to this relationship in that their actions have a negative impact on many other areas, such as the people's social and political stability. Muigua takes a critical look at multinational corporations and their effects on the management of natural resources, especially in developing nations like Kenya. While acknowledging the fact that the place of the MNCs in the global economy cannot be wished away, he attempts to show how the engagement between the developing world and the MNCs can be made more fruitful and mutually beneficial.

Using Nigeria as a case study, Makinde (2013) conducted a study that focused on the inevitable role that multinational firms play in the sustainable development of emerging countries. Between 1970 and 2011, the study employed secondary data from the statistics bulletins of the Central Bank of Nigeria and the National Bureau of Statistics. Gross Domestic Product (GDP) and Foreign Direct Investment (FDI) were the study's dependent and explanatory variables, respectively. The study found that there was a significant positive link between Nigerian GDP and Foreign Direct Investment (FDI), using the Ordinary Least Square (OLS) multiple regression approaches (GDP). That is, given the research period, the presence of FDI has had a considerable and positive impact on the Nigerian economy.

A study on the economic impact of MNCs on the development of developing countries was conducted by Tirimba and Macharia in 2014. The study used a descriptive research methodology. The study's three goals—creating jobs, reducing poverty and dependency, and ultimately, transfer pricing—were all closely examined in the conclusions. The study found that multinational corporations (MNCs) produce jobs that reduce dependency and poverty in the nation, yet a large portion of the advantages are once again lost due to transfer pricing to the MNCs' main branches in wealthy nations. The study also found that many of these MNCs do contribute to nonprofits like the Red Cross program and other social corporate obligations, which has a multiplier effect on reducing poverty, acting as agent of social change among the pastoralist in the context of economic opportunity availed to them as well as . contributions to local poverty reduction efforts in the region.

While Aja (2011) tried to expose multi-national corporations in particular and foreign private capital in general, both the MNCs and foreign private capital, financial institutions are busy

rationalizing their activities in Africa. Uzor (2009), Ugwu (2008) and Tunde (2011) argued that trans-national corporations provide finance for investment, provide employment, train and help youths of the host country to acquire skills and technology as well as contribute to government revenue through taxes, fixed royalties and fees. Nwankwo (2004) refuted these claims in very strong terms. According to him MNCs are agents of international economy, MNCs operation in the third world have three general complaints argues Nwankwo (2004). First, he argued that MNCs operation generally have had an adverse impact on the economies of their host states. Secondly, it has led to significant disruption of livelihoods and erosion local social values and loss of biodiversity and ecological stress.

Although detractors acknowledge that MNCs may have produced jobs, they argued that, overall and when compared to domestic enterprises, multi-nationals actually destroy jobs because they adopt capital-intensive technologies from developed nations. According to Eze (2011), the so-called technology that MNCs transfer to host third-world countries is out-of-date, expensive, unsuitable, and incompatible with the factor endowment of host governments. MNCs essentially develop enclave economies. The MNCs that operate in African countries engage in illicit political activity and give bribes in order to get around local laws and make incorrect payments (Rawlings, 2007)

In this context, Yang and Rivers (2009) employed stakeholder and institutional theories to investigate the CSR operations of TNCs' subsidiaries in terms of their internal and external pressures for legitimacy in their host communities, depending on the conditions of their parent businesses. Additionally, Mena et al. (2010) studied methods that businesses might enhance their records on human rights based on the notions of empowerment (of the underprivileged, consumers, and communities), dialogue, and constructive interaction with stakeholders. The framework is suitable as it places a strong emphasis on striking a balance between the concerns of TNCs' external stakeholders, such as governments and host communities, and their shareholders', management's, and suppliers' interests. It therefore offers strong support for a broad approach to TNC governance mechanisms and accountability. Furthermore, Adrian Cadbury emphasized the need "to align as nearly as possible the interests of individuals, of corporations, and of society". He noted further that the "the way ahead" for the modern corporation "lies in ensuring that the fruits of good governance, its ability to add value, are widely and wisely shared, thus playing a positive part in the goal of both the developed and developing world to alleviate poverty" (Cadbury 2003, p. vii).

In sum, literature on this subject reveal that mining has adverse influence on communities and their cultural traditions (Sinnott, 2019). Land use mainly through mining has resulted in land degradation, famine and poverty. Other expressed concerns those relating to health and safety of communities close to mining operations, including displacement, marginalization, and oppression of local people (Mwakumanya, 2016). Generally, we draw from the literature that mining activities contribute to soil erosion, loss of biodiversity, soil and water chemical contamination. Mining activities results in noise, dust, and visual pollution (Cuba et al., 2014; Naja and Volesky, 2009).

3. Kenya Fluorspar Company

Informed from the above gaps in the theory and literature review, there seem to be sufficient reason therefore to suggest that the

impact of Fluorspar mining in Keiyo has had an adverse impact of the local communities. The Keiyo have since voiced their concerns towards and against the state on the consequences of denied land use and displacement relating to fluorspar mining. These accusations forced the state to form a taskforce to look into the numerous allegations and offer suggestions on how to resolve the disagreement between the local community and the company authorized to mine fluorspar in the area. It was argued that company denied the Keiyo the right to use their land for settlement, crop cultivation, livestock grazing, beekeeping, hunting, worship, water, watering, salt water, initiation rites, cleansing ceremonies, oath taking, thatch grass, clay works, herbal medicine, firewood, and other purposes by granting this company a mining license. The community was disconnected from their ancestral and natural environment that they had known for a long time and consequently disrupted their culture, cultural heritage, social justice, and livelihoods. In addition, the Keiyo's livestock population severely decreased as a result of losing their territory to fluorspar mining. Sadly, despite legal and constitutional provisions for such a deprivation, the affected landowners have long fought to obtain compensation and resettlement but have largely been unsuccessful. All of these occurred under a complicit weak and dishonest governance systems. The Fluorspar Company's despoliation of Keiyo serves as a good example of the context's substantive issues and is the subject of the study's discussion.

The Lie of the Land: Fluorspar Mining and the local Responses

Significant fluorspar mineral (fluorite) reserves were found in the Kerio Valley between Muskut and Kimwarer areas in 1967, and shortly after mining activities for the mineral began. In 1971, the Fluorspar Company of Kenya (FCK) acquired a small private company that had been operating manual fluorspar mining. In July 1971, Special Mining License No. 31 granted the FCK the initial fluorspar mining rights over the aforementioned mining lease area (Muigua, 2018). The Government of Kenya through the ICDC had acquired 51% stake share ownership, the Bamburi Portland Cement Company of Kenya had 24.5% and Continental Ore Corporation had 24.5% in the FCK (Ibid, 10).

Fluorspar mineral exports were worth Ksh 80,000,000.00 annually, while the revenues from total agricultural produce were worth Ksh 30,000,000.00 during the same time period, according to the Elgeyo Marakwet Annual Report (1978). However, the FCK was placed under receivership in 1979 as a result of a loan from the Kenya National Bank that caused it to close. As a result, the Treasury purchased it, took control, and transformed it into a state corporation known as Kenya Fluorspar Company Limited (KFC). The KFC encountered financial issues and went bankrupt in 1996, and consequently sold in 1997 under the Kenyan government's liberalization and privatization program while retaining the same name. From 1997 until 2018, KFC had a 20-year mining lease (Annual Report, 1978). Due to the economic slump, the KFC temporarily stopped mining fluorspar in 2009, but activities were resumed in June 2010. However, the KFC ceased fluorspar mining activities in 2016, attributing to declining global mineral prices which resulted into company registering significant loss (KFC, 2005).

Fluorites, a crucial ingredient in the production of several industrial goods like steel, hydrofluoric acid, and opalescent glass, were once created by the KFC from fluorspar. The KFC exported fluorspar (fluorites) worth \$14 million worth of its production to Europe and India in 2005. KFC once employed 400 people, and its

CSR initiatives offered its staff and the neighborhood access to facilities for health, education, and other purposes.

Under section 118(2) of the Kenyan Independence Constitution, the Government set aside 9,070 acres of Keiyo land in 1973 to make space for the fluorspar mining operations. By means of Gazette Notice Nos. 320 and 321 of 1975, the Government strengthened this [compulsory] acquisition of their land through the Trust Land Act (Cap. 288) Laws of Kenya. Although sections 117 and 115 of the aforementioned constitution clearly stated that residents of an area of land that is set aside for mining or for any other government (public) purpose, shall be given full and prompt compensation, the residents of Seego, Muuskut, Moorop, Choop, Mween, and Kowoochi have neither been fully compensated nor resettled to date. Furthermore, the affected landowners have struggled for a long time for compensation and resettlement, but they have not succeeded despite legal and constitutional provisions such as Article 40(3) of the [new 2010] Constitution of Kenya which provides that the State shall not deprive a person of property of any description ... unless the deprivation – (b) is for a public purpose ... that – (i) requires prompt payment in full, of just compensation. Initially, there were plans to compensate and/ or resettle the affected landowners. The Government of the Republic of Kenya transferred Kshs 4.1 million in two installments of Kshs 500,000 and Kshs 3,600,000 from the National Treasury in Nairobi to the District Treasury at the district headquarters in Iten. One of the more thorough strategies implemented involved surveying and dividing the 9,070 acres of fluorspar mining property into 4,329 parcels in accordance with individual acreage ownerships.

A power supply line was built from Olessoss in Nandi District to at Kimwarer at the start of the fluorspar mining operations. A 24-kilometer all-weather gravel road was built from Nyaru on the Keiyo Highlands to Kimwarer, passing through the ledges and the Keiyo Escarpment. By facilitating the movement of people from the valley to the highlands and vice versa as well as the transit of products and services, this Nyaru-Kimwarer Road has enhanced Kerio Valley development. However, if the Nyaru-Kimwarer-Tenges Road and the Cheploch-Kimwarer-Kipsaos Road had been paved with all-weather tarmac, more and faster development might have been possible (Jones, 1982).

The KFC fluorspar mining operations resulted in environmental pollution and ecological degradation affecting residents and landowners in Kerio Valley in Keiyo, Baringo, Marakwet, West Pokot and Turkana districts in general (Jones, 1982). Despite protests from nearby residents and numerous scientific tests and analyses indicating that the contaminated water is unfit for human or animal consumption, irrigation, or other uses, the KFC continued to discharge hazardous waste products from the fluorspar processing plant into the Endoo River, a major tributary of Kerio River. In order to hide their vile and illegal activities from the neighborhood and the authorities, KFC was accused of discharging industrial effluents directly into the river at night and during times of heavy rainfall.

It is alleged that KFC periodically exhumed human remains from burial sites grave in the mining locations without notifying next of kin, reburial, or compensation, occasioning most severe social, cultural, and human rights repercussions of the fluorspar mining activities to the community. The lives of people, cattle, and wild animals were exposed to danger due to the numerous gaping mining holes that have been created and left behind by fluorspar mining activities. Another negative impact of the fluorspar mining operations was the anxiety that constantly arose from the battle over government's failure compensation of those who lost land and

were negatively affected by mining activities. Many people died while others gave up the long-drawn struggle.

The majority, however, have not given up the wait for compensation and reparation however long it will take. Recently, the government began to engage with the community through the Ministry of Mining and Petroleum culminating in a site visit in March 2015. The community mobilized to present a memorandum on grievances on the adverse socio-economic and ecological impact on the community over decades. A follow up meeting was held in Nairobi in April 2021 and attended by a delegation of 28 community members for deliberations. The outcome of the was the creation of eleven-person Fluorspar Task Force, five of whom would be community members, charged with gathering information and facts from all stakeholders. The Task Force had three months to gather and compile complaints, produce a report and suggestions. The key recommendation was for speedy compensation to the owners of the community land taken up by government for fluorites extraction. Other suggestions include environmental protection and moving bodies from cemeteries at the mining site (Mathu and Davies, 1996).

The National Government began the process of community compensation fluorspar mining land in 2018 after the Fluorspar Taskforce recommendations for urgency on (reparations) that the affected property owners receive compensation. The National Land Commission (NLC) carried out a Fluorspar Forensic Audit to determine whether the money reached the affected landowners or not after realizing that some money intended for fluorspar land compensation had been sent from the National Treasury at Nairobi to the District Treasury at Iten in the 1970s and yet the affected landowners were/are still complaining that they have not been compensated (Mines & Geology Department, 2001). They completed their investigation in December 2018 and wrote the Fluorspar Forensic Audit Report that they said it would be ready by January 2019. In February 2019 the terms of the NLC Commissioners expired before they could release the Fluorspar Forensic Audit Report to the community in particular and to the public in general. When the new NLC commissioners took office in October 2019, the community thought the NLC would give them the report in early 2020.

The community wrote letters to the Chairman of the NLC in June and August 2020 asking them to release the Fluorspar Forensic Audit Report with the help and input of the National Council of Churches of Kenya (NCCCK). The community is confident that the NLC Fluorspar Forensic Audit Report will guide its future actions in its pursuit of a fair, complete, and reasonable compensation for the land that the Kenyan government set aside in 1973 to make room for the fluorspar mining operations in Kerio Valley.

To date, the Keiyo continues to make demands that they want the National Government, through the Ministry of Mining and Petroleum, and the NLC, to address as they wait for the NLC Fluorspar Forensic Audit Report. Firstly, they demand clarity on demarcated land areas with fluorspar mineral deposits for integrity with compensation and reparation. Secondly, the community made demands for the return of any land that without fluorspar mineral deposits, and finally compensation for the more than fifty years of loss of land use. It remains unclear how these concerns will be addressed. What is clear though is that extraction companies wantonly exploit and abandon both the people and the damaged landscapes when business is no longer beneficial to their enterprises. Contracting of mines in local communities have been susceptible to political influence so that there is very little

accountability and sometimes conflicts with such communities leading to violence and deaths.

In spite of the foregoing and without minimizing the violence and trauma occasioned by abominable acts and tragic consequences of mineral extraction in their neighborhoods, the community realized social-economic benefits through programs and initiatives rolled out by KFC. Business opportunities, educational and healthcare programs, and establishment of social amenities transformed lives in the once 'landlocked' parts of Kerio Valley. This relationship was at its peak after 1997 when majority shareholding was acquired by local businessmen who were granted a 20-year lease over KFC from the government of Kenya. I argue that to a large degree during operation Kenya Fluorspar Company implemented its mission of responsible mining for sustainable prosperity for all stakeholders.

Legitimacy theory and environmental Justice

Examining the above contradictions, it is therefore important to employ legitimacy and environmental justice conceptual frameworks to help us to unpack and understand this historically long struggle. Both politics and law examine legitimacy theory primarily from two perspectives: in a descriptive or sociological sense and in a normative or legal sense. The descriptive sense primarily looks at whether the people who are affected by the relevant rule, policy, institution, or body, such as the government or an organization, believe it to be legitimate (Meyer and Sanklecha 2009). By examining whether it complies with specific requirements or prescriptions, legitimacy in the normative meaning determines if the underlying assumption supporting the concept's descriptive sense is accurate (Meyer and Sanklecha 2009). Hurd defines legitimacy as "the normative belief by an actor that a rule or institution ought to be obeyed" (1999, p. 381). This is similar to Suchman's definition of legitimacy in the descriptive or sociological sense, as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (1995, p. 574). The discussion that follows centers on this kind of legitimacy.

A contemporary requirement for their "survival in jumpy and turbulent environment," legitimacy theory has been adopted in the literature to describe the responsiveness of corporations to local external stimuli by "implementing and developing voluntary social and environmental disclosure of information in order to fulfill their social contract" (Burlea and Popa 2013, p. 1579). Therefore, when an organization reports its activities, it takes society's impression and perception of the organization—in light of the social, moral, and economic interests of the local stakeholders—extremely seriously out of concern that it might be opposed or sanctioned by the local environment through a boycott, social pressure, or legislative and judicial mechanisms. The concept has been more well-liked over time in social, environmental, and legal literature (see Dowling and Pfeffer 1975, Lindblom 1994, Gunningham et al. 2004, Mobus 2005, Owen 2008, Meyer 2009, Tilling and Tilt 2010).

This theory is useful for aggregating and reconciling the interests of various sites of impact of corporate activity in the context of explaining TNCs' environmental irresponsibility in Africa. The Legitimacy theory provides a basis for recognizing the many organizations and people who are directly impacted by the deterioration of host communities' environments. This is especially true when it comes to the activities of extractive firms that exploit natural resources like oil and gas, which are known to have a

negative influence on their host environment and are subject to lax regulatory procedures and poor governance. In such circumstances, people and organizations within host communities are obligated to have a great interest in halting the degradation of their environment and pursuing appropriate redress. These people and organizations make up a group of important TNC stakeholders (legitimacy). According to legitimacy theory, TNCs must properly use their clout to avoid provoking local stakeholders to assert "their right" to "revoke" the continuation of the former's commercial operations or continuing presence within their environment.

In an effort to pinpoint the challenges stakeholders and host communities experience in dealing with the irresponsible behavior of TNCs, legitimacy theory can be connected to the CSR of TNCs in the host communities. The governance and control of TNCs are weakest in the "resource-rich, but economically underdeveloped" African continent, partly due to institutional issues (Carmody 2011, p. 2). This has a significant historical component. The primary goal of the "scramble for Africa," both historically (by the West) and currently (mostly by China and India, with a lesser extent by Japan and Indonesia), has been and continues to be access to natural resources (Carmody 2011). Due to a number of factors, including the prevalence of colonialism, poverty, political corruption, weak institutional structures, and the gradual development of intelligent and modern civil society groups on the continent, TNC activities, particularly in the extractive industries in Africa, proceeded without much scrutiny. Ironically, the desire for economic competitiveness among successive administrations has occasionally resulted in the adoption of measures that are harmful to the general welfare. Such policies have in some cases not taken account of "the health and well-being of its citizens or the protection of the environment", resulting in "human rights and environmental abuses by business corporations operating in Nigeria, including transnational companies (TNCs)" (ICJ 2012, pp. 1–2).

The surge of civil society action is, however, slowly but steadily making its way into emerging nations in Africa and elsewhere. The emergence of awareness regarding the influence of civil society organizations and the articulation of "voices" from weak and previously "voiceless" host communities has manifested itself in a number of protests against alleged excesses and severe human rights violations by TNCs in Africa (Ikelegbe 2001, Okafor 2006), as well as elsewhere in the world (Labunska et al. 1999, Pendleton 2004, Simons 2004).

The historical reason described earlier is one of several causes of the host communities' fragility in the Kenyan situation. Long periods of authoritarian military rule, as well as the "divide and rule" strategies used by the political elite and oil companies, which occasionally use gifts and contracts to entice community leaders (including traditional rulers) and pockets of unruly youth groups, are other factors that have contributed to the stifling of dissenting voices. These elements created a social climate of internal distrust, shaky cooperation, and interpersonal conflicts. Even in cases when unity was crucial in presenting a single front to win justice for the host communities, the situation frequently thwarted attempts to show a united front against the Nigerian state and the powerful TNCs engaged in oil exploration in the Niger Delta. As previously mentioned, one of the main effects of TNCs' activities in Africa is their influence on the environment, development, and governance, which raises general concerns about the consequences for host communities' human rights in the areas where their production operations are located. There is now a need that TNCs maintain the human rights of those impacted by their operations due to the scale of their operations (McCorquodale 2009, Seppala 2009, Mena et al.

2010, Lambooy 2011, Preuss and Brown 2012, Fasterling and Demuijnck 2013).

Given that TNCs are non-state actors, the circumstance warrants a human rights-based approach to regulating their activities. The strategy has been limited by the traditional justification in international law that nations are the target of the responsibilities derived from human rights instruments (Clapham 2006, Deva 2012). There is also the argument that different people have different ideas about what corporate responsibility is or ought to be. The accountability for the obligation spans a range from a stringent viewpoint to a *laissez-faire* or market economy commitment (McCorquodale 2009, Yang and Rivers 2009, Baumann-Pauly and Scherer 2013). TNCs' enormous economic dominance is cited by those who oppose their dominance and call for public accountability of TNCs. Such advocacy, according to Mathias Koenig-Archibugi, is a result of corporations' "often tremendous economic clout," which gives them "widespread perception as capable of avoiding public supervision and getting away with behavior that affects employees, consumers, vulnerable groups, or the environment" (Koenig-Archibugi 2004, p. 235). In addition to this, there are growing demands for TNCs to be more transparent and accountable. Corporations are under ongoing pressure to be more transparent, accountable for a variety of acts, and to report publicly on their performance in the social and environmental arenas, according to Eweje (Eweje 2006, p. 95).

The story of Keiyo serves as an example of a considerably less well-known but significantly worse case of environmental degradation that has been going on for more than 40 years. The scenario, which has resulted in uprisings, deaths, and damage to property in the area, particularly after 1999, has proven that the Fluorspar Company's exploration activities caused a level of environmental harm that was severe and essentially unmatched anywhere else. The Report claims that oil contamination has had negative effects on both the soil and the groundwater. Part of its conclusion reads: "Pollution is widespread in land areas, sediments, and swampland." Although contamination from refined goods is also present at three places, crude oil pollution predominates.

On the other hand, environmental justice theory, shows that systemic injustices in the environment, such as exposure to hazardous risks, can magnify or perpetuate other social injustices and divisions, such as those between racial or ethnic groups or various socioeconomic classes (Pellow 2017; Pellow and Brehm 2013). The most impacted are voiceless people that have consistently been unable to effectively oppose development or to properly participate in decisions to lessen harms have no access to benefits, extractive projects with negative social consequences frequently locate where social and economic conditions are most conducive to development. This trend of unequal exposure and risk among the poorest and most marginalized groups has been proven by hundreds of researchers (Mohai et al. 2009a).

To date, there has been relatively little conceptual or empirical cross-pollination between analyses of natural resource dependence and environmental justice (Malin 2015). Extractive industries can lead to systematic and structural injustices, and we also know that socially disadvantaged areas are more likely to experience environmental hazards and costs. However, there is still a lot more work to be done if we are to comprehend the connections between resource depletion and environmental justice on a variety of scales, in a variety of settings, and across overlapping injustices. Additionally, a lot more work needs to be done if we are to properly inform policy about the extractive industries, associated institutions, and governance procedures.

In actuality, neither farmer was able to support themselves in the town, leaving the vast majority of people in poverty. Mineral exploration in Keiyo has resulted in environmental destruction, an ecological disaster, poverty, and disease rather than fostering social well-being and growth (2009, p. 318, UNEP 2011). The community protested and demanded recompense for the despoliation due to the severity of the environmental damage and human rights abuses caused by the exploration of minerals. The trajectory of the cases emanating from the experiences of host communities with transnational resource in the Kerio Valley closely connects with Koenig-Archibugi's views (2004) on concerns about public accountability of TNCs. The Keiyo people are in the course of their struggle using the power of the constitution as useful as a mechanism for securing accountability of TNCs.

Conclusion

In his comprehensive analysis study on the socio-economic and environmental effects of fluorspar mining in Kerio Valley Ngetich,(1997) curiously pointed out to the fact that the community negatively perceived the companies mining activities in Kerio Valley and held that it directly affected the lifeblood of their economy-the water. Water in Keiyo cosmology is life and is everything. If the company therefore, contributed to contamination of surface water in Kerio river which is a key resource in the Valley's life support system, then it was an enemy of the people.

As such, this study concludes that there is need for formulation of clear-cut mining policies and regulations which address proper compensation and resettlement strategies as well as providing for greater weight on environmental protection from undesirable effects of mining. The study underscored the role infrastructure development in changing livelihoods through increased trade and commerce as the most important contribution of mining to development in the Kerio Valley South. I have argued that Keiyo indigenous land-use system may be conceptualized as a coherent repertoire of diverse strategies, including expansion of agriculture, and livestock production. These technical developments were of great importance because they allowed many people to exist on a given piece of land. Despite the developments, however, the community's ability to produce the dynamics of change and growth were still clearly tied to the rhythm of nature. For the Keiyo, trade was a means to diversify and (thereby) strengthen pastoralism as well as agriculture. Equally, land was very vital to the Keiyo economy and social relations. Fundamentally, land was the main resource base for all relations of production.

The mineral extraction in Kerio valley was intended to be a model economic opportunity to provide livelihood to rural population by generating dependable income and address the many challenges faced by smallholder economies in general. It was a project aimed at integrating Keiyo semi-pastoralists into the successful Kenyan proletariats by focusing on providing a profitable business that was address small holder constraints namely, land, inputs, knowledge, resources, and marketing. Today, Keiyo geography is in a state of crisis. In the name of 'investment and development' the area became increasingly threatened with extinction by models of "development," economic expansion, and resource extraction. The mining industry ultimately serves to provide goods and products to "Northern" consumers based on an exploitative dependency relationship fostered between "North" and "South,".

Mineral prospecting in Kenya has historically been carried out with the active assistance of the colonial authorities for foreign companies with hardly any consultation with the local populace and communities (Kaplinsky, 1978). Local opposition to these actions was occasionally violently suppressed. Since Kenya's independence, its successive governments have adopted the colonial governments' style. In the regime for mineral exploitation, they largely used the same or worse laws and political strategies.

It is important to note that public education be a factor in creating change. It is public knowledge that education has the power to challenge dominant narratives and to shift power dynamics by providing space for the voices and perspectives of marginalized communities. As scholars, it is our responsibility to ensure that we are creating inclusive spaces for all students, including those from Indigenous communities. This means acknowledging promoting cultural awareness, understanding and reconciliation.

Creating awareness and educating people about the ways in which private interests take advantage of vulnerable communities is very crucial. This can be done through community meetings, workshops, and other forms of outreach. Once people are aware of the problem, they can come together and organize to push back against the forces that are exploiting them. This can involve forming coalitions and advocacy groups, as well as taking legal action where necessary.

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