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Inclusive development, oil extraction and climate change: a multilevel analysis of Kenya

Kyra Bos and Joyeeta Gupta

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<th>ABSTRACT</th>
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<td>There has been considerable research on North–South issues on climate change; however, little work has been done on how the recent discovery of oil in some developing countries could affect North–South relations, the prospects for development for the South, climate change and local socio-environmental issues. Using the theory of inclusive development, the concept of the Right to Development, and their relation to stranded assets, this paper addresses the question: what does inclusive development imply at the national and global level in dealing with oil extraction in the context of climate change? Based on a literature review and a layered case study of Kenya, this paper concludes that (a) Kenyans argue that Kenya has a right to extract and use oil resources and that rich countries should reduce their extraction and use; (b) such a claim could be integrated in an appropriate emissions trading scheme; and that (c) Kenya should also account for the national and local socioecological aspects to reduce potential local conflict, yet the conditions favoring inclusive development are not yet established. However, such an argument may also lead to perverse results. If addressing climate change requires phasing out fossil fuels, this argument may lead to stranded assets in both developed and developing countries, and may ironically leave developing countries poorer off as stranded assets are possibly more expensive than having stranded resources.</td>
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1. Introduction

Global climate change negotiations aim to prevent a temperature rise above 1.5–2°C compared to preindustrial levels (UNFCCC 2015 (Paris Agreement)). This implies leaving 80% of the proven fossil fuel reserves untouched, that is, they should become stranded resources (Carbon Tracker 2011, p. 2) and investments in fossil fuel extraction and related industries would turn into stranded assets (Carbon Tracker 2011). This raises the question – which countries should be allowed to extract and/or use the remainder of the usable fossil fuels? developing countries (DCs) argue that they have the Right to Development (RtD) (UNGA 1986). While the Framework Convention on Climate Change (UNFCCC 1992) accepts that DCs should be allowed to grow and possibly increase their emissions, the text explicitly refers to the Right to Sustainable Development (RtSD) and the principle of common but differentiated responsibilities (CBDR) and respective capabilities; the latter is being challenged as some industrialized countries (ICs) are unwilling to reduce their emissions and commit to the second Kyoto commitment period of 2012–2020 to make space for DCs’ growth (Gupta 2016). Yet, collective action is urgently needed to act upon the climate problem.

This problem has become more contentious recently as some DCs like Kenya have discovered oil and could become rich oil-based export economies using their RtD. Such a right can possibly only be legitimately exercised when used for inclusive and sustainable development. Sustainable development implies taking economic, environmental, and social aspects into account (Gupta & Baud 2015), while inclusive development focuses more on social well-being and ecological aspects and minimizes emphasis on continuous economic growth (Gupta et al. 2015a, 2016). Hence, this paper focuses on: What does inclusive development imply at the national and global level in dealing with oil extraction in the context of climate change? This paper focuses on DCs in general and Kenya in particular, and on their relationship with ICs. It excludes the Organization of the Petroleum Exporting Countries (OPEC)-members who have extracted oil for decades (OPEC 2014, p. 22).
Kenya is a good case study as it is a low-income country graduating into a middle-income country (World Bank 2015); recently discovered 600 million barrels of recoverable petroleum resources (KPMG 2014, p. 1.9; Tullow Oil 2014a) in a marginalized, climate vulnerable, and conflict-prone region – Turkana (Tullow Oil 2014a, p. i-10); is vulnerable to climate change impacts (GOK 2007, p. 126; 2008, p. 108; Kumssa & Jones 2010, p. 457) and has adopted an ‘inclusive’ governance discourse in its new Constitution (GOK 2010a) and Vision 2030 (GOK 2007).

This case study is based on (a) an analysis of relevant national policy documents concerning development, oil, and climate policies in Kenya,1 and (b) two sets of interviews, one with experts from the global to local level and one with local community members in Turkana. All this is undertaken against the background of the evolving global climate change negotiations (Gupta 2014).

The interview set consists of 34 semi-structured interviews with experts from the global (8), East African (2), national (20), county (2), and local level (2), identified through purposive and snowball sampling (Bryman 2012, p. 416–24). These experts can be categorized as civil society (14), academics (8), bureaucrats (10), and private sector (2). The objective of the interviews was to collect experts’ views and arguments on climate change and their interpretation of (i) Kenya’s awareness, mitigation and adaptation policies, and perceived responsibilities; (ii) the RtD/RtSD; (iii) inclusive development at the global level; (iv) inclusive development at the national to local scale in the context of the oil discoveries; and (vi) of alternative energy pathways for Kenya. Sections 3.1–3.3 present data from these expert interviews showing the frequency of argument use but not assigning weights to them.

The second set of interviews consists of 65 interviews with local community members in Lokichar, through eight focus groups and 22 interviews where interviewees were identified through random sampling (Morgan 2008a, p. 725)2 in collaboration with two employees of the local ‘Alemun Pastoralists Empowerment Initiative’. These interviews examined their expectations and perspectives towards oil extraction. Both men and women, young and senior interviewees were selected (Morgan 2008b, p. 722–23) and asked five questions with room for follow-up questions: (i) What do you expect from the oil exploration? (ii) How will your life improve because of the oil discoveries? (iii) How are you engaged in the process of oil development? (iv) What harm does the oil exploration do to your life and the community? (v) Have you seen any harm inflicted on the environment by the oil development? Section 3.4 combines the data collected from both interview sets.

The data may be affected by our (and the translator’s) subjectivity and values, overrepresentation of national interviewees compared to the elusive Tullow Oil – the company exploring the reserves in the Turkana region, the provisions (e.g. tea, sugar) offered to community members in return for their collaboration (Thompson 1996), and the limited sample size (Morgan 2008a, p. 725). Data triangulation was used to correct possible biases and data saturation justifies our sample size (Given & Saumure 2008, p. 195–6).

The single multilayered case study provides in-depth context-related knowledge and helps address a knowledge gap through allowing description and interpretation (Blatter 2008, p. 68). However, it may be difficult to generalize (Tellis 1997; Blatter 2008, p. 69) beyond the East African context although the arguments are very similar to DCs’ arguments in climate negotiations (Gupta 2014). Besides, only Kenyan policy documents have been reviewed which could limit generalizations beyond the single case.

2. Inclusive development and stranded assets
2.1 Inclusive development

We chose inclusive development, a theory in evolution, as our theoretical framework. It enables analysis of (a) North-South to local issues, and (b) social, environmental, and relational issues. Its intellectual roots lie in social theories (e.g. human rights, social justice, human development indicators, post-development critique (Escobar 1995)), entitlements and capabilities (Sen 1999), livelihoods and participation (Chambers 1997), the RtD of poorer states, and Third World Approaches to International Law (TWAIL) that argue that patterns of exclusion are continuously repeated at global level from field to field. The ecological roots lie in theories of nature-dependent livelihoods and adaptive capacity; while the relational roots lie in power theory (Gupta et al. 2015a; 2015b). This discourse is integral to the Millennium Development Goals (MDGs) and the Sustainable Development Goals (SDGs) and emphasizes the socio-environmental aspects more than the economic growth aspects.

Inclusive development includes: (a) social inclusiveness which enhances the lives of the most marginalized people, groups, and states; (b) ecological inclusiveness which takes into account that the most marginalized are heavily dependent on, and vulnerable to changes in, their environment and ecosystem services; and (c) relational inclusiveness which requires addressing the structural causes, including power politics, of poverty and environmental externalization (Brown & Corbera 2003; European Union (EU) 2013, p. 4; Gupta et al. 2015a). ‘Development beyond...
growth’ implies distributing improvements in well-being along non-income dimensions and of the worst off (Rauniyar & Kanbur 2010, p. 7–9,18). If inequality in non-income dimensions occurs a policy is not inclusive; if ‘average achievements improve and inequalities in these achievements fall’ a policy is considered inclusive (Rauniyar & Kanbur 2010, p. 9). Besides, inclusive development is ‘both a goal and a means’ (EU 2013, p. 4; Ranieri & Ramos 2013, p. 9).

2.2 Inclusive development at the national and local level

From the theory on inclusive development we extracted five relevant preconditions for the (sub-)national level. At national to local level, inclusive development requires (a) equitable benefit sharing of development and equal opportunity2 (Ranieri & Ramos 2013, p. 8); (b) economic opportunities for local people (productive employment)3; (c) public participation (Rauniyar & Kanbur 2010, p. 40); (d) environmental protection; and (e) the mitigation of livelihood shocks (Asian Development Bank (ADB) 2011, p. 2–5; Ranieri & Ramos 2013, p. 10–11,17) or adaptive capacity (Gupta et al. 2015a). For extractive industries, an inclusive development focus emphasizes the social and economic benefits for local host communities and addressing (socio-) environmental challenges (MacLennan & Perch 2012, p. 2). This requires legitimate, effective, and transparent institutions (ADB 2011, p. 5) that also compensate for natural or physical inequalities (through welfare programs for the disabled, mothers, children, elderly, unemployed, etc.) (Sachs 2004, p. 169).

Yet, inclusive development remains imprecise (Rauniyar & Kanbur 2010, p. 18). For example, ‘participation’ is difficult to operationalize (Sachs 2004, p. 180) in terms of who should participate, what form of participation is preferred, how power differentials are dealt with (Shortall 2008, p. 452), how it is to be financed, and when participation is necessary (Hurlbert & Gupta 2015).

2.3 Inclusive development at the global level

The theory on inclusive development has been expanded also to apply to the global level (Gupta et al. 2015a). It implies the responsibility to include all nations, especially DCs’ perspectives and needs, in global climate governance, as DCs are more vulnerable to climate change impacts and in general have less means to cope with climate hazards and mitigation or adaptation. This responsibility is ultimately advocated by the RtD, the RtSD, and the CBDR principle.

For 50 years, DCs have argued in favor of the RtD as they felt that the international order was unfair in process and outcome and wanted to eliminate the ‘obstacles to development’ (e.g. trade barriers, growing debt) (Özden 2008, p. 17; Rajagopal 2013, p. 899–900). This led to the UN General Assembly’s adoption of the Declaration on the Right to Development (DRtD) ([UNGA] United Nations General Assembly 1986), which is a key feature of inclusive development at global level. This DRtD aims to promote a ‘new international world order based on sovereign equality’ (Art. 3, Para 3); ‘equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income […] eradicating all social injustices’ (Art. 8, Para 1); ‘equality of opportunity for development’ (Preamble); ‘active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom’ (Art. 2, Para 3).

The DRtD provides that the primary responsibility for realizing the RtD falls on states while recognizing the importance of international cooperation to implement the RtD (cf. UNGA 1993; Sengupta 2002, p. 846). However, (a) ICs argue that the primary responsibility for realizing the RtD rests with DCs, while DCs claim international support (Udombana 2000, p. 781–786; Özden 2008, p. 21); (b) some ICs (e.g. the US, Canada) are de facto unwilling to reduce their greenhouse gas (GHG) emissions to make space for DCs’ development and related emissions, and (c) the Climate Convention implicitly refers to the RtD but includes the RtSD in the main text (Gupta 2014). Furthermore, ICs argue that the RtD is applicable to people and groups, while DCs apply it to nations (Gupta 2010, p. 120–121) and the ‘UN Independent Experts’ recognized it as an individual and collective entitlement (Ibhwah 2011, p. 85). The Commission on Human Rights has established three working groups (1993 – present) on the RtD but progress on its justiciability and legally binding character are slow (Sengupta 2002, p. 842,859; Özden 2008, p. 13–16), representing ‘a costless concession to DCs’ (Gupta 2010, p. 10). Nevertheless, DCs cling to this RtD (Sengupta 2002, p. 847–850) and see GHG obligations as undermining their RtD (Baer et al. 2009, p. 16), while the UNFCCC allows DCs to develop ‘within the constraints of sustainability’ (Moellendorf 2011, p. 440).

Likewise, the CBDR principle (UNFCCC 1992, p. UNGA 1992) calls for differential treatment as ICs have historically caused climate change, have greater capacity to address climate change (Weisslitz 2002, p. 476–477), and DCs are more vulnerable to climate change. It requires ICs to lead in climate mitigation (Bafundo 2006, p. 467) and provide technology and capital transfers from North to South to enable achievement of the RtD under sustainability constraints (Udombana 2000, p. 779–784; Moellendorf 2011, p. 434–440).
2.4 Inclusive development and stranded assets

While the RtD and inclusive development require that DCs need room to develop, such development should not lock DCs into an unsustainable pathway and consequently leave them with stranded assets a few years down the road (i.e. the RtSD). Stranded assets are defined as ‘assets which lose economic value well ahead of their anticipated useful life, whether that is a result of changes in legislation, regulation, market forces, disruptive innovation, societal norms, or environmental shocks’ (cf. Generation Foundation 2013; Bos & Gupta 2016; submitted). Stranded assets thus refer to investments that countries or actors may make that have to be phased out prematurely because of new rules or changes in politics and markets (Price & Kistner 1999; Stern 2010; Ansar et al. 2013), for example, the closure of the nuclear power industry in Germany in reaction to the Fukushima disaster in Japan. For the fossil fuel industry this means that investments already made in fossil fuel infrastructure become stranded if climate change or environmental policies become more stringent or if oil extraction is not recoverable due to low oil prices.

3. Kenya

3.1 The international context: national perspectives

Kenya has recently discovered oil, but Kenyan interviewees do not see oil extraction as a climate/stranded asset risk since: (a) the 2°C threshold was seen as unlikely to become legally binding (3x), however, the Paris Agreement (UNFCCC 2015) has made this legally binding, but has to be ratified by many countries before it enters into force; (b) the stranded asset risk is an academic issue, detached from the reality of Kenya’s growth imperative (4x) and is not objected to by local NGOs (1x); (c) the addition of Kenyan GHG emissions will be marginal (1x), while Kenya remains vulnerable to climate change impacts (1x); (d) the global economic effects of phasing out fossil fuels are huge and Western governments will oppose that (1x); and (e) global demand will sustain the fossil fuel economy (2x).

Interviewees argue that the right to extract/use fossil fuel resources should be determined by responsibility for past emissions and for current fossil fuel production and consumption (5x). The ICs with their disproportionate historical resource use should have greater resource use limits than DCs (1x). DCs need to develop and hence should be allowed to grow with a corresponding increase in emissions (4x). Although all countries have the RtD (4x), the RtD requires space for developing nations to develop, but also requires that ICs must help DCs to develop (1x) (cf. 2.3).

Kenyans prioritize the RtD over the RtSD since: (a) growth is vital for low-income countries (7x), (b) growth is energy/oil-driven (3x), (c) meeting the MDGs/SDGs requires providing the energy poor with energy (1x), (d) development will help to prepare for climate impacts (1x), and (e) oil-based growth is a necessary evil (4x) as there are no viable alternatives (1x) (Section 3.2).

Interviewees claimed that the colonial history, past aid structures and today’s market regulations (e.g. subsidizing farmers) have diminished trust in ICs (2x) leading to three shifts in government orientation: from North to East, especially China (1x), from global to regional (East Africa) (2x), and from external cooperation towards a domestic adaptive capacity strategy (2x).

Respondents proposed that the issue of stranded resources could be dealt with by creating a level playing field (4x). This would imply setting a global cap on emissions and designating equitable nation-specific emission ceilings to all nations (3x) implying different emission ceilings for DCs than for ICs (1x). ICs like the US have long exceeded their ceiling and would have to drastically reduce to create room to grow for DCs (1x) and ICs would have to buy transferable emission quotas from DCs with excess quotas (1x). This quota would also imply a compensation for DCs for ‘not developing through fossil fuels’ (2x), while still ensuring development (2x), although accompanied by some corresponding increased emissions (2x). This is fair, as ICs have developed by emitting GHGs (1x). Moreover, a global emissions trading scheme could bypass mutual distrust and allow for further global consensus (1x). This implies further that current oil producers (ICs and OPEC) need to make space for (other) DCs like Kenya to extract their resources (1x). Instead of mining oil in ICs/OPEC, oil could come from DCs, implying no net increase in fossil fuel production, while the benefits are distributed more equitably (1x).

Including DCs in international emission trading (IET) is preferred since; (a) inclusiveness enhances the adaptive capacity of poorer nations (Norton 2012, p. 8–10), (b) excluding DCs from IET increases the risk of accelerating climate change (Weisslitz 2002, p. 477; Baumert 2006, p. 366; Green 2009, p. 279–280), (c) inclusiveness will help DCs to develop sustainably (Weisslitz 2002, p. 478,493) as their abatement costs are lower than in the North (Weisslitz 2002, p. 494; Green 2009, p. 281–282), (d) it reduces the risk of leakage of Northern industries to the South (Weisslitz 2002, p. 504; Green 2009, p. 278–279), (e) it could encourage the US to participate (Baumert 2006, p. 366–367), and (f) a ‘global emission budget’ with equitable obligations is more environmentally efficient (Najam et al. 2003, p. 227).
Yet there are substantial critiques on IET and on the existing carbon trading schemes, most notably the European Emission Trading Scheme (EU ETS) (Hepburn 2007, p. 377). IET is criticized because (a) it will be difficult to arrive at an unanimous agreement (Helm 2003, p. 2744); (b) nations and private firms under the EU ETS strive for higher allowances than justified leading to higher overall emissions (Woerdman 2000, p. 8; Helm 2003, p. 2738; Hepburn 2007, p. 379,383–384); (c) emission reductions may not actually be taking place (i.e. the hot air issue) (Woerdman 2000, p. 31–32); (d) it shifts attention away from energy policies that focus on decarbonization under the idea that emission reductions can be outsourced overseas (Pearse & Böhm 2014, p. 333); (e) it assumes a perfectly functioning market, neglecting among others information asymmetry, uncertainty, and power concentrations (especially in the fossil fuel based energy sector) (Hepburn 2007, p. 384; Pearse & Böhm 2014, p. 332); (f) it commodifies nature (Pearse & Böhm 2014, p. 332; Hepburn 2007, p. 390); and (g) the EU ETS has further been criticized for being prone to fraud (Pearse & Böhm 2014, p. 331) and lacking long-term incentives to invest in low-carbon technologies (the EU ETS works in 5-year phases) as binding targets remain absent (Hepburn 2007, p. 384, 388–389).

Above all, any strategy to leave fossil fuel resources as stranded will require viable renewables and cleaner technologies for DCs (1x), with similar development opportunities (2x) which are able to compete with cheaper fossil fuels (2x) as real substitutes (1x) and are affordable through North–South technology and capital transfers (Sokona et al. 2002, p. 2–3).

3.2 National climate change governance


Although high climate awareness has influenced national policymaking (8x), there remains first, policy incoherence since (a) climate change (or environment) and energy are insufficiently connected in policies (2x); (b) there is little interconnection between the Ministry of Energy and the Ministry of Environment, Water, and Natural Resources (2x); (c) no actor coordinates climate-related activities (3x); and (d) there is limited credible data on domestic climate change (1x). Second, climate policy implementation is poor (2x) as the National Environment Management Authority (NEMA), which supervises and implements environmental policies (NEMA 2015) has limited capacity and resources (3x). Third, low political prioritization is evidenced through a contradiction between ‘actions and words’ between current oil developments and the projected ‘low carbon climate resilient development pathway’ of the National Climate Change Action Plan (NCCAP) (GOK 2013a) (3x). Furthermore other issues are prioritized over climate change (3x), and the political time frame pushes climate change off the political agenda (1x) (cf. Klein et al. 2005, p. 584).

Mainstreaming adaptation and mitigation although needed is not easy (1x). Mitigation is not stressed (4x) since; (a) Kenya’s emissions are low (2x), (b) market incentives and funding for mitigation are difficult to access (2x), (c) affordable technology is missing (1x), and (d) mitigation is more difficult than adaptation as it needs to be done at national level (2x). Instead, adaptation is promoted more (cf. Swart & Raes 2007, p. 289,300).

Kenya’s energy comprises of biomass (74.6%), imported petroleum (19.1%), and electricity (5.9%) (Kiplagat et al. 2011, p. 2961). Petroleum is used for transport, commerce, and industry (Kiplagat et al. 2011, p. 2962). Kenya’s electricity supply is sustainable with renewable energy (largely hydroelectricity) contributing about 80% (Kiplagat et al. 2011, p. 2962). However, hydroelectric power will be affected by hydrologic and climate variability (GOK 2014, p. 44–46) (6x). Renewables like solar, wind, and geothermal (10x) require high financial, technological, and human capital (Kiplagat et al. 2011, p. 2971; Kimuyu et al. 2012, p. 17–18,29; GOK 2014, p. 43,60); have high start-up costs (Brunnschweiler 2009, p. 3; Kimuyu et al. 2012, p. 27; GOK 2014, p. 43,60); long-term loans and payback periods (Brunnschweiler 2009, p. 3); long lead times (Brunnschweiler 2009, p. 19; GOK 2014, p. 43); depend heavily on external financing and venture capitalism (and on the poorly developed financial sector) (Brunnschweiler 2009, p. 3,19); and have to compete with the subsidized fossil fuel sector (Brunnschweiler 2009, p. 4) (3x).

3.3 Oil extraction and the national context

Kenya is exploring oil development and production will start possibly in 2016 (KPMG 2014, p. 9) (3x), its regulatory framework is still under review. Most of the companies engaged in oil exploration in Kenya are international oil companies (IOCs) (4x) (Kenya Civil Society Platform on Oil and Gas (KCSPOG) 2014, p. 28). National Oil Corporation Kenya is the only
national oil corporation (NOC) doing exploration (KCSPOG 2014, p. 28).

Kenyans expect that the oil discoveries and expected revenues will inject capital into the economy, industry, and trade (5x); meet energy demand and rural electrification aims (3x); energize marginalized areas where the resources are located (3x); provide employment opportunities (3x); reduce oil imports (1x) and the new infrastructure will create a business friendlier environment and improve connectivity (3x).

Extracting and using oil for inclusive development requires benefit sharing, (productive) employment opportunities, public participation, environmental protection, and enhancing adaptive capacity. First, a revenue sharing agreement between the national, county and local level is under review; presumably the sharing formula will be between 70/75/80% for the national government, 25/20/15% for the county government and 5% for the local host communities (7x). Interviewees worry that it remains unclear what the percentages actually entail (1x); the refunding period of the exploration companies’ investments may take some time (4x); it is unclear how the revenues are shared with local host communities (6x); county governments are excluded from the negotiations (2x); and it is unclear how county governments will use their revenue share (e.g. for Turkana county) (4x). Benefit sharing requires accountability and transparency at all government levels (7x), addressing corruption (1x), ensuring revenue traceability (3x) and transparency of the secret production sharing agreement between the government and the oil companies (2x). The global ‘Extractive Industries Transparency Initiative’ (EITI) can enhance transparency and accountability (4x) by publicly disclosing taxes and payments made to the government (EITI 2015), but Kenya may not endorse the EITI (3x). Besides, many of the IOCs active in Kenya, including Tullow Oil, are using tax haven schemes which raises issues of losing out on revenue (KCSPOG 2014, p. 28).

Second, an inclusive development approach would require that oil revenues are invested in social development (5x), basic needs (2x), human capital (2x), and sectors providing public goods (10x) or employing Kenyans (e.g. in agriculture or horticulture) (2x). Overreliance on oil should be avoided (3x) and the revenues could be reinvested in renewables to catalyze sustainable development (4x). Thus far a clear vision for the oil revenues is lacking (3x).

Third, although public and civil society’s involvement in policy negotiation is mandatory (1x) (GOK 2010a), it has not been operationalized (4x) in effective participation (1x) which is impeded (4x) by secrecy/confidentiality clauses (1x); insufficient time provided to review documents (1x); a lack of feedback on comments made on drafts or laws (1x); and finally civil society groups are not invited to strategic meetings (1x).

Fourth, oil extraction could damage the environment through oil spills, fire outbreaks, gas flaring, water and soil contamination, air pollution, displacement of biodiversity, and changes to the soil-structure affecting agriculture (8x) (GOK 2014, p. 95). Although NEMA must safeguard the environment and provide licenses for fossil fuel exploration, extraction, etc. (2x), it has weak legislation, low capacity to monitor compliance (4x), and inadequate funds (2x). Hence, exploration has preceded environmental guidelines on gas flaring, oil spills (2x), and financing/technologies for decommissioning and rehabilitation of oil plants (4x). Furthermore, NEMA’s Environmental Impact Assessments (EIAs) requires stakeholder and community participation (2x), but information given to host communities is often one-sided as negative information is suppressed (2x); participation is a mere tick-the-box process since no one monitors it (2x); there is no requirement of how many people need to be involved, as long as they are ‘considered representative of the area’ (1x); announcing EIAs in newspapers is not inclusive given the low percentage of Kenyans reading newspapers (1x); citizens might not know about their right of participation (1x); and in Lokichar the EIAs were not made public, but ended up in an office of Tullow Oil (2x). Besides, there are no specific guidelines for doing EIAs on oil or gas, meaning inspectors have no baseline on what guidelines to adhere to (1x); NEMA lacks the capacity and funds to monitor compliance and implementation of requirements of the EIAs (3x); sometimes the same EIAs were used for exploration and again for drilling (1x); and sometimes the same EIAs were used for two blocks adjacent to each other (1x). Hence, at national level the conditions favoring an inclusive development process have not yet been established.

3.4 Oil extraction and the local context: Lokichar

Lokichar is a largely neglected (5x) settlement of Turkana people in North-Western Kenya (Turkana County) in (semi-) arid land with little vegetation, erratic rainfall (Notenbaert et al. 2007, p. 4), a harsh climate, scarce arable land and pasture, and frequent droughts and famine (1x) (Notenbaert et al. 2007, p. 4). Most people are poor and illiterate nomadic or seminomadic pastoralists who depend on their livestock, are vulnerable to climate change (1x) (Notenbaert et al. 2007, p. 7) and have access to few amenities (4x). The region is conflict-prone (3x) with ethnic and cattle raiding tensions between the Turkanas and the Pokots (25x) (Witsenburg & Adano 2009, p. 514, 519).

Tullow Oil, a British oil company, found an estimated 600 million barrels of recoverable petroleum resources in the South Lokichar Basin (Tullow Oil
Local community members hope that the oil will bring development, employment, and infrastructure and improve basic needs and social amenities (25x). Whether they will actually benefit depends on whether the policy contributes to social inclusion, creates economic opportunities, ensures public participation, environmental protection, and mitigates livelihood shocks (Section 2.2).

First, social inclusion appears problematic as some groups (elders, youth, poor, uneducated and nomadic pastoralists) feel excluded (6x); as the benefits have helped some (e.g. through scholarships or employment) but not the community (10x) through social amenities (e.g. schools or health centers) (2x). Besides, Tullow’s Corporate Social Responsibility (CSR) programme lacks clear guidelines (4x).

Second, while locals hoped to get direct or indirect jobs (12x), local jobs are often occasional low-income jobs (10x), while skilled employees are hired externally (from elsewhere in Kenya) (5x), and there are no regulations on contracting local suppliers for goods and services (local content) (2x).

Third, public participation is affected by poor information sharing especially about negative impacts (7x). The government sees the community’s expectations as unrealistic, while the community talks about broken promises (6x). Moving ahead without fully informing the community will cause problems (2x). The county government is responsible for participatory processes (1x), but locals are either not engaged (6x); not directly engaged (3x); or only engaged occasionally through public forums (barazas) (8x). The community receives information from different sources – the Community Liaison Officers (from the company), the Village Social Officers (from the village), community leaders, the elders, other community members, or passers by (14x).

Besides, the community may be unaware of their participatory rights (2x) or their participation may be affected by their nomadic lifestyles (2x). Here, the demands on the local government on participation may exceed its capacity or resources even though power has been devolved to them.

Fourth, although oil development is in early stages, the community has experienced environmental externalities (6x) like deterioration of grazing land and shrubs (9x); soil degradation (10x); deforestation (7x); chemical pollution (9x); plastic pollution (water bottles) (5x); the death of animals (due to chemicals or truck accidents) (4x); sound pollution (4x); and health issues (infections or repository diseases) (5x). Nonetheless, some community members argue that Tullow asks the community for approval if a tree needs to be cut. In general, environmental legislation and monitoring is lacking (1x).

Fifth, there are few efforts to mitigate livelihood shocks as the pastoralists’ livelihood, and livestock is insecure (6x). In Turkana (nomadic) pastoralism is affected by climate change impacts and long-term droughts (Blackwell 2010, p. 1329,1335). Food insecurity is further aggravated by increased animal raiding (9x); drought persistence (10x) and the retreat of the Kenyan government from providing relief food since the inception of oil (2x). Community members expect Tullow to take a governmental role (e.g. provide relief food, assist elders or provide security), posing the risk that the community falls between the two stools (3x). Traditional lifestyles are threatened as between 60,000 and 77,000 square kilometers of land are needed for exploration, decreasing the pastoralists’ access to (grazing) land (13x). Their migratory patterns are now distorted and pastoralists are forced to stay in one place as oil camps are put on previous grazing land or they are forced to use conflict-prone migratory routes with no pasture (3x). Community members fear displacement without compensation (7x). Balancing land clearance for oil and safeguarding food security will be critical (1x).

Land loss and other insecurities may intensify with oil extraction (Blackwell 2010; Kotir 2011, p. 600), igniting civil conflict (16x) with the Pokots (14x). Insecurity has further increased because of the perceived unfair distribution of wealth and job opportunities (2x); the new roads benefiting cattle rustlers (10x); and because former community guards and the Kenya Police Reservists are now protecting Tullow Oil instead of the community (7x). Tensions escalated in November 2013 when the community ambushed the company’s operations as they felt unheard, poorly informed and excluded with ‘outsiders’ being employed (6x) and the army had to step in (5x). The Turkanas feel that they own the oil on their ancestral lands and feel neglected by previous governments (5x).

The resource curse theory (Ross 2004) argues that dependency on natural resources like oil may lead to conflict (Collier & Hoeffler 1998, 2002, 2004; Reynal-Querol 2002; Soysa de 2002) or not (e.g. Elbadawi & Sambanis 2002), possibly depending on the type of conflicts (non-ethnic) (Reynal-Querol 2002) and the nature of other variables such as weak rule of law, corruption or a weak economy (Ross 2004). The causal relationship may also go in the opposite direction (Ross 2004; Brunnschweiler & Bulte 2009). Oil extraction in Turkana may lead to community greed for enrichment and grievances about social exclusion, relative deprivation, and inequalities (such as ethnic divides) (Brunnschweiler & Bulte 2009) which can lead to amplified conflict (Switzer 2001). Yet, climate change may also be the ‘underlying link between poverty and conflict among pastoralists in the Greater Horn of Africa’ (Blackwell 2010, p. 1321). Altogether these theories call for well-designed resource management and benefit sharing for inclusive development.
4. Conclusion

Oil discoveries in DCs are often celebrated as resources for development. However, oil extraction is globally and locally problematic. Hence, this article addresses the question: what does inclusive development imply at the national and global level in dealing with oil extraction in the context of climate change?

Where DCs use the RtD to exploit their resources, they would be wise to use these resources for inclusive development. This requires that development is both equitable and environmentally friendly and that policy focuses on benefit sharing, creation of direct or indirect economic opportunities, genuine public participation, mitigation of transitory livelihood shocks and environmental protection. This section reverses the order of analysis going from local to global level.

At local level, oil extraction and use must lead to benefit sharing with local people or it can lead to multiple conflicts. Although theories differ in their causal mechanisms for conflict, they all point to the need for a proper benefit sharing mechanism and process to ensure local development. The Turkana people had hoped that the oil would provide them communal benefits; but the lack of transparent information, poor participatory processes, unclear EIAs, the changes to their land and water sources and their vulnerability to climate change have raised the issue of whether oil extraction and development really benefits these people. Although Kenya uses an inclusive development rhetoric, there is a gap between words and action.

At national level, the key argument for using the oil is that it will accelerate national development and that although climate change is a serious problem, Kenya has no other viable choice in its development trajectory, and it is Kenya’s turn to use the oil under the RtD.

At global level, Kenya and other DCs argue that they have a preferential claim to future oil exploration. Kenyan interviewees are aware of climate change but argue that their low emission levels thus far, and their RtD allow them to extract oil; arguments are made for a level playing field guaranteed by equitably allocated emission allowances for all countries and emissions trading between them.

5. Discussion

The question is: is this sensible? We answer this using four related storylines. First, the leadership story line is that DCs should be allowed to use their fossil fuel resources and ICs should phase out their fossil fuel extraction to make room for DCs. Petroleum could now come from DCs like Kenya instead of from ICs or OPEC-members. This implies that Kenya should be allowed to use its petroleum resources based on (a) its development needs (Section 3.3), (b) its low GHG emissions (see 3.1), and (c) its current high dependence on renewable electricity (Section 3.2).

Second, the same story line could be strengthened via the emissions trading story line. If DCs are given rights to emit (national caps in excess of current emissions) in line with their RtD and ICs are willing to commit to reducing their GHGs drastically, this can create a level playing field (Section 3.1). This would imply that high emitters from the North (and OPEC) get fewer emission rights in the future making space for other DCs to extract oil. A long-term successful strategy will also have to increase the feasibility of renewables and cleaner technologies for Kenya and other DCs, calling for international cooperation, technology and capital transfers to push for sustainable development in DCs. This argument was brought forward by one expert, yet could be a viable strategy in acting both on the urgency of the climate problem and on the RtD of DCs.

Third, however, this raises the issue of who is actually extracting the oil – if the oil is extracted by an IC/foreign oil company, the actual benefits in terms of tax revenues and employment for the DC may be low; this may raise the issue that the oil should be extracted by a local oil company, which however may have poorer technology.

Fourth, let us further unpack the argument a little by bringing in the notions of stranded resources (resources that should not be used) and stranded assets (infrastructure that should not be used) (Section 2.4). Although the issue of stranded assets and stranded resources is not perceived as an immediate risk to Kenya (Section 3.1), this issue is becoming urgent. If the North stops extracting the oil now, as argued above, they will be left with stranded assets (i.e. the investments already made in the oil industry). If we assume that the lifetime of petroleum infrastructure can be up to 85 years (Tullow Oil 2014b, p. 6–7) and the global community decides to act upon the climate problem and therefore bans oil extraction globally in 30–50 years from now, then Kenya’s remaining oil resources will turn into stranded resources and its investments into stranded assets. Consequently, both the North and the South will be left with stranded assets. This would imply that it would be economically wiser to globally avoid creating ‘new’ stranded assets and instead make arrangements that those Northern countries/companies that extract and use the remaining share of usable oil share the revenues with those potential oil producers! These are all complex issues that negotiators at the global climate negotiations seem unwilling to face, let alone discuss.

Notes

1. The policy documents included focused on climate change (‘National Climate Change Action Plan’ (NCCAP) (GOK 2013a), ‘National Climate Change Response Strategy’ (NCCRS) (GOK 2010b)); oil
development (`Petroleum (Exploration and Production) Act' [GOK 1986])); and the development policy for 2008–2030 (‘Kenya Vision 2030: a globally competitive and prosperous Kenya’ [GOK 2007]) and medium-term plans (GOK 2008, 2013b)). New policies are being drafted (e.g. the Climate Bill, the National Climate Change Framework Policy, the Oil Bill and the Energy Bill). The new Constitution of Kenya (GOK 2010a) was included since it significantly changes governance structures (to a system of devolved government) and processes (increased public participation).

2. The research locations in Lokichar are the main village (22), Nakukulas village (31) and the internally displaced people community (12). Most interviews were held in Nakukulas village, a pastoralist settlement located directly next to the first oil rig.

3. Through the provision of public goods, civil amenities, and public infrastructure (Sachs 2004, p. 169; Gupta et al. 2014).

4. By investing in infrastructure that expands the access of the poor to the market and increases their productive assets, that is, investing in social inclusion and human capacity (Rauniar & Kanbur 2010, p. 38).

5. Nonetheless, a cap for the county level will be set at two times the amount the countries have been allocated by the Commission for Revenue Allocation, implying that if a county would normally receive two billion Kenyan Shillings it can only receive two times that amount from the oil revenues.

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