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Conflicting Perspectives, Contentious Problems A Case Study of Kwale International Sugar Co. Ltd. in Msambweni District

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Conflicting Perspectives, Contentious Problems
A Case Study of Kwale International Sugar Co. Ltd. in Msambweni District

By
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Presented December 7, 2011

World Learning, SIT
Coastal Kenya: Islam and Swahili Cultural Identity
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If we ever owned the land, we still own it, for we never sold it. In the treaty councils, the commissioners have claimed that our country had been sold to the government. Suppose a white man should come to me and say, 'Joseph, I like your horses, and I want to buy them.' Then he goes to my neighbor and says to him, 'Joseph's horses, I want to buy them, but he refuses to sell.' My neighbor answers, 'Pay me the money, and I will sell you Joseph's horses.' The white man returns to me and says, 'Joseph, I have bought your horses, and you must let me have them.'

If we sold our lands to the government, this is the way they were bought.

-Native America Chief Hin-mah-too-yah-lat-kekt Joseph (1840-1904)

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List of Terms

ASK	Agricultural Society of Kenya
CID	Criminal Investigation Department
CSO	Civic Service Organization
CSR	Corporate Social Responsibility
GSU	General Service Unit
KACC	Kenya Anti-Corruption Commission
KHRN	Kwale Human Rights Network
KISCOL	Kwale Sugar Cane Company Ltd.
<i>Kitu Kidogo</i>	Small payments made to access or expedite services; a bribe
KSB	Kenyan Sugar Board
Ksh	Kenyan Shilling
MHRW	Msambweni Human Rights Watch
MP	Member of Parliament
MUHURI	Muslims for Human Rights
<i>Mzee</i>	Elder; used to express respect and status
Outgrower	A contracted farmer whose crops are sold and processed by a company
PC	Provincial Commissioner
SDF	Sugar Development Fund
<i>Shamba</i>	pl. <i>mashamba</i> ; farm
TCD	Tonnes of Cane per Day
USD	United States Dollar

Abstract

This paper presents a report of the findings from a four-week study on the varying perspectives towards Kwale International Sugar Co. Ltd. which have brought about problems concerning land, development, and politics. It discusses findings from literary sources and field work, including correspondence, interviews, forums, and focus group discussions with government representatives, company managers, and community members. It highlights where recorded information is inconsistent, making it difficult for the people and company to coexist. Additionally, it describes how the community's grievances developed and critiques the various actors and actions that are responsible. Lastly, it provides recommendations to a way forward towards cooperation and development.

Introduction

At the Berlin Conference in 1885, European powers divided the African continent amongst themselves, focusing on the enormous profit potential of the continent's land and natural resources. During this conference, Kenya became a part of the British Colonial Empire, on which the sun never set. The colonial era in Kenya inspired land issues and conflict between the colonial administration and the native people. As colonial settlers obtained large tracts of Kenya's most agriculturally productive land, Kenyan natives became increasingly less self-sufficient in food production. The land grabbed by the settlers was known as the "White Highlands," where cash crops grew on an industrial scale previously unknown to Kenya. While Kenyan agricultural products began entering global trade networks, colonial policies prevented Kenyan natives from accessing profitable agricultural markets (Jama).

Today, after nearly 50 years of independence, these issues are still politically explosive as African elites and corporate investors replace bygone colonial administrators. Kenyan natives continue to lack access to profitable markets while leaders work alongside investors for personal gains that do nothing to benefit the people on-the-ground. Some sub-sectors of the larger Kenyan agricultural sector have crucial political significance and large potential for profit, making them strategic yet contentious industries. Kenya's sugar sub-sector is one example of such industry, with a past of injustices persisting into a future of conflict (Jama).

Background

The history of Kenya's sugar sub-sector dates back to the colonial era. During the first years of Britain's colonial rule in Kenya, the colonial administration brought laborers from India to build a railway from Mombasa to Uganda. Once completing the railway, many of these

laborers remained in Kenya, establishing businesses and eventually entering Kenya's commercial agriculture industry. In 1922, the Hindocha family opened the first commercial sugar factory in Kenya, the Miwani Sugar Mills, in Kisumu. Just five years later, Associated Sugar Company Ltd. established Kenya's second sugar factory in Ramisi. The Madhvani Group International of India privately owned and managed the Ramisi sugar factory while local Indians owned the large-scale farms, which exclusively supplied the factory with sugar cane until the 1960s when new policies¹ made it possible for the company to process sugar cane from small-scale, native farmers through a practice termed "outgrowing" (Wanyande).

Soon after Kenya's independence, the post-colonial government began to push towards creating a self-sufficient sugar producing country as a part of the nationwide agricultural revolution. In 1966, the Government of Kenya opened its first sugar producing factory, the Muhoroni Sugar Factory, followed by Chemelil Sugar factory (1968), Mumias (1973), Nzola (1978) and SONY (1979) (Odek, Kegode, and Ochola, 10). While boosting the economy through rural development and by providing both direct and indirect employment, the expansion of the sugar sub-sector in Kenya also served the Government by lowering production costs, making Kenya's sugar sub-sector globally competitive. By opening five government owned sugar factories, the Government hoped to produce enough sugar to supply the domestic demand and export to the world market. This initiative convinced the public that the Government was

¹ One of these policies is the Swynnerton Plan of 1954, creating, for the first time, an individual land tenure system. Prior to the Swynnerton Plan, land was communally owned, preventing the native people from cultivating crops for profit. The other policy that affected development of the sugar sub-sector was the Sessional Paper No. 10 of 1965, which made it possible for foreign investments to enter the domestic economy. With foreign investments and management in the sugar sub-sector, foreign actors began to gain an upper hand on the native people of Kenya (Wanyande).

working towards a prosperous and self-sufficient Kenya, promised by Nationalists during the struggle for independence (Wanyande).

Although Kenya's sugar sub-sector grew through post-colonial governmental expansion, the industry faced a crisis towards the end of the 20th century. Causes of this crisis include mismanagement of factories, rising debt, outdated production technologies, poor cane quality, and instability of global prices, to name a few (Odek, Kegode, and Ochola). The result was an overall decline in sugar production, eluding the national interest of becoming a self-sufficient sugar producer. Kenya's sugar production fell from its highest estimate at 446,000 tonnes in 1989 to 330,000 tonnes in 1994, failing to meet the domestic demand, which rose from 328,000 tonnes in 1982 to 560,000 tonnes in 1995 and causing the Government of Kenya to look for new ways to boost its sugar sub-sector (Wanyande 131).

As a result of the sugar sub-sector crisis, factories that had been established since independence faced great challenges while the two privately owned sugar factories from the colonial era, the Miwani Sugar Mills and the Ramisi sugar factory, collapsed. Specifically, in the case of the Ramisi sugar factory, the private owners and managers, the Madhvani Group International of India, abandoned the factory in 1988 to relocate to Uganda (*Kwale-Group*). Along with a lease of 45,000 acres of land in Kwale County, the Madhvani Group left behind a Ksh66 million loan from the Bank of India (Chebosi). When the owners of Ramisi sugar factory defaulted on repayment, the bank acquired the lease as collateral on the loan that had appreciated to Ksh0.8 billion (Ruga). In the meantime, local people scrapped down the Ramisi sugar factory and resettled on the land of their ancestors, planting farms and building houses (Ruga).

Eighteen years later, in 2006, the Government of Kenya, seeing an opportunity to save the sugar sub-sector, identified and approved new investors, interested in reviving the Ramisi

sugar factory. The Government paid off the debt incurred by the Madhvani Group, acquiring the land and re-leasing 15,000 acres of the original 45,000 to Kwale International Sugar Company Limited, better known as KISCOL (*“President Kibaki opens Mombasa show, announces the revival of Ramisi sugar factory”*). After acquiring the lease, KISCOL completed the necessary financial and licensing procedures and planted the first generation of sugar cane in 2009. Meanwhile, the Government has been responsible for clearing the land by resettling the people who moved there when the Ramisi sugar factory collapsed (Chebosi).

Resettlement is the biggest obstacle to KISCOL’s progress. The company has depended on the Government to fulfill its duties to resettle and compensate the communities on the leased land, and, while the Government claims to have procedurally done so, many communities still occupy the land. Thus, KISCOL and the community constantly clash as both parties contend for their rights to the same land (Chebosi).

Currently, three community leaders, Suleman Bakari Shauri, Mwinyihamisi Chembea, and Said Omari Mwitw, are waiting to be tried in court on the 7th of December. They were arrested as arson suspects for the fires which occurred on Sunday, November 13th, 2011 (Otieno). Police arrested the elder Suleman Bakari Shauri at his home in Msambweni on the morning of Monday, November 14th and took him to Diani Police Station for interrogations. Later that day, when Mwinyihamisi Chembea and Said Omari Mwitw visited *Mzee*² at the Diani Police Station, the two were arrested as accomplice suspects. During the subsequent week, the three suspects were seen in Kwale court, and bail was set at Ksh2 million per suspect. Bail was paid to the county on bond, and the three were released on the provision that they would not hold any discussions or meetings with the community (Chimweri).

² Kiswahili for “elder,” used to express respect and status

Altogether, 13 acres of KISCOL sugar cane had been destroyed by fire. Eight of these acres are located in Gonjora, with destruction and loss costing Ksh8.6 million. The other five acres are located in Nyumba Sita, with crop loss costing Ksh3.6 million and an addition Ksh1 million cost for the destruction of irrigations pipes (Chimweri). Once sugar cane burns, it becomes worthless, making fire the single worst enemy of sugar cane (Patrick).

Setting

This study concerns the people and land in Msambweni District located in Kwale County, Coast Province, Kenya. A majority of the population in Msambweni District is Muslim and belongs to the Mijikenda Digo tribe. Archeological evidence of the Mijikenda places them along Kenya's southern coast since the 9th century (Tinga)³. There are 90,995 people living within Msambweni Division's 3,235 square kilometers, creating a population density of 170 that is expected to increase to 191 by 2012 (*"Msambweni District Development Plan 2008-2012"*).

A variety of factors have led to a poverty rate of 61% in Msambweni District, compared to Kenya's national poverty statistic of 45.9%, recorded in 2005 (*"Kenya Data"*). This discrepancy can be attributed to the district's poor infrastructure such as roads, electricity, telecommunication, and water. The only tar-matted road in the district is the A-14, going from Mombasa to the Tanzanian border. While electricity is common along the A-14, access to power becomes increasingly limited in further villages. The district has had low agricultural production due to floods, drought, wildlife conflict, and land tenure problems. As a consequence of the district's undeveloped infrastructure and failing economy, there are low levels of education, poor health services, and common food insecurity (*"Msambweni District Development Plan 2008-2012"*). .

Despite the district's agricultural struggles, listed above, farming continues to make up two-thirds of Msambweni's economy, producing food crops such as maize, rice, cassava, cowpeas, sweet potatoes, coconuts, citrus, and cashew nuts. Thus Msambweni's agricultural

³ European explorer, Thomas Spear, reports that the Mijikenda began migrating to coastal Kenya in the 16th century. Thus, the actual date of the Mijikenda migration to coastal Kenya is debated between historians and archaeologists; however it is important to note that their settlements in coastal Kenya are central to their tribal and ancestral identity (Tinga).

industry accounts for 80.6% of household incomes and employs 114,915 people. Unfortunately, only 70% of the district's farmers hold title deeds to their farm land causing economic insecurity. Land issues are a problem for the district in general ("*Msambweni District Development Plan 2008-2012*"). Unrecognized cultural beliefs about land acquisition, absentee land owners, and a lack of civic education concerning land rights contribute to a common lack of title deeds along with the entirety of Kenya's coast. In the Coast Province, only 29% of the population has title deeds and 11% has letters of allotment⁴. This leaves 60% of the population being landless squatters⁵ often on the only land that they have ever known (Nyanje).

⁴ A document that allows the holder to apply for a title deed. The holder must apply for the title deed and the request must be processed by the Ministry of Lands within 90 days. If the 90 day period expires before a title deed is issued, the letter of allotment becomes null (Jaramba, 21 Nov. 2011).

⁵ The people who have settled on land that is owned by another individual or institution through the possession of a title deed ("*Sessional Paper No. 3 of 2009 on National Land Policy*")

Methodology

The methodology for this research includes both archival review and field work. Beginning with an archival review, information about historical events and past reports established the background information for this paper. In conducting field work, a snowball sampling technique was utilized, starting with interviews of CSO representatives and continuing from there to interview community members, government representatives, and company managers. Altogether, a series of eight community member interviews were conducted along with one focus group discussion with five community leaders and one forum in which about 40 community members were present. Two government representatives, one active and one retired, were interviewed. And two company interviews, one formal and one informal, were conducted while touring the company's plantation and office premises. These interviews contributed to developing the varying perspectives of the involved actors.

All interviews focused on similar questions. These questions pertained to the following topics: how KISCOL came to Msambweni, who benefits from KISCOL, how KISCOL and the Government communicate with the community, how the community was resettled, and how the current conflict came about. While these topics were approached through different methods⁶ in each interview, they provided this paper with the essential information from which recommendations were made and conclusions drawn.

⁶ For example, when interviewing the former Msambweni MP, Abdallah Ngozi, questions were framed around development, refraining from referencing KISCOL until Mr. Ngozi brought up the company himself. This was done in order to prevent the assumption of the interviewee's biases and encourage the interviewee to share his personal view of KISCOL.

Discussion

The Perspectives

The land battle that resulted from the revival of the sugar factory in Msambweni involves two key actors, the KISCOL and the local community, both of which believe they have legitimate rights to the contested land. The battle also includes the Government in the form of agencies and individuals whom are involved with the sugar sub-sector, land management, and development projects. Lastly, it involves Civil Service Organizations (CSOs) due to their support of the local community. Each of these actors has a different perspective, causing each to form inconsistent opinions regarding KISCOL's activities in Msambweni. The following sections depict each actor's perspective. Where discrepancies exist in this paper between each section, discrepancies exist in reality between each of the actors.

The Company

KISCOL was established in 2006 after investors from Nairobi were identified to revive the sugar factory in Ramisi. Later joined by others from Mauritius and Japan, these investors came with the plan to produce 3,000 tonnes of cane per day (TCD), 18 megawatts of power, and 30,000 liters of ethanol per day before the end of 2012. In order to achieve these high expectations, the investors brought in experts in agriculture, irrigation, and sugar cultivation from around the world to operate and establish KISCOL in Msambweni. These experts are responsible for creating a domestically and globally competitive sugar cane company by lowering the cost of production and increasing efficiency (Chebosi).

KISCOL's Advantage:

While the majority of Kenya's sugar companies are located in Western Kenya, sugar cultivation experts found KISCOL's coastal location to be an advantage for production yields. For example, the low altitude of the coast causes sugar cane to mature in just 1 year, which is half of the time it takes in Western Kenyan plantations. Additionally, improvements in sugar yields through select sugar cane varieties allows KISCOL to produce 120 tonnes of sugar per hector of sugar cane, whereas western plantations produce just 60 tonnes per hector. Thus, just one hector of sugar cane at KISCOL is projected to produce four to five times as much sugar as plantations in Western Kenya (Chebosi).

Improvements in agricultural technologies ensure this competitive advantage. For one, KISCOL plantations feature sub-surface drip irrigation systems, the first of its kind in Kenya. With sub-surface drip irrigation, KISCOL efficiently utilize the water that it accesses from local Karamoja dam, boreholes, and the soon-to-be-completed company-made dam, saving 60% more water than traditional above-ground irrigation systems. Furthermore, with large investments in factory and plantation machinery, KISCOL will be in the position to supply the domestic demand for sugar and, additionally, export sugar and sugar byproducts to increase company revenue (Chebosi).

Currently, KISCOL is in the multiplying phase. Having started with ten hectors from 100 tonnes of sugar cane seedling from Western Kenya and expanding first to 100 hectors then to 1,000 hectors, the plantation will soon reach its full capacity. At the same time, the company is coming close to completing its onsite dam and finalizing government approval for drilling the remaining 26 of the 37 proposed boreholes. Thus, KISCOL is on schedule to begin constructing

its three-in-one sugar, power, and ethanol factory at the start of 2012 and begin crushing sugar cane by the year's end (Chebosi).

The Lease Contract:

When the leasing documents handed over 15,000 acres of Ramisi sugar factory's 45,000 acres to the company, the Government of Kenya and KISCOL entered into a binding contract. On one side, the lease requires that KISCOL create employment opportunities and decrease the domestic sugar shortfall⁷. Additionally, the Government is to receive shares of company stock even though KISCOL is a privately owned company. To uphold its side of the binding contract, the Government is responsible for making political and physical space for KISCOL to conduct business easily and profitably (Chebosi).

Keeping its side of the contract, KISCOL already provides 650 jobs (*Kwale-Group*). This number will increase when the factory opens, creating in all 1,500 agricultural jobs and 1,000 jobs at the factory. KISCOL's hiring strategy for its direct employees emphasizes that locals be considered first with a focus on gender equality due to the view that Msambweni's Muslim traditions withhold women from the right to be "seen or heard" (Chebosi). In addition to these direct job opportunities, there are already over 200 indirect and temporary jobs, due to contracted services regarding projects in transportation and construction. As more capital enters the system, the local economy also has the potential to grow and benefit from KISCOL's activities, opening opportunities to start businesses, shops, and restaurants (Chebosi).

Lastly, local farmers have the opportunity to register with KISCOL as outgrowers, growing sugar cane on their own privately owned land and selling the cane to the company to be

⁷ Currently, Kenya has a domestic demand of 750,000 tonnes of sugar per year while domestic production is only 500,000 tonnes of sugar per year. Thus, Kenya has become dependent upon sugar imports to satisfy a sugar shortfall of 250,000 tonnes (Chebosi).

crushed and processed. For legal and logistical reasons, farmers must hold a title deed to their *mashamba*⁸ and live within a 40 kilometers radius of the KISCOL factory in order to qualify for outgrowing. At the start of production, KISCOL expects to have around 2,000 acres of outgrower sugar cane with aims of increasing outgrower capacity until outgrowers are contributing 50% of cane. As an outgrower, a farmer is provided with all of the seed, machinery, and fertilizers to begin growing cane. Once the first harvest is brought and sold to the company, the farmer begins to pay back the loans incurred from start-up services. Currently, around 700 outgrowers have already applied; however, they will not be accepted until their properties are assessed and additional expenses, such as the number of trees that must be uprooted, are taken into consideration (Chebosi).

Beyond employment, KISCOL has a Corporate Social Responsibility, CSR, to contribute to the development of the community in which it operates. To fulfill this responsibility, KISCOL plans to contribute to development projects, such as the building of local schools, health facilities, road networks, and rural electrification. KISCOL has already built football playing fields at Msambweni Medical Training Center and plans to build more, aiming to someday establish a company football club. Such efforts will improve the social status of KISCOL while creating a sense of community ownership of the company (Chebosi).

Although KISCOL has plans of developing the infrastructure and boosting the local economy, the company continues to clash with the local community. These clashes result from the Government failing to uphold its side of the leasing contract. The Government was given the duty of resettling the people who occupied the leased land; however, five years later, the process of resettlement has not been completed. Additionally, the Government illegally double leased

⁸ Kiswahili for “farms”

2,300 acres to both KISCOL and Tiomin Ltd.⁹ (“Sugar And Mining Firms in Row Over Land”).

Thus, the biggest obstacle that KISCOL faces in remaining on schedule for production is accessing the land that the Government leased.

The Fire:

During a personal tour of the KISCOL plantation, KISCOL Agricultural Manager, Mr. Patrick Chebosi, pointed out the eight acres in Gonjora that had been burnt down during the previous week. Mr. Chebosi claimed that the fire was caused by an “accident;” however, after returning to the KISCOL offices in Ramisi, a company manager, named Patrick, commented further on the burnt cane. Patrick referred to the fire as a social problem resulting from “local people with match boxes.”

The Community

The community affected by the revival of the sugar cane factory is located within the Msambweni Division of Kwale County’s Msambweni District. Since KISCOL’s arrival in Msambweni, this community has joined the category of landless squatters that makes up 60% of the Coast Province (Nyanje). Altogether, there are 17 villages¹⁰ that have been designated for relocation (Jaramba, “*Activity: Visit to Kwale International Sugar Company (KISCOL) Ramisi-Msambweni District*”). Although all 17 villages have ancestral ties to the land that go back to the pre-colonial era, only some have occupied the land uninterruptedly throughout the colonial

⁹ Tiomin Ltd. was a titanium mining company located in Kwale that has since been bought by new owners, BASE Titanium Ltd.

¹⁰ Nyumba Sita, Vidziyani, Gonjora, Vumbu, Fingirika, Dzibwage, Vingujini, Sawa Sawa, Marigiza, Chibiga, Mabatani, Faamuni, Chimgede, Milalani, Bomani, Kingwede and Vidungeni (Jaramba, “*Activity: Visit to Kwale International Sugar Company (KISCOL) Ramisi-Msambweni District*”).

and post-colonial periods as their land was leased to but unused by the Ramisi sugar factory. Thus, these villages have developed the perception of land ownership due to their continual occupation of their ancestral land. Now that KISCOL has mapped out a different plantation plan than the one that was implemented by Ramisi sugar factory, these villages have, for the first time, been told that their land belongs to someone else and that they must leave (Ruga). The other villages were reestablished after the collapse of the Ramisi sugar factor, believing that the company would not be coming back. As the Ramisi sugar factory land lease grew closer to its expiration in 2013, these villages began to believe that the land would soon be returned to them, planting long-term crops such as mango and coconut trees and constructing permanent homesteads (Chimweri).

Eviction:

As the Government prepared to make the land available for KISCOL's use, numerous cases surfaced where General Service Units (GSUs)¹¹ and KISCOL employees used coercion and violence to force people from their homes and farms without prior notice or warning. Security personnel, police, and provincial administration are commonly associated with the intimidation, harassment, and assault of the local community (Barroh).

Creating over 800 landless, possession-less, and grieving people, the raid of Nyumba Sita village has been an especially salient event for the affected communities ("800 Left Homeless As Firm Destroys Houses"). In 2008, GSU and KISCOL employees came to the village at 4:00 a.m., setting houses on fire, beating the community members with guns, and taking their household belongings and livestock. The community members claim that they were uninformed of the eviction and were taken by surprise by the force used (Msambweni Community

¹¹ Armed Kenyan paramilitary officers (Barroh)

Representatives). Thus, the eviction of local communities has been criticized as un-procedural and, furthermore, illegal (Barroh).

Local farmers also grieve the manner in which KISCOL tractors took down their *mashamba*, uprooting trees, such as mango, coconut, and cashew, without any compensation for their value (Jaramba, “Activity: Visit to Kwale International Sugar Company (KISCOL) Ramisi-Msambweni District”). Without a *shamba* to raise crops for consumption and profit, many of these farmers have been unable to support their families. In Bodo village, many farmers who were evicted in 2007 were unwarned and uncompensated when these tractors came to their *mashamba*. Some of these farmers had homes near their *mashamba* but outside of the KISCOL lease. Thus, they have continued living in their homes but no longer have any land to cultivate and supply their need for food and money. Of the eight Bodo farmers interviewed, only one had found employment with KISCOL while one other had opened a small local restaurant. All interviewees claimed to be making less money than they did as farmers, citing consequential challenges of supporting their families’ food, education, and health expenses.

Grievances:

These contentious issues have caused the local community to view KISCOL as a deliverer of poverty and an obstacle to development. The community feels that its land rights were violated when the Government released the land of their ancestors, without compensating or even considering the people living and relying on the land.

Additionally, the community is rejecting KISCOL employment as it will not provide them a means to the lifestyle that was taken from them. This was especially a worry for one female KISCOL employee living in Bodo Village. The salary of Ksh170 per twelve hour work day was not enough to support her and her six children, let alone cover the costs of the medical

expenses from a road accident, where her and 77 other KISCOL workers were injured while in a company lorry on the way to work (KISCOL Employee from Bodo Village, 16 Nov. 2011).

Although the company has since recovered its image by contacting the injured employees and offering compensations for medical expenses, there remains an overall community consensus that KISCOL employment is undesirable, exposing employees to long hours of hard labor for meager pay (KISCOL Employee from Bodo Village, 22 Nov. 2011). When a kilogram of sugar costs between Ksh200 and Ksh240¹² at the local market, a salary of Ksh170 per day offers evicted farmers no hope for overcoming the financial and social burdens they face. As the local community sees it, the only way for them to benefit from company employment is through an outgrowing and factory processing partnership. However, this situation grows increasingly ideal and elusive, as many farmers in Msambweni have no land title to a *shamba* on which they may grow sugar cane as outgrowers (Chimweri).

There is also a growing sentiment amongst community members that government agencies and individuals have been more supportive towards the company than the local people. This sentiment was reinforced when community leaders went to court, attempting to hold the state accountable for recognizing the community's rights by issuing a court order, stopping all KISCOL activities. Even after issuing the court order, the order's provisions have not stopped the Government from clearing the land and the company from planting its crops (Chimweri).

In a focus group discussion, three community leaders shared their views concerning the politics behind this battle against KISCOL. For one, the Government failed to uphold procedure by not informing, compensating or resettling the local community when the land was re-leased to KISCOL. Instead, the community was "chased like dogs" from their ancestral land, often

¹² Personal Observation

resettling themselves amongst neighboring villages (Chimweri). Amongst some community members, it is believed that their land that was forcefully taken was never leased to KISCOL. These communities think their land was cleared in order to be acquired by local politicians who have only personal gain in mind (Chimweri).

The landlessness in Msambweni is often been referenced as the result of politics. The Msambweni MP during KISCOL's planning phase, Abdallah Ngozi, encouraged KISCOL to establish its plantation completely within the Msambweni Division of Msambweni District. This left the other divisions, including the division where Mr. Ngozi comes from, Lunga-Lunga, untouched by KISCOL. The result was a lack of available land in Msambweni Division, causing the community to have to relocate to further divisions in order to find land to become farmers or outgrowers. Thus, the community believes that its grievances come from schemes in which local politicians and individuals within the government have found ways to profit from their misfortune (Chimweri).

Even though the company came to Msambweni to use the land for sugar revenue and the people for cheap labor, the community feels that the Government is responsible for their grievances, failing to fulfill its duty of upholding the rights and protecting the interests of its people. In a forum, hosted by Msambweni Human Rights Watch (MHRW), MHRW Chairman, Mahmoud Barroh, asked the audience of around 40 community representatives whether KISCOL "manufactures sugar or poverty?" (Msambweni Community Representatives). The overwhelming response was that KISCOL has brought poverty to the local community. There was unanimous sentiment amongst the community representatives that they had been marginalized by both KISCOL and the Government of Kenya. Thus, with central government

and local government representatives failing to stand up for the community's grievances, the community feels as though its rights have been violated in a losing battle.

The Fire:

During an interview with the Chairman of Kwale Human Rights Network (KHRN), Mahmoud Barroh, on November 14th, Mr. Barroh explained that *Mzee* Suleman Bakari Shauri had just been arrested that morning as an arson suspect for the KISCOL fires the previous day. *Mzee* was an outspoken community leader and, thus, targeted by the Government and company due to his respected position. Most community members refrained from visiting *Mzee* while he was held in Diani Police Station in fear that they too would be suspected for arson, and, as expected, when community leaders, Mwnyihamisi Chembea and Said Omari Mwituu, went to visit *Mzee* later that evening, they too were arrested (Chimweri).

When bail was set at Ksh2 million per person, the suspects and their legal representatives grew certain that they were framed for the arson. Not only was the bail extremely high, but it also included an unjust provision that prohibited the suspects from holding discussions or meetings with other community members. The three suspects believed that the Provincial Commission (PC) and Administration were strategically prosecuting them as a way to divert the community's battle against KISCOL's acquisition of their villages. If the three are found guilty in the court trial that will begin next month, the community will have to focus on paying for the damages caused by the fire instead of resisting KISCOL. This will divert the community's battle against KISCOL, giving the company the time it needs to begin production on schedule (Chimweri).

When considering the details of the fire and their arrests, it becomes obvious to the arrested suspects that political leaders were involved. For one, there was an inconsistency in

arson prosecution. On the day following the KISCOL fire, local community members attempted to prosecute the KISCOL employees who evicted people by setting a local village on fire on Monday, November 14th. However, when the case was reported, no regards were paid to the villagers' allegations. Instead, villagers were told that they were the ones who burnt down their own homes. Furthermore, the arrested community members found it peculiar that the fire brigades responded so quickly to the sugar cane fires in Gonjora and Nyumba Sita but failed to respond to the village fire. These questionable instances place the community in a compromised position in which it must defend itself against politically engineered allegations rather than fighting for the rights it has been denied (Chimweri).

The Government

The political and strategic role of sugar, as a commodity, is commonly overshadowed, but in countries, like Kenya, where sugar production fails to meet domestic demand, sugar has become deeply politicized. Since Kenya's independence in 1963, the Government has been at the forefront of developing the nation's sugar sub-sector. Not only does the Government aim to become a self-sufficient sugar producing nation but, also, the Government of Kenya desires to become a sugar exporter. Yet, with costs of production higher than regional producers¹³, Kenya's sugar sub-sector has not been able to stand up to world market prices¹⁴ and compete with cheap sugar imports. These problems contributed to the sugar sub-sector crisis of the 1990s. Thus, for over a decade, politicians have been leading a movement towards the revival of

¹³ In 2003, the total cost of producing one ton of sugar in Kenya was \$600USD, while countries such as Swaziland and Sudan were producing sugar for \$265.5USD and \$230USD, respectively (Odek, Kegode, and Ochola 39).

¹⁴ Kenya's domestic market price for ton of sugar was \$600USD in 2003, while the world market price was \$125USD (Odek, Kegode, and Ochola, 40).

Kenya's sugar sub-sector, hoping to improve Kenya's strategic position within the world market (Odek, Kegode, and Ochola).

Policies and Actions:

When the sugar sub-sector went into a crisis, the Government of Kenya established the Sugar Development Fund (SDF) to provide loans to sugar factories, using the revenues to rehabilitate and expand the sugar sub-sector. However, the SDF failed to outline a thorough process of recovering these loans and their interest, making the fund ultimately unsustainable. Later, the Sugar Act of 2001 established the Kenya Sugar Board (KSB) as a regulatory body of the sugar sub-sector (Odek, Kegode, and Ochola). The KSB was tasked with coordinating the various actors within the sub-sector and facilitating access to Government provided benefits and resources. Additionally, the KSB is responsible for creating a globally competitive sugar sub-sector in Kenya, controlling sugar imports and exports, and ensuring that the sugar sub-sector contributes to Kenya's overall socio-economic development (*Kenya Sugar Board*). Since the establishment of the KSB, the SDF has been increased from Ksh200 million in 2002 to Ksh3.1 billion in 2007 in hopes of further enhancing development of the sugar sub-sector ("Construction of Sh10bn Sugar Factory Starts"). Throughout its efforts, the KSB has yet to decrease the domestic sugar shortfall and overcome international competition.

As these government policies and agencies failed to improve Kenya's sugar sub-sector, Msambweni Member of Parliament, MP Abdallah Ngozi, began searching for a way to bring sugar production back to Msambweni. During an interview conducted at Mr. Ngozi's year old all-inclusive motel, petroleum station, restaurant, and conference center, the former MP claimed to pioneer the revival of the Ramisi sugar factory by finding its first investors in Nairobi. Once the investors were identified, the idea was brought to the Central Government, who quickly

approved of the sugar factory with hopes of rehabilitating and expanding Kenya's sugar sub-sector.

On August 30, 2007, President Mwai Kibaki announced the revival of the Ramisi sugar factory at the 2007 Agricultural Society of Kenya's (ASK) Mombasa International Show, claiming that the factory would efficiently utilize the regions' agricultural potential (*"President Kibaki opens Mombasa show, announces the revival of Ramisi sugar factory"*). The factory would cost Ksh10 billion¹⁵ and eventually produce 250,000 metric tonnes of sugar per year and create 15,000 new jobs (*"Kibaki Sets Stage for Sugar Factory Revival"*). 15,000 of Ramisi sugar factory's 45,000 acres were leased to KISCOL to revive the old sugar cane plantation while the remaining 30,000 acres were to be used for the resettlement of squatters who had illegally moved onto the Ramisi land after the factory had collapsed (Ruga).

Resettlement:

In the government resettlement deal, land was to be given as compensation to each squatter household. First, a committee was established to identify the squatters. Initially 4,300 squatters were identified; however, this number decreased when the committee finalized this group by removing those who had pretended to be squatters on the land and those whose *mashamba* lay within the KISCOL lease while their household remained outside, on community or privately owned land. Once the final group was identified, the committee held a public meeting to announce the names of squatters who qualified for compensation. Letters of allotment were then issued for 5.5 acres of land. Three of these 5.5 acres were for the cultivation of sugar cane as outgrowers, two acres were for farmers to grow crops for sustenance and

¹⁵ Since President Kibaki first announced the revival of the sugar factory in Kwale, this figure has increased. It is now estimated that the factory will cost Ksh24bn by the time the factory is constructed and functioning at full capacity (*"Ramisi's Revival Sweetens Economy"*).

surplus, and the farmers' houses were to be built on the remaining 0.5 acre. However, because letters of allotment often required that farmers move to villages far away, many farmers decided to sell their letters to willing buyers for as low as Ksh5,000 per acre. Thus, many farmers continue to be landless squatters (Ruga).

According to one Msambweni counselor¹⁶, Mshenga Ruga, only 30% of the local community felt badly about KISCOL and the Resettlement. Most people were pleased because it meant that the local economy would grow. Additionally, due to KISCOL's CSR, the company will be contributing to the community's development. According to Mr. Ruga, it is up to the community to make request for development funds. For example, if the community feels that there is need for a new school, the community can submit a request to the KISCOL social management who will review the request. If the request is approved, company funding and support will be granted to build a new school.

Mr. Ruga added that, despite KISCOL's contributions to community development, it is ultimately up to the community to stop "expecting people to come from heaven and provide everything that they need." For instance, there are large privately owned lots of land nearby Mr. Ruga's house in Bodo village that have remained unused even though local villagers claim to have nowhere to farm. From Mr. Ruga's perspective, these villagers, living in their clustered villages adjacent to the unused land, must put aside their laziness and begin farming again.

Not only does Mr. Ruga request that the community to "stop being lazy" but, also, he denies all community accusations that local politicians have manipulated the situation for their personal gain. Mr. Ruga claims that the only reason the community believes that political

¹⁶ As a Msambweni counselor, Mr. Ruga represents 13-14 villages in the Kwale County Assembly. Mr. Ruga is currently serving his second term, having held his position for the past 10 years after previously service as County Mayor for four years.

leaders have schemed to take land is because of rumors. MPs, who served prior to Abdallah Ngozi and failed to revive the Ramisi sugar factory, are said to be the source of these rumors, propagating anti-development amongst the local community because they felt defeated.

To explain the contested land acquisition, Mr. Ruga points to problems that occurred during the leasing process. The Government and investors failed to visit Msambweni when identifying which 15,000 acres KISCOL would receive from the larger 45,000 acres that belonged to the Ramisi sugar factory. And because Ramisi sugar factory had only utilized a portion of 45,000 acres that it had been leased, the Government and investors were unaware of what settlements had never been cleared for the Ramisi sugar factory. Thus, having uninterruptedly occupied the since the pre-colonial era, these communities have a sense of community land ownership. When KISCOL employees and paramilitary forces came to evict the people living in such areas, the community felt that the land did not belong to the state and could not be leased to the sugar factory. Therefore, they believed their land was being taken for use by those with political power when, in reality, the sugar factory had a legitimate lease (Ruga).

The Fire:

After the recent fire at the KISCOL plantation, coast police boss, Aggrey Adoli, Coast Province PC, Ernest Munyi, and Criminal Investigation Department (CID) boss, Ambrose Munyasia, gathered with KISCOL's top managers. Although their comments on the issue have not been released, it became clear that politicians were keeping a close watch on the proceedings following the arrest of community leaders (Otieno). During an interview with Mr. Ngozi on November 22, the interviewee received a phone call from a source unknown to the interviewer. In this conversation, the caller informed Mr. Ngozi that bail had been paid for the three suspects, after which Mr. Ngozi inquired as to where the money came from. It is well-known that no local

villagers can afford a Ksh2 million bond per suspect. Thus, whoever had paid the bail for the three suspects was clearly someone with power and money but not in line with the political objectives (Chimweri).

The CSOs

When land issues started to inspire grievances amongst the Msambweni community, CSOs began representing the community and their grievances. At the beginning, Kwale Human Rights Network (KHRN) led this initiative. KHRN quickly found that the community was confused and unsure about the details of their situation. There were no mechanisms in place to fill the lack of civic education regarding land rights and government activities affecting the community. KHRN took on the task of creating such mechanisms to encourage community awareness and participation. Thus, the Msambweni Human Rights Watch (MHRW) was established, holding regular forums to inform community representatives who were then responsible for disseminating the information to the larger public. In addition to gaining support of the nationally operative Kenya Human Rights Commission (KHRC), CSOs from the Coast Province, including Ilishe Trust and Muslims for Human Rights (MUHURI), began providing support for the forums through KHRN (Jaramba, 11 Nov. 2011).

Civic Action:

Often, community members would openly admit to not understanding their rights. Thus, forums aimed to inform the community of their rights in a government that constantly took sides with investors. The CSOs leading the forums are responsible for training the community on what rights they have and the ways that they can be asserted. This information comes mainly from Kenya's New Constitution of 2010, emphasizing the new land policy and bill of rights.

CSOs and community members can then hold the Government of Kenya up to the provisions in the new constitution through lobbying and advocacy (Chirema).

In reference to the Msambweni community's battle against KISCOL, MHRW and KHRN have shown the community members the policies that state rights to a fair compensation. Additionally, the community has learned of its right to participation. The Government's failure to inform the community of its dealings with KISCOL violated the community's right to participation by being excluded from such decisions. Through such exclusion, it becomes easy for the individuals in government and investors to profit without community resistance (Chirema).

CSOs must also represent the community's interest by providing the legal expertise and financial support to bring the community's contentious issues to court. When the Msambweni community learned that their rights had been violated, KHRN supported the community in filing a court order to restrain company management and government representatives and to stop all KISCOL operations. With KHRN's support, the court order was reviewed and approved, but, unfortunately, the provisions of the court order were never enforced because KHRN lack power to hold the Government and company responsible for the court order's provisions (Barroh).

CSOs are also responsible for opening a space for dialog and negotiations between the involved actors. As community members continue to resist KISCOL, CSOs must attempt to refrain from taking sides as much as possible. Establishing an objective point of view as a third-party actor is crucial to hold fair and just negotiations. If MHRW and KHRN maintain an objective stance, KISCOL and government actors will be more willing to come to roundtable discussions with community representatives. Although there have not been any roundtable

discussions thus far, KHRN and MHRW continue to work towards such negotiations in hopes of creating a space for the community's sentiments to be heard (Jaramba, 21 Nov. 2011).

In an interview on November 21 with KHRN Assistant Secretary, George Jaramba, the interviewee shared how CSOs' support for the community's battle against KISCOL has changed since the company first came to Msambweni in 2007. At the beginning, CSO representatives, including Mr. Jaramba, were involved in protests against KISCOL, claiming that the community was illegally evicted and their human rights were violated. However, since meeting with KISCOL managers from the company's headquarters in Nairobi, Mr. Jaramba vowed to never participate in such protest again. In his meeting with the company, Mr. Jaramba discovered that the Government was responsible for distributing land and resettling the communities. Thus, the Government was to blame for the unprocedural and problematic manner in which the resettlement process was conducted. After this meeting, Mr. Jaramba wrote a report of his findings, concluding that KHRN and other CSOs involved in the battle against KISCOL must remain objective in order to create a space for negotiations so that all actors can come to a compromise.

The Fire:

Although CSOs like KHRN had been trying to bring about such roundtable negotiations, currently, they are focusing on supporting the three arrested community leaders with the legal expertise, defending them against the PC's and Provincial Administration's allegations. Mr. Barroh made constant visits to the Diani Police Station after *Mzee* Suleman Bakari Shauri was arrested, in efforts to ensure that *Mzee*'s human rights were being upheld (Barroh). KHRN and MHRN with additional assistance from MUHURI will be defending the three suspects in the trials that will begin on December 7th (Chimweri). Like the local community, these CSOs deny

that there is any “mystery” to the fire (Otieno). Instead, they claim that the fire was part of a strategic plan to consume the attention of CSOs who will be unable to allocate resources to both defend the suspects and enforce the court order (Chimweri).

The Problems

With such problematic discrepancies in perspective, there are many challenges that complicate the case of KISCOL in Msambweni district. These challenges deal with resettlement, employment, communication, and corruption, amongst other issues.

Resettlement

Land, as the single most crucial resource, causes many sensitive issues related to its high value, enormous potential, and necessity for livelihood. Since the colonial administration established the Land Titles Act of 1908, there has been a disregard of customary land ownership in Kenya. Powerful individuals gained control of Kenya's most productive land, creating a continuum of deprivation for indigenous people who lost their valued ancestral land. Thus, as a few individuals continued to grab large tracts of land, a majority of the Coast Province's population became landless squatters (Jama).

Since the colonial era, new policies have been put in place, claiming to reestablish the rights of the indigenous people. The National Land Policy of 2009 is one of the recent and crucial policies for Kenya's landless citizens. The right of squatters to be resettled through "appropriate mechanisms" is outlined in section 3.6.9 of this policy. In the case that a piece of land, occupied by squatters, comes under the ownership of a non-absent, private owner, the squatters are to be resettled based on internationally approved guidelines. It is the Government's role and responsibility to facilitate in the negotiations between squatters and private land owners, resettling squatters on land that is proper for human settlement.

While government agencies report that they provided the adequate provisions for resettling the community, located on the land leased to KISCOL, a large majority of the

community continues to fall into the category of landless squatters. The government reports that it has allocated each squatter household 5.5 acres of land to settle and farm for sustenance and profit; however, this process left out a variety of crucial factors. Furthermore, most farmers continue to deny that any resettlement plan was ever undertaken by the Government. The few who have mentioned the resettlement do so to discuss its problematic implementation.

The government resettlement scheme was unfit for a variety of reasons. For one, many community members lived separately from their farm lands. The household of such people lay outside of the land included in KISCOL's lease, so, when the Government identified the squatters who were to be compensated, these people did not qualify for a letter of allotment. All of the individuals interviewed in Bodo village fell into this category. Because they lived and continue to live in houses that are located beyond the boundaries of KISCOL's lease, they have been evicted from their *mashamba* without being allocated another land for their farm. Thus, these individuals were not compensated when they lost their means to an economic activity that could support them and their families.

Another problem with the government's resettlement scheme was the cost of processing a letter of allotment. Letters of allotment must be processed within 90 days in order to become a land title deed. Processing requires fees of Ksh10,500, an amount that is difficult for landless farmers to scrape together on short notice. To make matters worse, *kitu kidogo*¹⁷ is often necessary in order to have the letter of allotment processed before its expiration (Jaramba 21 Nov. 2011).

When President Kibaki announced the revival of the Ramisi sugar factory, he claimed that the Ksh10,500 processing fee would be waived for squatters given letters of allotment

¹⁷ *Kitu Kidogo* is Kiswahili for "something small;" however in everyday conversation, the phrase is used to refer to bribes.

(President Kibaki opens Mombasa show, announces the revival of Ramisi sugar factory).

Whether or not these fees were actually waived is unclear; however, the fact that farmers have cited the processing fee as an obstacle to their acquisition of title deeds shows that the Government failed to communicate the message properly to the community.

The third issue with the government resettlement scheme was the location of the land set aside for resettlement. Because the allocated land was located in distant villages, farmers and their families refused to move because it would disrupt their cultural identity and social networks. For this reason, farmers who received letters of allotment commonly sold them for low prices and chose to stay in villages, neighboring their repossessed ancestral land (Ruga).

Lastly, some of the farmers who were given letters of allotment went to visit the designated land only to find people were already living on there as squatters. This problem was caused by Government's failure to physically visit the land when deciding how each piece of land was to be used. Instead of providing the squatters with land, the Government was creating even more displacement of landless squatters (Chimweri).

Employment

The Government of Kenya and KISCOL commonly highlight the employment opportunities that have and will become available to the local community in Msambweni. The company reports that first priority is given to the local community members, especially individuals who have been personally affected by land evictions (Chebosi). Yet, for the local community, the prospect of company employment is all but lauded.

Firstly, many community members are opposed to KISCOL's operations. Thus, working for the company would morally compromise their values and disempower their fight against the

company and Government. Secondly, many of the local farmers who lost their source of income when they were evicted from their *mashamba* claim that they have not been informed of KISCOL's employment opportunities. Furthermore, other community members cite the low pay and poor labor conditions as reasons to avoid KISCOL employment, for Ksh170 does little to support their families' daily needs and, thus, is not worth working for twelve hours a day, six days a week (Chimweri).

On a related note, the opportunity to be employed by KISCOL as an outgrower remains optimal yet elusive. Even though many farmers consider becoming an outgrower as the best option in creating a coexistent relationship between the company and community, it is uncertain whether or not this option will be realized in an ideal manner. The requirements of outgrowers to show a title deed and live within a 40 kilometer radius of the factory make it difficult for the evicted farmers to qualify.

Additionally, there are logistical problems that pertain to the outgrowing business model. It is common for companies to fail to collect and transport the sugar cane to the factory on time, to make late payment to farmers who have delivered their products to the factory, and to leave outgrower crops unprocessed and unutilized due to factory back-up. Most importantly, in an outgrowing contract, the company will be in a position to take advantage of local farmers who are unable to effectively negotiate prices (Wanyande).

Communication

Kenya's National Land Policy of 2009 outlines a variety of mechanisms for guaranteeing community education and participation. In section 3.6.4, *Land Issues Peculiar to Coast Region*, the policy calls for government agencies to develop a framework for consulting and informing

indigenous land occupants before settlement schemes or land projects commence. Additionally, the policy requires that the local communities be sensitized to their land rights and educated on the responsibilities of land administration and management. In a section on vulnerable groups, the National Land Policy calls for the participation of subsistence farmers and agricultural laborers in the decisions made regarding the land and its resources. Such participation is necessary in order to lower impact and unintended consequences.

However, even with these policies in place and included in Kenya's new constitutional framework, they have yet to be fully realized. In the case of KISCOL in Msambweni, there has been a devastating lack of stakeholder participation. Community members expressed that the Government and company has failed to communicate with the public. Thus, the community is left uninformed about both their rights and the decisions that have such great impact on their lives. Without information, the community will always feel marginalized by both the company and Government, perceiving their lack of information as a lack of rights. A community that is uninformed benefits government agencies, looking to avoid community resistance. This also makes it easy for individual politicians to personally gain from decisions that affect the larger public.

Thus, CSOs take on communication and education responsibilities, informing the public of their legal rights and sharing the facts about events that affect the community. KHRN and MHRW have been leading such efforts for the Msambweni community. They have also been responsible for communicating and lobbying to Government and company actors on behalf of the community. Therefore, any chance that the community has of communication, education, participation, or negotiation relies upon the involvement of CSOs. And, with limited funding

and personnel, such a large task may not always be fully realized even through CSOs' best efforts.

Corruption

In Kenya, reports of corruption constantly occupy newspaper headlines¹⁸. Corruption can be found on every level, from the high ranking political elite to the local traffic officer. In all cases, those with political power are looking to gain something from their advantageous positions. Because of this unfortunate situation, the people of Kenya are in great need of leaders who have the public's best interest rather than personal gain in mind.

Because of Kenya's rampant corruption, the public has become rightfully skeptical of all political dealings. Even though there has been no confirmed evidence of corruption in the government dealings with KISCOL, community members commonly cite corruption as the source of many of the problems they currently face. Whether or not any corruption allegations are sound, the frequency of corruption claims demonstrates the distrust that the community has in the current government structures.

When interviewees were asked about the Government's role in their battle against KISCOL, they were quick to point to local leaders. Their reports featured village chairmen, elders, and chiefs who sided with the company for *kitu kidogo*, taking advantage of their respected positions to manipulate the public. Some community members told stories of such local leaders going through their communities, collecting everyone's identification cards and Ksh50, and claiming that the items would be used to process their land titles. The community members later found out that, by giving local leaders these items, they had actually been handing

¹⁸ Personal Observation

over their rights to their land. Additionally, the use of GSU and police forces in the eviction of the local community convinces them that these forces were bribed to inflict harm upon the local community. Stories of corruption and manipulation cause the community to feel that they have been put into a situation that is “worse than colonialism,” as the Government continues to make promises that bring only false hope (Chimweri).

Today, the community continues to view corruption as the cause of their worsening situation. The community believes that the Government is trying to manipulate their battle against KISCOL by arresting and persecuting three community leaders. The three arson suspects claim to have been framed by the Government which was attempting to put out the community opposition to KISCOL’s progress (Chimweri).

Recommendations

In order to address these contentious problems, a number of structural mechanisms must be established and enforced. Many of such mechanisms have already been outlined in both the National Land Policy of 2009 and Kenya's Constitution; however, as this case study of KISCOL demonstrates, there has not been any follow through on these policies.

Firstly, government transparency is crucial to moving forward. No improvements will be made if the public continues to lack trust in government structures and agencies. Government agencies, such as Kenya Anti-Corruption Commission (KACC), must be thoroughly reviewed to implement safeguards against corruption on every level. This initiative must be led by good leaders who will set a moral example and establish a standard of honesty and integrity.

Secondly, more support and resources must be given to the CSOs, the only actors representing local communities. Local communities lack the experience, expertise, and funds to assert their rights and effect a change. They depend on CSOs for a chance to stand up to powerful corporate and government actors. Although CSOs are effective, they are limited by donor funding and, therefore, inefficient. Through increased support of CSOs, the relationship between all actors will improve.

Finally, civic education and engagement are greatly needed. Government agencies have yet to act upon the legal requirements of community participation, referred to multiple times in recent policies. With an effective framework for committees and programs that inform the community many issues can be solved through the active exchange of information, ideas, and resolutions.

Conclusion

This comparison of perspectives depicts the current situation of KISCOL in Msambweni District. Views on resettlement, employment, communication, and corruption are inconsistent between the company, the community, the Government, and CSOs, creating contradictions that cause the problems at the source of the conflict. Without improved mechanisms that inform the public and bring all actors to roundtable discussions, there will be no cooperation between the community and KISCOL. The way to a future of coexistence requires that all actors make some sacrifices in order to balance the benefits equally and fairly. Although KISCOL's revival has had social and economic effects on the local community, it is not too late to stop this trend of destruction. Through good leadership and implementation of current policies it will be possible for the community to enjoy the benefits of KISCOL's development promises.

Limitations

Conducting research on a rural community meant living in a rural community. This brought about a lack of access to information and contacts and unfamiliarity with language and area. Because there was neither electricity nor internet access, it was difficult to obtain details about the new information that would arise in interviews. Also, it was challenging to establish new contacts when the previous ones had been exhausted.

To address problems with the unfamiliar language and setting, a research assistant from the area was necessary. Although this paper would not have been possible without a translator, there was a lot of crucial information lost in translation. Sometimes, when sitting amongst local people who were speaking in Kiswahili or Kidigo, their conversations were about KISCOL. This information could have benefitted this study, yet these conversations were not translated. Additionally, depending on a guide also meant depending on the guide to be on time and focused.

A major limitation of this paper was time. For one, this study began with a focus on another case of a multinational corporation, BASE Titanium Ltd. who is also involved in Msambweni and causing similar problems as KISCOL. The first week was spent establishing a background of BASE Titanium Ltd.'s history in Kenya. Although this topic was equally as compelling, when speaking to the people on-the-ground in Msambweni, there was an overwhelming desire amongst community members to talk about KISCOL instead. It seemed the community of Msambweni was in greater need to share their experiences with KISCOL. This proved to be a great learning experience in field research, demonstrating that it is difficult to know what to expect until getting out into field. Unfortunately, it also meant that a quarter of the

time for this research was spent on pursuing information that did not directly contribute to this final report.

Additionally, the time limitation prevented a truly comprehensive understanding of this topic. Every interviewee shared new information that could have easily been the focus of a research paper itself. For example, tribalism was commonly mentioned in interviews; however, this paper does not include any analysis or conclusions regarding tribalism in order to prevent jumping to conclusions from a shallow understanding of Kenya's tribal background. Therefore, this paper gives an overview without going deeply into analyzing any one issue in particular. There is more breath to this paper than depth, leaving great possibilities for further study.

Recommendations for Further Study

Due to the time limitations of this paper, there are many sections of this paper that could be further analyzed. One area to look into is the social and cultural impact on local communities that have been evicted from their homeland because of KISCOL's plantation. Another area that could be further expanded is the tribal aspect which affects both employment and corruption. Lastly, this study could be advanced as a case study of CSOs, analyzing the effectiveness of their current methods and providing a framework for improvements.

Because this case is an ongoing conflict, any researcher interested in the topic has the opportunity to follow future events. The trial for the three suspected arsonists will not begin until after this paper is submitted. Also, KISCOL will soon begin the construction of its three-in-one factory and plans to begin processing sugar cane by late 2012. Once KISCOL begins selling its products and making revenues, this study could be repeated to determine whether or not promises of community development are realized.

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Persons Interviewed

- Barroh, Mahmoud. Personal interview. 14 Nov. 2011. Mr. Barroh is the Chairman of Kwale Human Rights Network. This interview took place at a local restaurant in Ukunda, located across the A-14 from the Diani Police Station, during the time that Suleman Bakari Shauri was being held for interrogations.
- Bodo Villager. Personal interview. 16 Nov. 2011. This villager was an elderly male who has lived in Bodo Village for the past 25 years.
- Chebosi, Patrick. Personal interview. 23 Nov. 2011. Mr. Chebosi is the Agriculture Manager at Kwale International Sugar Co. Ltd. This interview was held at the company office in Ramisi and continued as a tour of the company's sugar cane plantation.
- Chirema, Josephat Kombo. Personal interview. 11 Nov. 2011. Mr. Chirema is a Program Officer at Ilishe Trust. This interview took place at the offices for Ilishe Trust in Mombasa, Kenya.
- Chimweri, Asha and Three Msambweni Farmers. Focus group discussion. 23 Nov. 2011. Mrs. Chimweri is the Chairwoman of Msambweni Human Rights Watch. The three farmers and location of this focus group discussion will remain unspecified for reasons pertaining to the subjects' safety and identity protection.
- Hamisi, Mwanasita. Personal interview. 16 Nov. 2011. Mrs. Hamisi is an elderly woman who has lived in Bodo Village since the 1970s. The interview took place outside of her home in Bodo.
- Hamisi, Suleman Bakari. Personal interview. 16 Nov. 2011. Mr. Hamisi is a middle-aged man, born in Bodo Village. The interview took place outside of a local shop in Bodo.
- Hasan, Mwanasha. Personal interview. 16 Nov. 2011. Mrs. Hasan is a middle-aged woman who has lived in Bodo Village for 20 years. The interview took place outside of a local restaurant in Bodo.
- Jaramba, George. Personal interview. 11 Nov. 2011. Mr. Jaramba is the Assistant Secretary for Kwale Human Rights Network. This interview took place at a local restaurant in Mombasa, Kenya.
- Jaramba, George. Personal interview. 21 Nov. 2011. Mr. Jaramba is the Assistant Secretary for Kwale Human Rights Network. This interview took place at a local restaurant in Ukunda, Kenya.
- KISCOL Employee from Bodo Village. Personal interview. 16 Nov. 2011. This woman is an employee of KISCOL who has lived in Bodo Village since birth. She has asked to be left unnamed; however, she gave her mother's name, Mwatime. The interview took place outside of a local restaurant in Bodo.
- KISCOL Employee from Bodo Village. Personal interview. 22 Nov. 2011. This woman is an employee of KISCOL who was born in Bodo Village. She has asked to be left unnamed; however, she offered her mother's name, Mwatime. The interview took place outside of a local restaurant in Bodo.
- Malumbo, Ali Mohamed. Personal interview. 16 Nov. 2011. Mr. Malumbo is a middle-aged man who has lived in Bodo Village for 20 years. The interview took place outside of his home in Bodo.
- Patrick. Personal Interview. 23 Nov. 2011. Patrick is a manager at KISCOL's offices in Ramisi. He began working with KISCOL three months prior to the interview after moving to

Kenya from Mauritius. This informal interview took place at KISCOL's offices in Ramisi.

Msambweni Community Representatives. Forum discussion. 14 Nov. 2011. This forum was held at Vingujini Primary School in Msambweni District. The forum was hosted by Kwale Human Rights Network and Msambweni Human Rights Watch. An estimated 20 male and 20 female community representatives were present.

Mwikamba, Mwambi. Personal interview. 10 Nov. 2011. Mr. Mwikamba is a Project Officer for Coast Rights Forum. This interview took place at Coast Rights Forum offices in Mombasa, Kenya.

Ng'nzi, Omari Hamisi. Personal interview. 16 Nov. 2011. Mr. Ng'nzi is an elderly man who has lived in Bodo Village for 20 years. This interview took place at Mr. Ng'nzi's house in Bodo.

Ngozi, Abdallah. Personal interview. 22 Nov. 2011. Mr. Ngozi is a former Member of Parliament for Msambweni district, serving from 2003-07. The interview took place at Mr. Ngozi's Gonja Southern Comfort Motel in Lunga-Lunga, Kenya.

Ruga, Mshenga. Personal interview. 24 Nov. 2011. Born in Bodo Village, Mr. Ruga is a current Counselor for Kwale County. This interview took place at Mr. Ruga's home in Bodo.

Salim, Mwanarusi. Personal interview. 16 Nov. 2011. Mrs. Salim is an elderly woman who has lived in Bodo Village for 40 years. This interview took place outside of her house in Bodo.

Appendices

Appendix A: Sections from the National Land Policy of 2009

Section 3.6.4 Land Issues Peculiar to Coast Region

184. The land question within the Coast region is complex due to its peculiar historical and legal origins. The processes of land adjudication and registration under the Land Titles Act (Cap 282) deprive many members of the indigenous Coastal Communities of their land. This led to the area having the largest single concentration of landless indigenous people living as squatters. It also gave rise to the problem of absentee landowners. There is also a need to regulate the rights of land owners and tenants in the context of the prevalent practice of “tenancies-at-will” and good planning practice.

185. The slow land adjudication process and delay in finalization of settlement programmes have denied the communities secure access to land.

186. The grant of freehold and leasehold tenure on beaches has hampered public access, movement along the beaches and fishing.

187. The ownership of beaches and some islands within the Indian Ocean by foreigners also poses a threat to national security.

188. Salt mining along the coast has not been rationalized with other land uses. As a result, salt harvesting companies have acquired large tracts of land suitable for agricultural production but which they have left idle. The coastal region hosts unique and strategic government institutions which include the Kenya Ports Authority (KPA), the Kenya Navy Base (KNB) and the Kenya Marine and Fisheries Research Institute (KEMFRI). Some of the land owned by these institutions has, however, been allocated to private developers without due consideration of the future development plans of the institutions.

189. Private developments along and around navigation beacons, ship leading lights and other control points have negatively affected the maintenance of these installations.

190. The KPA has in the past reclaimed land from the sea for specific public uses. However, some of the land reclaimed by KPA has been allocated to private developers without due considerations for the intended use, or security of the port facilities. Increasingly private developers have also engaged in land reclamation without authority.

191. The Tana and Sabaki rivers have their deltas in the coastal regions of Kipini and Malindi respectively. These deltas are Kenya’s key oceanic ecosystems and important wetlands housing unique varieties of mangrove trees among other life species. In spite of their ecological importance, speculative land allocation, inappropriate land uses as well as inadequate conservation measures are rampant.

192. Lamu Island is a famous World Heritage Site. Unfortunately current land use and ownership practices are undermining the sustainability of the heritage. In addition, land transactions are now taking place on the island with the result that many local inhabitants are rendered landless.

193. To address the Coastal land problems, the Government shall:

- (a) Establish suitable legal and administrative mechanisms to address historical claims arising from the application of the Land Titles Act (Cap 282) of 1908;

- (b) Take an inventory of all government land along the '10 mile coastal strip' and other parts of the province where the problem of squatters is prevalent and come up with a framework for conversion to community land for eventual adjudication and resettlement;
- (c) Provide a legal framework to protect the tenants at will;
- (d) Establish convenient public utility plots along the coastline to serve as landing sites and for public recreation, and open up all public access roads to the beach;
- (e) Regulate the construction of walls along the high water mark;
- (f) Provide a framework for beach management and the protection, conservation, and management of land that has been created through natural recession of the sea or through reclamation from the sea;
- (g) Establish a framework for consulting indigenous occupants of land before establishing settlement schemes and other land use projects;
- (h) Protect and conserve the Tana and Sabaki Delta ecosystems in collaboration with contiguous communities;
- (i) Sensitize and educate people on their land rights and land administration and management procedures;
- (j) Provide a framework for sharing benefits from land and land based resources with communities;
- (k) Initiate and support the preparation of an integrated coast resource management plan;
- (l) Regulate ownership and use of islands by foreigners taking into account public policy considerations such as national security;
- (m) Rationalize salt mining with other land uses; and
- (n) Establish mechanisms to regulate all forms of disposal of strategic public institutional land to take into account the future development plans and needs of these institutions.

3.6.5 Land Rights of Vulnerable Groups

194. Vulnerability is a manifestation of poverty and deprivation. It takes forms such as lack of adequate shelter, illiteracy, exposure to ill treatment, lack of power to influence decisions affecting one's life, and disabilities. The most vulnerable persons in Kenya include; subsistence farmers, pastoralists, hunters and gatherers, agricultural labourers, unskilled and low-skilled workers, unemployed youth, persons with disabilities, persons living with HIV and AIDS, orphans, slum and street dwellers, and the aged.

195. Poor and vulnerable people lack voice, power, and representation in society, which limits their opportunities to access, use and own land and land based resources.

196. The land rights of vulnerable individuals and groups are not adequately protected and are subject to bias and discrimination. Further, the vulnerable lack cohesive institutions to represent their interests.

197. To secure access to land and land based resources for vulnerable groups, the Government shall:

- (a) Develop mechanisms for identifying, monitoring and assessing the vulnerable groups;
- (b) Establish mechanisms for redistribution of land and resettlement;
- (c) Facilitate their participation in decision making over land and land based resources; and
- (d) Protect their land rights from unjust and illegal expropriation.

3.6.9 Informal Settlements

209. The essence of ‘informal’ or ‘spontaneous’ or ‘squatter’ settlements is the absence of security of tenure and planning. Many Kenyans live as squatters, in slums and other squalid places. Squatters and informal settlements therefore present a challenge for land planning and development.

210. Squatters are found on all categories of land.

211. To deal with the challenges presented by squatters and informal settlements, the Government shall:

- (a) Take an inventory of genuine squatters and people who live in informal settlements;
- (b) Determine whether land occupied by squatters is suitable for human settlement;
- (c) Establish appropriate mechanisms for the removal of squatters from unsuitable land and their resettlement;
- (d) Facilitate planning of land found to be suitable for human settlement;
- (e) Ensure that land subject to informal settlement is developed in an ordered and sustainable manner;
- (f) Facilitate negotiations between private owners and squatters in cases of squatter settlements found on private land;
- (g) Facilitate the regularization of existing squatter settlements found on public and community land for purposes of upgrading or development;
- (h) Establish a legal framework and procedures for transferring unutilized land and land belonging to absentee land owners to squatters and people living in informal settlements;
- (i) Develop, in consultation with affected communities, a slum upgrading and resettlement programme under specific flexible tenure systems;
- (j) Put in place measures to prevent further slum development;
- (k) Facilitate the carrying out of informal commercial activities in a planned manner;
- (l) Regulate the disposal of land allocated to squatters and informal settlers; and
- (m) Establish an appropriate legal framework for eviction based on internationally acceptable guidelines.

Appendix B: Kenya District Map

Msambweni District is located at the southeastern most point of Kenya.



"Kenya District Map." Map. *Uwezo*. WERK, 21 July 2011. Web. 30 Nov. 2011.

Appendix C: Pictures



KISCOL Employees Planting Sugar Cane Stock



Laying Sub-Surface Drip Irrigation System



Fully Matured KISCOL Sugar Cane in Gonjora



Karamoja Dam



KISCOL Sugar Cane Field in Bodo Village



Eight Acres of Burnt Sugar Cane in Gonjora



Typical Village Home in Msambweni



Mr. Ngozi's Gonja Southern Comfort Motel

ISP Review Sheet

Topic

My ISP was a case study of Kwale International Sugar Co. Ltd. It was conducted by speaking to various people who are involved with, connected to, and affected by the company's activities in Msambweni District of Kwale County.

Location of Field Study

The field work for this study was conducted in Msambweni. I stayed with a family (Mama Nenani) in Bodo Village. Ali Shariff helped me to make contact with Thabiti (South Coast SIT Coordinator- 0726 088389) who arranged the home stay.

Going to stay in the village to conduct field research was necessary for this project. It was really easy to meet with contacts so long as I was able to travel to where they were. Although I was only in Msambweni for eight days, each day was extremely busy and productive.

While in Mombasa for archival research and writing, I stayed with the same host family (Mama Tahiya) from the FSS seminar period. Not having to think about laundry or food made it easier to focus on my paper, and having a family to go home to at the end of every day was something I always looked forward to.

Nuts And Bolts

While staying in Bodo Village, I used a water filter that I had brought with me from America. Also, there were many more mosquitoes than Mombasa, but my host family provided a mosquito net. There was no electricity, making it difficult to keep up with all of my notes and contacts.

Other Noteworthy Comments

Don't expect everything to go according to plan. This paper originally focused on mining companies in Msambweni; however, I found the case of KISCOL to be more interesting once I got there. I spent a lot of time trying to figure out how I could include both mining and KISCOL until I finally realized that it was better to just pursue one in greater depth.

Also, I quickly discovered that the best way to arrange interviews was to call any possible contacts and ask them where and when they could meet with me. It was easier to call and set up interviews while I was in the village rather than trying to create a schedule of interviews before arriving in Msambweni.

Lastly, staying with a host family in both Mombasa and Msambweni helped me to realize that the ISP period is not only about research, but also about making a home here in Kenya.