RESEARCH ARTICLE

The Balance between Resource Development and Environmental Protection is "Social Contracting": The Case of LAPSSET Project in Kenya

Francis Onditi

School of International Relations and Diplomacy Riara University, Nairobi Kenya

* Corresponding Author: Francis Onditi; ebindewald@frederick.edu

Abstract:The LAPSSET project is a mega undertaking with heavy investment. Like any other public infrastructure depends entirely on fund availability and proactive involvement of respective governments, particularly Kenya, given its role as the base of the port in Manda. Unfortunately, the mind-set in the region are fixated to believe that hegemonic tendencies of Kenya will divert the initial idea of connecting Africa. Moreover, given the high costs involved compared to most country's GDP in the region, cooperation with other sub-regions beyond Eastern Africa is indispensable. This article assess the feasibility of the LAPSSET project within the regional political dynamics.

Keywords:LAPSSET; Kenya; Social contracting; Gross Domestic Product

1. Introduction

1.1 Text

In 2012 the Kenyan government charmingly launched the LAPSSET[1] project with high expectations. It was expected that the project will revitalize the economy and speed up African regional integration through communication and trade networks. The project is one of the flagship initiatives of vision 2030 that aims to cut over-dependence on Kenya's main port of Mombasa as well as open up Kenya's largely under-developed northern frontier, through creation of a second transport corridor. According to the LAPSSET Corridor Development Authority, this model of development will create regional capacities in infrastructure leading to opening up of 70% of the areas that were previously regarded remote since independence 50 years ago.

Kenyan government official sources estimate that LAPSSET project might yield growth rates of between 6% to 10% gross domestic product (GDP), thus injecting between 2% to 3% of GDP into the economy. In regard to communication, the project was envisaged to revive the old trans-African transport network connecting eastern Africa to other parts of the continent, particularly the ECOWAS sub-region hence facilitating trade. Other than increasing accessibility and connectivity across east and west Africa, the project is seen as an enablement to other major drivers of economy including green energy initiatives, private sector investment in tourism and agriculture. Moreover, livelihoods of pastoral communities through which the railway and road network is mapped would benefit from increased marked and access to public services.

The Bloomberg Business reported that the US Secretary of Transport Anthony Foxx reiterated his country's interest in investing in natural gas and oil prospects in Kenyan northern frontiers. In spite of all these opportunities anticipated, the project's burden on the Kenyan economy has started to be felt. In the recent report by the US-based Standard and Poor' Rating Services, Kenya's debt crisis is linked to the huge investment in the LAPSSET project.

doi: 10.18063/esp.v6.i1.597

Received: Nov, 2020; Accepted: Jan 3, 2021; Published online: Jan 11, 2021.

Kenya's debt is estimated at 45% of its GDP and this is projected to rise to 60% by the fiscal year through June 2017. This cash flow challenges facing the Kenyan economy are directly linked to this gigantic project. The LAPPSET project delay in implementation is likely to be compounded by the fact that China's recent economic slowdown might further slow its implementation. If this sounds pessimistic, it is at least based on a clear precedent; Kenya is key financier of LAPSSET through the China Communication Company (CCC).

2. Regional Cooperation & Social Contracting

The LAPSSET project is a complex one, with national, regional and global dimensions. Indeed, it is a project that potent bracing the forgotten Pan-Africanism movement. According to Mr. Silivester Kasuku, the LAPSSET General Director, the project has the potential to revolutionize regional economy by creating infrastructural hub and markets beyond the 'cooperating' states. However, with the border disputes between countries in the region, one wonders whether there exist any people-driven cooperation. In the region, Kenya is regarded as the most resilient economy while Ethiopia is on record as the fastest growing economy in sub-Saharan Africa (SSA). The two countries have been marked as candidates for middle income economies. On the other hand, Uganda is besieged to transition from the seemingly immortal President Yoweri Kaguta Museveni's reign. Inopportunely, the agricultural potential of South Sudan has been blighted by the protracted inter-clan conflict and power struggle.

It is a fact that the fruition of the project will open up new business and cooperation frontiers. But all is not well. For instance, as much as cooperating countries remain silent about sticky issues such as distribution of benefits and liabilities, chances that this marriage will be shaken are high. The fact that South Sudan accounts for the largest (46%) of the projected total freight transport volume, including transmission volume, all may not go well with other countries whose share is less comparatively. Kenya's share is estimated at 21% compared to Ethiopia (33%). Indeed, the Feasibility Study and Master Plan Report of 2011 presaged that political stability of the region was central to the future of LAPSSET. Other than the question of resource distribution, the general behavior of the four 'cooperating' countries on this project, particularly the fluid border issues remain central to the completion and posterity of the project.

One of the most fascinating prospects of LAPSSET is that the interconnectivity between African countries (Ethiopia, South Sudan, Rwanda, DRC and ECOWAS sub-region) might not only strengthen regional trade but also revive the Pan-African political movement through trade and ease of communication. One of the pillars of Pan-African movement is regional integration through common market, political unification and infrastructural development. As such, the LAPSSET corridor is configured to join the Great Equatorial Land Bridge: connecting Lamu to Juba (South Sudan) through Bangui (Central Africa Republic), hence linking eastern Africa sub-region to central and southern Africa sub-regions to ECOWAS through Douala, Cameroon.

From a geopolitical point of view, LAPSSET project presents unprecedented incentive for a Pan-African infrastructural development with support of multilateral partners. Ironically, it is one of the few projects in Africa where both the East and West have openly endorsed. But, the delays in project implementation have given rise to cynicism over Kenyan government intentions. The ongoing conflict in the Republic of South Sudan coupled with lack of public consultation (social contracting) in Kenya and Uganda and the emerging agitation among the Oromo communities against the authoritarian Ethiopia regime in Addis Ababa have raised public anxiety and tensions over land grabbing and the social-cultural implication of the project.

Social contract is extremely necessary in circumstances where the communities' rights are tempered with, the environment is altered and their land is either repossessed forcefully or through dubious concession. In regard to the flawed social contracting around the LAPSSET project, there remain a number of legal challenges surrounding the impact that the development of Lamu as a major port would have on the socio-cultural, economic and environmental life of for example on the UNESCO World Heritage site. A resident of Lamu County noted "We hope that the project will create more employment. The problem is that our youths don't go to school and they don't claim their rights as well. That is why they don't go to the port so seek employment"

3. The Geopolitical and Management Tensions

It is almost four years since the LAPSSET project was initiated. Today, the enthusiasm that ushered in the project has drastically dwindled. Although the Ksh. 46 billion Isiolo-Marsabit-Moyale road jointly funded by the African Development Bank, European Union and Government of Kenya is making progress, the rest of construction, particularly at the Manda Bay in Lamu slothful. Several factors are cited for this delay: insecurity in the coastal region and the fall in global oil prices. But nothing blights the initial hopes for the project than the grievances emanating from the local land owners on delayed compensation.

The railway line and road networks cut across some of the most economically neglected and conflict-prone areas; Isiolo, Turkana and Lokichogio of Kenya; Northern Uganda and Kapoeta in eastern Equatoria region of South Sudan. Coincidentally, Turkana forms the baseline of Kenyan prospected oil fields, which implies that industrial mining of oil will be facilitated as a result of railway line and road network. However, in my quick estimation the risks of conflicts from land-related disputes might overwhelm the gains from the mining prospects. Moreover, depending on how the mediation process for South Sudan continuous and the status of Sudan-South Sudan Abyei border, it is unlikely that South Sudan will sustain its oil export through Kenya. The KenyanOil and Gas team believe that the Ugandan government's estimation of first domestic oil being produced in 2017/18 is far too optimistic and expect 2019/20 at the earliest. One upside risk to this view is that recent onshore discoveries in Kenya have the potential to be brought online before Uganda's oil, which would add incentive to the realization of the section of pipeline running from Lokichar to Lamu.

Leaders of the County government of Lamu have variously made statements complaining about lack of consultation even at their level and complained that everything is domiciled by the Authority in Nairobi except for when officials fly in to inspect progress. There is no evidence that the designs and project approach in general considers existing lifestyles and cultures of the local people – yet there is considerable indications on LAPSSET contributing to GDP (national growth) through better transport and modern social infrastructure such as increased urbanization along the corridor.

It is notable that as far back as 2009, Lamu Environmental Protection and Conservation (LEPAC) already saw the proposed port as a threat and sought to mobilize a campaign (under the banner Save Lamu, a registered community-based organization (CBO) to save the Lamu Archipelago against adverse impacts of the port. Through such community forums, local communities have continued to threaten public interest litigation against the project as a result of the failure of the government to address historical land injustices prior to its implementation. In view of this, the Chair of the civil society organizations, Kenyan chapter had this to say: "Already the Lamu Port area has been in the news over numerous fraudulent land transactions in the region that are thought to be the main contributor to the perceived increased insecurity in the hitherto peaceful archipelago that is witnessing curfews and permanent presence of security forces."

The project is estimated to cost between US$22 billionand US$23 billion. At the peak of the project, between 2013 and 2018, it is expected that the Kenyan government will be spending about 6% of the country's GDP or 16% of its annual budget on the project. The project is in turn expected to contribute an additional 3% increase in Kenya's GDP by 2020. The share for roads alone stood at over 4% of GDP in 2013 compared to less than 1% in the years before the commencement of the project. For example, the government allocated to the Sector KSh 186.0 billion (US $1.86 b), equivalent to 23.0% of total expenditure in the budget for FY 2010/11 compared to Ksh 78.3 billion (US$ .783 b) allocated during the FY 2006/07. Nevertheless, to encourage governments of Kenya, Uganda, Ethiopia and South Sudan and other African states involved to consider a win-win strategy by adopting and adapting policies and strategic options that are grounded on principles of social contracting.

4. Sticky Issues in the LAPSSET Project

The relationship between African transnational projects such as the LAPSSET and the history of Kenyan development models (African democratic socialism) is inseparable. In the Kenyan Session Paper No. 10 of 1965 entitled “African Socialism and its Application to Planning in Kenya,” the then Minister for Economic Planning and Development Tom Mboya, pronounced that as a result of applying the philosophy of African democratic socialism, the economy had invigorated within a short time and that through this model of development African countries had the opportunity to reject both the Western Capitalism and Eastern Communism and chose for themselves a policy of positive non-alignment. This Pan-African model of development was viewed as the thrust for Africanization and ownership of African development space. Indeed during this period, the Kenyan primary school enrollment rose up from 891,553 in 1963, to 1,028,000 in 1965. Nonetheless, the unprecedented collapse of the East African Community (EAC) in 1977 brought to the fore salient underlying issues that needed redress before any other form of ‘marriage’ could be pursued. In my view, I do not think the factors that led to disintegration of EAC and other Pan African models of development have changed: 1) cynical relationship between the state and citizens; 2) political economy disquiet; 3) financial dependence; 4) influence of global politics; 5) protracted conflict; 6) inadequate participation by local community on issues that affect them; and 7) lack of social contracting.

First, although people can still fight in areas affected by the project, even if the LAPSSET project was not initiated, the relationship between the state and citizens has proved to be problematic. Nevertheless, it is worth noting that people benefit from living without anomalies such as socio-economic disruption and displacement. Therefore, a social contract is extremely necessary in circumstances where the communities’ rights are tempered with, the environment is altered and their source of livelihood (land) is either repossessed forcefully or through dubious concession. In regard to the flawed social contracting around the LAPSSET project, there remain a number of legal challenges surrounding the impact that the development of Lamu as a major port would have on the socio-cultural, economic and environmental life of for example on the UNESCO World Heritage site. While we expect that the plans will gain approval, legal battles across the LAPSSET transect are likely to remain a major obstacle to a timely implementation, especially when it comes to land rights and the fair allocation of compensation. The land surrounding Lamu itself, which is planned to be developed into a logistics, business and tourism hub when the port is operational, serves as an example of the potential for legal conflict, following allegations of illegal land acquisitions by some powerful politicians and government officials in the President Uhuru Kenyatta regime. Some residents of Manda did not sound hopeful that the project would eventually improve their security:

There was a time when I was away and my children told me that some government officials came looking for me. The government officials only wanted a small section of the plot since the largest section of the road would take the lower part of the road which does not affect our plot at all. It is even there that the placed the beacons. We have been asking them to tell us what size of land they want exactly so we can relocate out structures to the remaining part of the plot but this has never yielded. Security is a sensitive issue in this place and I don’t want to talk about it. The KDF and Navy are very keen on it. We hope that the project will create more employment. The problem is that our youths don’t go to school and they don’t claim their rights as well. That is why they don’t go to the port so seek employment (Interview with Johnson Leo, Land owner in Manda area, February 5, 2016).

Second, the sociological dimension of the project is likely to be problematic. For example, the Railway cuts across some of the most economically neglected and conflict-prone areas; Isiolo, Turkana and Lokichogio of Kenya; Northern Uganda and Kapoeta in eastern Equatoria region of South Sudan. Coincidentally, Turkana forms the baseline of Kenyan prospected oil fields, which implies that industrial mining of oil will be facilitated as a result of railway line and road network. However, in my quick estimation the risks of conflicts from land-related disputes might overwhelm the gains from the mining prospects. There is no doubt that up on completion of the project, the railway line and road transport will transform the surrounding communities. Conversely, in the same measure, it is not totally impossible to predict that the likelihood of proliferation of small arms and light weapons (SALW) among the warring communities will escalate intensifying inter-clan clashes.

Third, external dependency. Although the Kenyan government claims a 100% financial independence over the LAPSSET project, the signing of U.S $ 478.9 million in August 3, 2014 through the China Communication Construction Company (CCC)-Kenya deal, challenges the ingenuity of the project as being solely African conceived, designed, financed and operationalized. There has been talks on possibilities of US. companies supporting the project at different levels. Within the global arena, we all know that the supremacy tussle between the US and China is not likely to end soon. China has intensified its presence in Africa through economic and infrastructural development. According to Brooking Institutions, Chinese trade with Africa reached US $ 198.5 billion, compared to US-African trade of US $ 99.8 billion. The struggling Kenyan economy has been attributed to this mega project. For instance, since the inception of the project in 2003, the Kenyan economy has been fraught. The share for roads alone stood at over 4% of GDP in 2013 compared to less than 1% in the years before the commencement of the project. For example, the government allocated to the Sector KSh 186.0 billion (US $1.86 b), equivalent to 23.0% of total expenditure in the budget for FY 2010/11 compared to Ksh 78.3 billion (US$ .783 b) allocated during the FY 2006/07.

Fourth, the fact that the idea of LAPSSET has been conceived and influenced materially and ideologically by both US and China means that the project's future can be externally manipulated. While it is true that political leadership of Kenya, Uganda, Ethiopia and South Sudan have embraced the idea of regional integration through LAPSSET model, the fact that their exist external influence from the pace setters in the global politics, it will not last since such unity is looked at suspiciously by some constituencies in the region. Tanzania is outrageously sidelined from the project, yet its geographical proximity naturally places it as primary actor. Kenya has been mobilizing funds on the global platforms, creatively. For example, while presenting the status of the project to the UK investment conference in London 3rd December 2013, the Director General of LAPSSET, Silvester Kasuku acknowledged that since the initiation of the project the Kenyan budgetary allocation to infrastructure has been significantly increased from a mere less than 1% of GDP in the years before 2003 to over 7% of current GDP today. The Director General was categorical that:

"Sectors such as the oil refinery, airport and airport city projects will be carried out by private sector to take advantages that exist in these investments. The government will only provide facilitation to private sector investors."

The fifth reason concerns the protracted conflicts and the unpredictable peace processes. Depending on how the mediation process for South Sudan continuous and the status of Sudan-South Sudan Abyei border, it is unlikely that South Sudan will sustain its oil export through Kenya. The KenyanOil and Gas team believe that the Ugandan government's estimation of first domestic oil being produced in 2017/18 is far too optimistic and expect 2019/20 at the earliest. One upside risk to this view is that recent onshore discoveries in Kenya have the potential to be brought online before Uganda's oil, which would add incentive to the realization of the section of pipeline running from Lokichar to Lamu.

The sixth challenge is lack of adequate consultation. The Constitution of Kenya' makes public participation through a transparent process of consultation mandatory before any projects are undertaken. Leaders of the County government of Lamu have variously made statements complaining about lack of consultation even at their level and complained that everything is domiciled by the Authority in Nairobi except for when officials fly in to inspect progress. There is no evidence that the designs and project approach in general considers existing lifestyles and cultures of the local people – yet there is considerable indications on LAPSSET contributing to GDP (national growth) through better transport and modern social infrastructure such as increased urbanization along the corridor.

It is notable that as far back as 2009, Lamu Environmental Protection and Conservation (LEPAC) already saw the proposed port as a threat and sought to mobilize a campaign (under the banner Save Lamu, a registered community-based organization (CBO) tosave the Lamu Archipelago against adverse impacts of the port. Through such community forums, local communities have continued to threaten public interest litigation against the project as a result of the failure of the government to address historical land injustices prior to its implementation.In view of this, the Chair of the civil society organizations, Kenyan chapter had this to say:

Already the Lamu Port area has been in the news over numerous fraudulent land transactions in the region that are thought to be the main contributor to the perceived increased insecurity in the hitherto peaceful archipelago that is witnessing curfews and permanent presence of security forces (Interview with Mr. Masheti Masinjila, the Chair kenya CSOs, 1st February 2016).

Similarly, concern has been raised about the lack of transparency and disregard for constitutional and statutory due process that is even apparent in the increased land speculation in the regions that is pitting ethnic groups against one another as they seek to re-draw boundaries to benefit from the LAPSSET corridor map. Land companies from Nairobi and other dominant urban centers are already advertising land along the corridor raising complaints from local communities regarding how they acquired it in the first place since it has remained undemarcated and should be regarded as community land protected by respective County governments. A majority of communities within the region depend on nature based livelihoods namely, Pastoralism, fishing, mangrove and other forest resources, hunting and gathering, subsistence farming and eco-tourism which makes the cultural and ecological uniqueness important points of reference. One of the officials of Pastoralist Development Network (PDN) had this to say:

Regrettably the Kenyan government has consistently failed to factor this in on the contrary disregarding the rights of people on the LAPSSET corridor. Government documents are heavy on exploitation of newly discovered natural resources with little attention given to longer term social and environment impacts that may erode the gains in the short term." (Interview with PDN Official in Lamu, February 2016).

As it is the project may see an escalation of conflicts at different levels, disruption of time tested incomes and livelihoods and inappropriate collapse of cultures that have sustained the environment.

The seventh and final issue is the economics of the project verses sociological considerations. The project is estimated to cost between US$22 billionand US$23 billion. At the peak of the project, between 2013 and 2018, it is expected that the Kenyan government will be spending about 6% of the country's GDP or 16% of its annual budget on the project.The project is in turn expected to contribute an additional 3% increase in Kenya's GDP by 2020. These reflect largely investments in infrastructure development without properly factoring in the social and environment costs to respective communities. This implies that whatever gains to GDP made have to be weighed against losses incurred by the communities who shall bear the burden of the project in the longer term. Secondly, if the cost is to be passed on ultimately to the taxpayer as appears to be the case now through heavy borrowing in particular "offshore" without transparency in terms and conditions and accountability to tax payers in terms of value for money. Thirdly, infrastructure projects have a history of costs escalating well beyond initial estimates and it is already happening for LAPSSET- which means the estimates in gains to GDP may as well pale when the real (final) costs are factored in. If you add the social and environment costs- the project may turn out to be not only a white elephant but one that left local communities more aggrieved as a result of repressive dealings of concerned governments. Nevertheless, I would like to encourage governments of Kenya, Uganda, Ethiopia and South Sudan and other African states involved to consider a win-win strategy by adopting and adapting policies and strategic options that are grounded on principles of social contracting.

5. Adding it all up

What then, would a successful LAPSSET project look like? The success of this lunatic project is largely dependent on not only stability of South Sudan, but also the nature of relations between the 'cooperating' countries. The cooperation architecture for example, between Kenya and Ethiopia is crucial and that forging good relations with Ethiopian governmenthas been described as an indispensable oiling factor. Moreover, given the high costs involved compared to most country's GDP in the region, cooperation with other sub-regions beyond Eastern Africa is indispensable. Kenya stands a better chance of being the 'lead nation' because of its experience in the on-going Mombasa-Kisumu railway improvement projects. The new standard gauge railway (SGR) from Mombasa to Kampala with branch line to Kisumu and Nairobi to Addis Ababa can provide lessons to the rest of other 'cooperating' countries.

The former Prime Minister of the Republic of Kenya, Right Honorable Raila A. Odinga was in frontline in negotiating the project during the Coalition Government 2008-2013. The current regime led by Uhuru Kenyatta seem to have abandoned the initial participatory model that engaged the county government of Lamu. The regime has instead adopted a more state-centric approach without consulting the local or national political and other spaces. Given the political inclination of the Kenyan coastal region towards the opposition, it is unlikely that the project will sail smoothly without sabotages from leftist politicians. It is therefore, important for the LCDA to coordinate and cooperate with CSOs and related stakeholders, including environmental activists, peacebuilding groups and professional Associations in promoting meaningful participation of communities affected by the project along the road and railway transect.

A fair conclusion might be that the geopolitical consequences of LAPSSET may be wishful but not negative to the global economic and political order. Chances that what was conceived a regional project curving to be a national affair looms high, depending on whether any of the 'cooperating' countries changes their political regime. Regionally, though the current economic pursuits of corridor communities are rudimentary they remain so largely because of historical marginalization. Designed differently, LAPSSET presents an opportunity to modernize the livestock industry and link the areas to lucrative markets. Livestock products such as milk, hides, can be processed to add value and create more employment opportunities and increase income for local communities. Increased urbanization resulting from tourist hubs and ports potent expanding consumption of local products and diversification of livelihoods from traditional products. The same would apply to the envisaged growth of tourism in a manner that is ecologically friendly and socially acceptable to absorb the youth now engaged in negative cultural practices such as cattle rustling and radicalization.

References

1. Interview with Mr. Masheti Masinjila, Chair, Civil Society Organizations, Kenyan chapter, February 1, 2016
2. Interview with the Pastoralist Development Network Kenya (PDNK) Official in Mombasa, February 2, 2016
3. Interview with Senior Sub-Chief of Hindi area, Mr. Laus, February 5, 2016
4. Interview with Mr. Peter Waweru, a youth in Hindi area of Lamu, February 5, 2016
5. Interview with Mr. Robert Nganga resident of Lamu and land owner, February 5, 2016
6. Interview with Mr. Mohamed Hassan resident of Lamu and land owner, February 5, 2016
7. Interview with Mr. Johnson Leo, resident of Lamu and land owner, February 4, 2016
8. See Andrian J. Browne, "LAPSSET: The history and politics of an eastern Africa megaproject." Rift Valley Forum, Rift Valley Institute, 2015
9. See Government of Kenya, 2nd Transport and economic corridor-LAPSSET. Ministry of Transport, 8th October, 2011
10. See Government of Kenya, LAPSSET corridor new Lamu Port: Feasibility study and master plan report, May 2011
11. See Government of Kenya, LAPSSET corridor development authority; Lamu Port-South Sudan-Ethiopia transport (LAPSSET) corridor project; Building Africa's transformative and game changer infrastructure to deliver a just and prosperous Kenya. UK Investment Conference, London, 3rd December, 2013
12. See Government of Kenya, African socialism and its application to planning in Kenya: Sessional Paper No. 10 of 1965