

**TITANIUM MINING AND SOCIAL DISPLACEMENT IN RURAL KENYA:  
AN ETHNO-ECOLOGICAL STUDY OF KWALE COMMUNITY, COAST  
PROVINCE**

**A THESIS SUBMITTED IN FULFILMENT OF THE REQUIREMENTS FOR THE  
DEGREE OF**

**DOCTOR OF PHILOSOPHY**



by  
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**JANUARY 2012**

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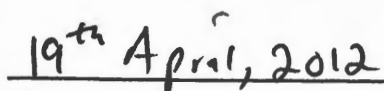
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## DECLARATION OF ORIGINALITY

I, Wilice O. Abuya, hereby declare that this thesis is my original effort and that no part of it has been submitted to any other university for any form of award. All secondary sources of information have been fully and correctly acknowledged.



  
Candidate's Signature

  
Date

## **DEDICATION**

This thesis is dedicated to my two lovely sons:



**Adrian Andrew Abuya**  
University of Fort Hare  
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**Brandon Juma Abuya**

For their perseverance, love and for believing in me, always

## ABSTRACT

The literature on community-mining enterprise conflict is currently dominated by discourses on equity, compensation, land ownership and environmental degradation. The present study examines this conflict from an ethno-ecological perspective, bringing into focus the meanings that communities attach to “nature” and cultural artefacts. The study examines how such meanings intersect with local experiences of social displacement, compensation and resource extraction, and how they mediate and catalyse the witnessed conflict. The study was conducted among the indigenes of titanium-rich Kwale, in Kenya’s Coast Province, displaced in 2007 to make way for large-scale titanium mining operations.

Using in-depth individual and key informant interview, focus group discussion, ethno-ecology, ethnography and visual sociology, and focusing on land, plants, crops, residential houses, and graves as the main representations of “nature” and cultural artefacts, the study shows that the symbolic meanings that communities attach to “nature” and cultural artefacts do play a significant role in mining conflict. The study also reveals that socially constructed meanings are lost in instances of social displacement and mining, and since “nature” and “culture” are embedded in communally constructed meanings, socio-environmental remediation practices that fail to take cognisance of them run the risk of not having the desired effect. This then negatively impacts on the relations between the mining community and the government on one hand, and between the community and the extractive company on the other hand. The study also revealed the contradictions that could arise when people who uphold or proclaim certain cultural values and attachments are faced with specific economic choices under particular circumstances.

The study has clear policy and theoretical implications. It demonstrates that government action can lead to or exacerbate vulnerability among rural communities, hence the need for appropriate mining policy frameworks that would minimise vulnerability and conflict. The study also makes a contribution to vulnerability theory, shifting the focus from the dominant natural systems view and highlighting the relevance of the constructivist strand—at least within the context of specific socio-ecological locales. It is now possible, on the basis of the findings of this study, to argue with greater confidence that vulnerability is as much an objective reality as it is constructed experience that is mediated by socially held meanings. Specific development interventions can eventuate vulnerability in local communities in so far as such interventions impinge upon ‘nature’ and specific cultural objects that communities

hold dear. However, the experience of vulnerability is dependent on what subjective meanings are attached to such assets.



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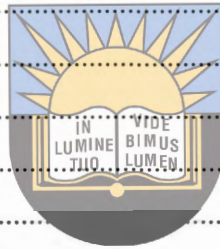
To the Almighty I say, **"YOU ARE INDEED MY GOD!"**  
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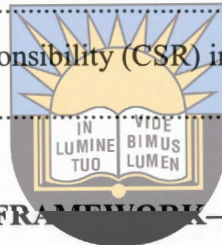
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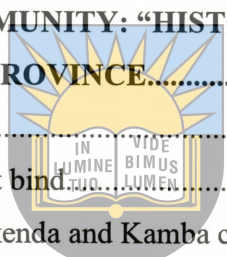
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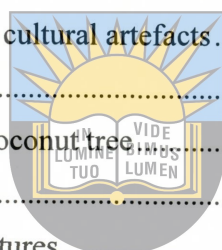
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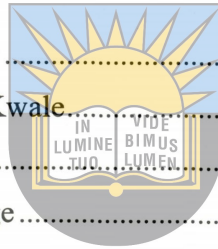
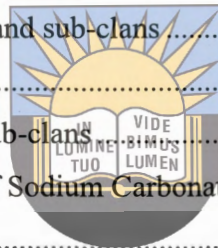


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## LIST OF ABBREVIATIONS AND ACRONYMS

ACTS	African Centre for Technology Studies
AfDB	African Development Bank
ACTS	African Centre for Technology and Science
BGL	Bogoso Gold Limited
BGS	British Geological Survey
CEC	Commission of the European Communities
CS	Compensation Surplus
CSR	Corporate Social Responsibility
DRCC	District Resettlement and Compensation Committee
EATEC	East African Tanning Extract Company
EHS	Environmental, Health and Safety
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
ELA	Exploration Lease Area
EMP	Environmental Management Plan
FGD	Focus Group Discussion
GDP	Gross Domestic Product
GoK	Government of Kenya
IFC	International Finance Corporation
IRR	Impoverishment Risks and Reconstruction
Kg	Kilo grammes
KIPRA	Kenya Institute for Public Policy Research and Analysis



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KNBS	Kenya National Bureau of Statistics
Ksh	Kenya Shillings
MIDR	Mining Induced Development Resettlement
MLA	Mining Lease Area
MNMC	MultiNational Mining Company
MoENR	Ministry of Environment and Natural Resources
Mt	Metric tonnes
MV	Marine Vessel
NEMA	National Environmental Management Authority
NGO	Non Governmental Organisation
OTML	Ok Tedi Mining Limited
PNG	Papau New Guinea
RAP	Resettlement Action Plan
RICS	Royal Institute of Chartered Surveyors
RBM	Richards Bay Minerals
SA	South Africa
SPDC	Special-Purpose Development Corporation
UK	United Kingdom
US	United States
USSR	United Socialist Soviet Republic



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## CHAPTER ONE

### OVERVIEW OF THE STUDY

#### 1.1 Introduction

A key area of concern in the sociology of mining is why, despite the important role of the mining sector in the socio-economic development of mineral rich countries, conflict tends to characterize the relationship between mining communities and mining corporations, and between such communities and the government. Examples of such conflict abound: oil conflict in Nigeria's Niger Delta (Bob, 2002; Akpan, 2007), copper mining conflict in Japan (Martinez-Alier, 2001), coal mining conflict in Colombia (Richani, 2004), oil and diamond conflict in Angola (Frynas and Wood, 2001), gold mining conflict in Solola, Guatemala (Eccarius-Kelly, 2006) and gold mining conflict in Peru (Haarstad and Floysand, 2007), among others.

Studies have shown that such conflict revolves around at least four issues, namely: a) land ownership (Akpan, 2005)—the question of who is the rightful owner of the land on which the minerals are (to be) extracted. **University of Fort Hare**  
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In other words, does the "ancestral" land belong to the community or does it belong to the state?; b) "unfair" compensational practices (Hilson, 2002a)—that is, contestations over the issue of 'fair' market value vis-a-vis lost subjective value and aspirations; c) inequitable resource distribution—in particular, feelings in mining communities about being "cheated" in the sharing of mining benefits and burdens (Frynas and Wood, 2001; Turner and Brownhill, 2004); and d) environmental degradation (Turner and Brownhill, 2004; Eccarius-Kelly, 2006; Muradian *et al.*, 2003). Communities are often exasperated by the damage inflicted on the environment by ongoing extractive processes.

The map of natural resource-related conflicts in Africa now includes Kenya. Titanium mining has led to large-scale social displacement of communities in the country's coastal region and consequently strained relations between local residents and Tiomin Resources<sup>1</sup> and between the local communities and the Kenyan government. The scale of the displacement has no parallel in the country's mining history and presents considerable risks for social cohesion in the country.

---

<sup>1</sup> Tiomin Resources was the leading titanium mining firm in the region at the time of the displacement, that is, between 2002 and 2010. It changed its name to Vaaldiam Resources in early 2010. Its operations in Kwale have since been acquired by Base Iron Ltd of Australia, who bought this concern (from Vaaldiam) as from 30<sup>th</sup> July, 2010.

This thesis goes beyond the prevailing notions of “equity”, “compensation”, and “environmental degradation” and looks at this conflict from an ethno-ecological perspective. It brings into focus the meanings that communities attach to the geobiophysical environment, how such meanings intersect with local experiences of resource extraction and social displacement, and how these catalyse the witnessed conflict. For this thesis, therefore, the central question is: How do local narratives intersect with titanium development in 21<sup>st</sup> century Kenya, and how do such narratives shape sentiments about titanium mining-induced social displacement and the broader issue of corporate/state-community relations? The study examines the displaced residents of Kenya’s Kwale District, Coast Province.

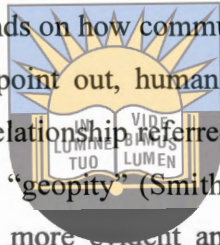
## 1.2 Statement of the problem

Ethno-ecology is the interdisciplinary study of how nature is perceived by human beings through a screen of beliefs, culture and knowledge, and how humans, through symbolic meanings and representations, use and manage local resources (Barrera-Bassols and Toledo, 2005:11). Ethno-ecology, therefore, examines the relationship and connectedness between humans and the environment (as shown in Chapters Four and Five, it is both a theory and a method). For instance, in a study carried out in Pecos Island in Brazil, it was found that residents of this island have for decades maintained strong ties with the environment and have established an “intricate web of relationships” that characterise them as a component of a complex socio-cultural and environmental system (Pedroso and Sato, 2005:124). For Pecos Islanders, therefore, human settlements are not interchangeable. In another study carried out in Uganda on customary rights to plants, Howard and Nabanoga (2007:1558) found that plant resources are more than merely material phenomena: they also bear meanings for the community. For instance, the fig tree, apart from providing material (the bark) for cloth making, is believed by the community to have supernatural powers that could help mediate between them and their ancestors, while jackfruit was referred to as *muzadde* (“like a mother”) because of its usefulness in times of food scarcity.

The power of the state to take over land for public good (often known as eminent domain) was upheld in the 2005 landmark case referred to as *Kelo v. City of New London* (USA), which affirmed eminent domain as “alienable rights to government” and as crucial in enabling governments to discharge their duties and for purposes of economic development (Lehavi and Licht, 2007:1705). The problem with eminent domain is that it often ignores meanings such as those highlighted above (Heller and Hills, 2008). The main issue in such cases is the social displacement of the resident community to make way for public

development, with little or no interest in how the exercise of this right will affect the concerned community. As documented by Syagga and Olima (1996) in their study on a Kenyan community that was displaced to make way for dam construction, a community could for example not just become exposed to economic hardships but may also suffer what may be termed socio-ecological trauma or shocks. This happens when the community becomes totally disengaged from the environment that they had become so accustomed to. Such problems are made worse, some argue, by the fact that few countries follow the guidelines set by the World Bank when implementing resettlement programmes arising from development projects (de Wet, 2002). The question however arises: would the impact of social displacement be considerably lessened if these guidelines were followed?

Many studies have shown that it all depends on how communities perceive land and “nature”. As Kinsley and Townsend (2006:527) point out, humans rely intellectually, emotionally, physically and spiritually on nature—a relationship referred to as “biophilia”, or, in the case of people’s attachment to ancestral land, “geopity” (Smith, 2002). This affinity is believed (though sometimes misleadingly) to be more evident among African communities. The reality however, is that people everywhere relate to land and nature in very special ways. For Kilson (1955:109), land:



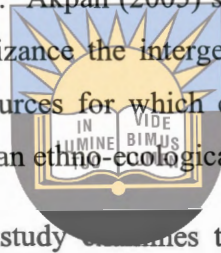
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is not only...the basic source of subsistence for most African people, but also...a basic necessary factor in [their] socio-cultural systems.

In other words, land forms the basis on which most of the other crucial social structures are built. Other researchers have also commented on this. Shipton (1994) and Donge and Pherani (1999), for instance, argue that to many African communities, land is a symbol of prestige, a means to power, a source of identity, and acts as a sanctuary that possesses restorative powers. A grave, for example, is not merely a place for remembrance, it is also a “gateway to the supernatural world”, according to De Beer (2006:24).

What this means is that the environment bears meanings that provide identity, continuity and fulfilment to individuals and groups: improper alienation from it could make inhabitants vulnerable. This then raises the following question: can people be adequately “compensated” (in all the various forms of compensation, such as cash, land-for-land, and social provisioning, among others) in the event of displacement? What framework of social relations can mitigate the impact of, say, titanium mining-induced social displacement?

The practice of land compensation can be traced back to feudal England, where the Kings embraced the practice in exchange for loyalty from their subjects (Benson, 2008). In recent times, however, the issue of land compensation, especially in Africa, has become quite contentious. Communities have been disaffected by what may be termed “unfair” compensational practices, as the dominant framework in many countries does not include lost subjective value and aspirations (Beideman, 2007:280). In the case of the community in Kwale, the empirical site of this study, cash and compensatory land (sometimes referred to as environmental compensation) were extended to the residents, yet conflict between the community and the state, and between the community and the extractive company, persists. The conflict goes to the heart of the question: can loss of land ever be justly compensated for? Hilson (2002a:68) does not think so. Akpan (2005) states that economic compensation criteria do not normally take into cognizance the intergenerational economic and cultural importance of the socio-ecological resources for which compensation is paid. To better understand the dynamics of this conflict, an ethno-ecological study becomes crucial.



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It is against this background that this study examines the ethno-ecological narratives of people in the displaced community in Kenya, with specific regard to titanium mining, social displacement, and the remedial measures introduced by the Kenyan state and the mining company to make titanium mining less disruptive. This will then provide insights into the central question for this thesis, which asks how local narratives intersect with titanium development in Kenya and how they shape sentiments about titanium mining-induced social displacement and the broader issue of corporate/state-community relations.

Studies on mineral related conflicts generally look at communities that were either not (adequately) compensated (such as the Maasai in the Magadi soda mining project in Kenya—see Hughes, 2008, for instance), or not displaced (such as those communities in the Nigeria Niger Delta oil mining conflict—see Omeje, 2004, for instance), and do not offer, in many cases, analyses of the “roots” of community-mining enterprise conflicts. In the case of Kenya, Abuodha and Hayombe (2006) focused more on the environmental risks around the titanium project, and offered little critique of the Mining Act which vests all mineral rights in the state and links land compensation to the “original” agricultural value of the land (meaning the value of the land is based on its value prior to the discovery of the minerals). While the study recommended that the valuation of assets should factor in-built structures, trees, and other viable land use systems in determining “adequate” compensation (only the compensation of land was considered in this exercise), the deeper ethnographic meanings of

these structures were not considered. Such consideration could have added further value to the compensation debate.

Another study, by Syagga and Olima (1996), acknowledged that compensation could be made more “just” if it took cognizance of local communities’ perceptions of land value. Hughes (2008) on the other hand examined the trona mining conflict between the local Maasai community and the extractive company (Magadi Soda mining company); however, Hughes only highlighted the fraudulent acquisition of land from the Maasai by the British (in the 1900s). She nonetheless noted that lack of payment of mining royalties to the community was of particular concern to the local community. However, the deeper ethnographic meaning of what land means to the Maasai community to trigger a conflict that would last an entire century was not considered. Akpan (2008, 2009) has also emphasised the need for research on the relations between communities and extractive enterprises to go beyond economic considerations and take into account the idiographic narratives in the communities in which large-scale extractive industrial activities take place. This thesis follows this lead.

According to the Kenyan Mining Act (Cap 306), all subterranean minerals belong to the government. Citizens are, therefore, only entitled to surface rights. Cap 295, Section 6 (1) (a) of the Land Acquisition Act provides, among others, for government acquisition of private land for public good (Soft Law, 2008). This was the official basis for the forceful acquisition of land in Kwale District, situated in the south-east of Kenya’s Coast Province, about 65 km south of the city of Mombasa, for titanium mining. Over 3,000 residents were consequently displaced from their ancestral land in 2007 to make way for titanium mining (Mines And Communities, 2007). Due to the fact that social displacement can have a negative impact on communities in a number of ways, such as loss of homes, loss of livelihoods, marginalization, food insecurity, poor health and illness, psychological trauma, and social and cultural risks, among others (Ahmad and Lahiri-dutt, 2006), the Kenyan government offered a compensational package to the local Kwale community as a way of mitigating the impact of the displacement.

The initial agreement consisted of a promise that upon expiry of the 21-year lease period, the land would be rehabilitated and given back, and the displaced would be resettled with their families on the rehabilitated land. The community would also receive a compensation package of US\$0.07 per day for lease of the land, a US\$150 relocation benefit, plus provision of “compensatory” land (five acres of farmland for each household and an acre of residential land at Ramisi, at Kenya’s South-

Coast). Crops, trees and physical structures were also to be paid for (Mining Weekly, 2006; Allbusiness, 2004). However, the government later opted for outright purchase of the land at Ksh80,000/= per acre (which was then approximately US\$1,013; the exchange rate at the time standing at 1US\$ =Ksh79<sup>2</sup>), and did away with the lease and the accompanying lease fees. The five acre land offer at Ramisi (located about 20 km away from the mine site) was retained, and trees, crops and built structures were now to be paid for. Other benefits, such as provision of transport to the relocated site and re-burial of ancestral remains, were also provided.

However, these various compensatory measures could not assuage the disaffection of the local residents, and therefore conflict emerged between the residents and the government and between the residents and the extractive company. For instance, since its inception in 2001, the project has faced a number of lawsuits lodged by the affected residents in the Kenyan courts. The first lawsuit in 2001 led to the imposition of a court injunction against the project on 21<sup>st</sup> September, 2001(*Daily Nation*, 2001), as farmers regarded the compensation offered for lease of land as inadequate. Besides, the residents objected to the displacement on the grounds that Tiomin (K) Ltd. had not put in place a proper relocation plan. The residents further had problems with the Environmental Impact Assessment Report prepared by the company, saying that it downplayed certain issues. For instance, the residents argued that Tiomin had neither provided sufficient assurances on environmental management nor offered plans on how it intended to monitor radiation. The residents expressed grievances over the fact that the company had failed to provide appropriate precautions for water safety and prevention of soil and water contamination, given that the titanium deposits contain radioactive uranium and thorium. The injunction was however lifted in 2002.

In 2004 seven farmers, acting on behalf of themselves and others, filed a case in court further arguing against the 'unfair' compensation offer and the legality of the eviction. The court ruled against them in 2006 citing the powers of the state under eminent domain to acquire land for 'public interest' projects (Bank Information Centre, 2006). The farmers were subsequently evicted in April 2007 (Mines And Communities, 2007). Another case was lodged in 2008, and led to a halt to mining activities at the mining site.

The Kenyan titanium project would comprise 14% of the world's total, with a life span of more than 14 years at the initial site. It is estimated that the project would generate a pre-tax cash flow of over US\$40M in the first six years of operation, with Tiomin Resources Inc investment

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<sup>2</sup> <http://www.centralbank.go.ke/forex/default.aspx> -accesse:1 23/3/ 2011.

averaging US\$150M in the Kwale District alone (Mining Weekly, 2006). The three other deposits containing titanium resources of 42 million tonnes of ilmenite, 3.4 million tonnes of rutile and 3.0 million tonnes of zircon<sup>3</sup> are to be mined later. The 2008 law suit brought all this to a halt.

This conflict, and the fact that social displacement associated with extraction of strategic minerals could have a different ethno-ecological symbolism among the displaced, leads the researcher to subject the compensational discourse to an ethno-ecological analysis. In other words, the thesis investigates what idiographic symbols exist and what implications they could have for peaceful coexistence between local communities and mining companies and congenial relations between communities. The thesis hence moves beyond the prevailing notions of “equity”, “compensation”, and “environmental degradation”, and brings into focus the meanings that communities attach to the geobiophysical environment. For this thesis, therefore, the central question is: How do local narratives intersect with titanium development in 21<sup>st</sup> century Kenya, and how do such narratives shape sentiments about titanium mining-induced social displacement and the broader issue of corporate/state-community relations?



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### 1.3 Research questions

The following specific research questions are examined in this thesis:

- 1.3.1 What meanings do residents of the study community attach to environmental features (land and specific trees) and to cultural artefacts (graves and houses) and what impact does social displacement associated with titanium mining have on such meanings?
- 1.3.2 What are the dominant community-targeted compensational practices in the Kenyan titanium mining industry, and how do such practices intersect with local ethno-ecological narratives in the study communities? Put differently, how do local idiographic narratives about the natural environment shape grassroots sentiments about titanium mining-induced social displacement and the broader issue of corporate- and state-community relations? In other words, what are community members' responses to the compensational practices in the Kenyan mining industry vis-à-vis the meanings that the communities have attached to the items targeted for compensation, and how does this affect corporate- and state-community relations?

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<sup>3</sup> Refer to [http://tiomin.com/s/NewsReleases.asp?ReportID=273958&\\_Type=News-Release-](http://tiomin.com/s/NewsReleases.asp?ReportID=273958&_Type=News-Release-) accessed 23/1/2009.

## 1.4 Research objectives

As stated above, the central question of this thesis is to examine how local narratives intersect with titanium development in 21<sup>st</sup> century Kenya, and how such narratives shape sentiments about titanium mining-induced social displacement and the broader issue of corporate/state-community relations. The central objective of this study is to highlight the meanings that the local community attach to the geobiophysical environment and to assess how titanium mining impacts on these meanings. This approach allows the study to go beyond the prevailing notions of “equity”, “compensation”, and degradation”, which have been the dominant ways of examining conflict in mining communities. The specific objectives of this thesis are to:

1.4.1 Examine the social construction of “nature” in the titanium-rich community of Kwale, in Kenya’s Coastal Province;

1.4.2 Assess the impacts of titanium mining-related social displacement on the relationship between the community and the natural environment;

1.4.3 Examine the dominant community-targeted compensational practices in Kenya’s mining industry, and how these intersect with socio-cultural practices and ethno-ecological narratives in the displaced communities; and

1.4.4 Examine grassroots sentiments about titanium-induced social displacement and how these affect corporate- and state-community relations

This research examines the above questions based on field findings from the community in Kwale, in the Coast Province of Kenya. The research is of interest as the displacement of people in Kwale marked the first such act in the mining industry in post-colonial Kenya and it was also important because this dislocation of people in Kwale marked the first anti-common act (meaning social displacement) for minerals discovered in post-colonial Kenya.

## 1.5. Significance of the study

This study has both important policy and theoretical implications for the future of mining not only in Kenya, but also in other countries in Africa. At the theoretical level, it is hoped that the study will contribute to the development of a more robust theory of vulnerability, one that will shift focus from the “natural systems” view on vulnerability (most of the research on

vulnerability has concentrated on climate change), and underline the possibility that state-driven socio-economic and developmental interventions can exacerbate vulnerability in communities. At the policy level, it is envisaged that the study will provide useful insights that will, hopefully, lead to the formulation of appropriate mining frameworks that will minimise the disruption of lives in local communities as well as promoting congenial relations between communities, extractive enterprises and the state.

The study will be useful to Kenya's mining sector which is currently working on overhauling its mining laws (inherited from the colonial government in 1963), and which is also revamping its mining industry given the discovery in 2011 of gold deposits in Trans Mara (reserves estimated to be between 40,000 ounces and 60,000 ounces—a mining licence has already been granted to Goldplat Plc local subsidiary, Kilimpesa Gold) and the possibilities of oil discovery in the northern parts of Kenya, and coal in the Eastern Province. It is therefore hoped that the study will provide a knowledge base for the formulation of appropriate mining policies and best practices.

The study will also be useful to and applicable to other mining countries that are experiencing conflict between its mining communities and extractive enterprises. One example is South Africa, which is currently grappling with titanium mining conflict in Xolobeni in the Eastern Cape Province<sup>4</sup>. The findings of the study will therefore be useful beyond the borders of Kenya.

### **1.6 Organization of the study**

The rest of this thesis is organised as follows. Chapter Two presents a literature review on social displacement. The literature reveals that social displacement is associated with the following risks as identified by Downing (2002) and Cernea (2002): homelessness, new poverty, landlessness, joblessness, homelessness, marginalisation, insecurity, loss of access to community assets and social disarticulation. The literature however, does not provide the ethno-ecological meanings of the losses suffered and only in a few instances, is idiographic experiences of those affected demonstrated. Chapter Three, which is also a literature review chapter, first examines and acknowledges the importance of mining to developing states. This chapter then goes to show that mining invariably leads to social displacement which is then accompanied by the negative effects that are presented in Chapter Two. The review demonstrates that although mining does not displace as many people as dam and

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<sup>4</sup> Refer to <http://www.forum.org.za/Stop-Mining-of-the-Xolobeni-Beaches-in-the-Transkei-Petition>

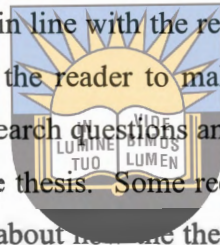
infrastructural development programmes do, it nevertheless illicit the most intense conflict, perhaps because of the symbolism that goes with it. In this Chapter, literature that explores community-enterprise conflict is presented, and it is noted that the dominant discourse on such conflict revolves around land ownership, compensation, equitable distribution of resources, violation of human rights and environmental degradation. Very little on the “roots” of such conflict, that is the ethno-ecological importance of what the conflict revolves on, is found in the literature reviewed. It is noted that the literature as well, largely ignores to reflect the experiences of the affected persons in this conflict. This then necessitated a review of other literature which examines how indigenes are attached to land. Chapter Four presents the theories used to guide the study and which were used to assist in the analysis of the field findings. The two theories adopted for this study, that is, the ethno-ecological theory and the vulnerability theory, are presented and discussed. Vulnerability is demonstrated as occurring from states of susceptibility to shock and stress. Various strands of this theory are outlined but the thesis focuses on the constructivist and political ecology strands of this theory as they best explain the phenomenon under study. Ethno-ecology is the other theory adopted for this thesis, as this theory demonstrates how communities utilise their immediate environment and how then they attach meanings to this environment. Chapter Five presents the various methods that were marshalled to collect data for the study. The notable methods used such as in-depth interview, ethnography, visual sociology and focus group discussion are discussed. The methods are justified and their shortcomings presented as well as how these were overcome.

Chapter Six describes the study community in detail. This chapter discusses the historical origins of the Kwale community as well as their socio-economic organisation. This chapter traces the origins of the two dominant communities in this area, that is the Mijikenda (which consists of nine closely related ethnic groups) and the Kamba. The two communities’ social organisation is presented, one which is hoped will assist readers to grasp the social and cultural composition of the two groups, and that which will reflect on how and why they are intimately associated with their environment and how the two communities have also related for a very long time, relations that titanium mining now threatens to tear them apart.

The subject of Chapter Seven is the institutional context of mining in Kenya. The Chapter presents the status of mining in Kenya, looking at the various minerals that were being exploited at the time of the study. This chapter also highlights Kenya’s contribution to the world’s mining industry with regard to the various minerals that the country exploits. This

chapter demonstrates that Kenya is involved in the extraction of Gold, Lead, Soda Ash, Gypsum, Diatomite, and Flousspar. However, the Chapter shows that Kenya's mining industry has been in decline, and that the discovery of titanium, which on its own would contribute what the entire mining sector currently generates to Kenya's GDP, promises to resuscitate this industry. This chapter also examines the existing compensation framework in the titanium mining industry, and discusses the various laws that regulate the mining industry and in particular, those that determine compensation. It is noted that there is no one single Act that regulates mining related compensation. One has to navigate through several laws, the most crucial being the Mining Act (Cap 306), the Land Acquisition Act (Cap 295), the Agriculture Act (Cap 318) and the Forest Act (Cap 7).

Chapter Eight presents the field findings in line with the research questions posed in Chapter One of this thesis. Chapter Nine helps the reader to make sense of the research findings especially against the backdrop of the research questions and the key theoretical and practical issues raised in the earlier chapters of the thesis. Some recommendations are also proffered in this chapter, as well as some remarks about how the thesis contributes to new knowledge, and some pointers to a postdoctoral research endeavour.



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### **1.7 Writing style**

This thesis has adopted the UK English style for wide acceptability. However, quotes that were written in other styles, such as South African English or American English, have been left as originally quoted. Double quotations marks (“ ”) have been used for direct quotation from texts or from respondents, while single quotation marks (‘ ’) apply to words or phrases that are used not necessarily in their conventional meaning. References from all sources (books, journals and internet sources) have been combined and arranged alphabetically (starting with the surname) for ease of reference. Readers therefore only have to search for the surname at the appropriate alphabetic listing. As for referencing style, I have conformed to my Department's (at University of Fort Hare) referencing style which follows the Harvard style.

## CHAPTER TWO

### SOCIAL DISPLACEMENT

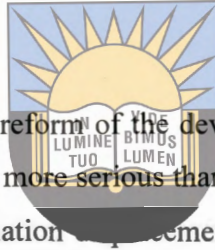
#### 2.1 Introduction

In line with the central problem of the study outlined earlier, this chapter reviews the literature on social displacement and how it impacts on local communities' socio-cultural identities and practices. The review is organised into five main themes, reflecting the locus of thinking on this subject. These are: mining and social displacement, benchmarking involuntary resettlement, risks and impact associated with involuntary resettlement, involuntary resettlement in Kenya and involuntary resettlement from other parts of the world.

#### 2.2 Mining and social displacement

According to Hilson (2007:99) the rapid reform of the developing world's mining economy has led to a host of social problems, none more serious than community dislocation<sup>5</sup>. Cernea (2009:263) argues that involuntary population displacement and resettlement is "one of the major social pathologies" inevitably resulting from numerous development projects. Displacement refers to "both the physical removal of people from their homes and restrictions on their resource use and access to places which prevents them from pursuing their livelihoods" (Cernea, 2005 as cited by Schmidt-Soltau and Brockington (2007:2183). Current standards define evictions, forced migration, displacement and involuntary resettlement as the compulsory removal process initiated when a project's need for "right of way" is deemed to override the "right of stay" of the inhabiting population. One thing about mining, especially 'solid mineral' mining, is that it invariably leads to displacement. Indeed, this is what befell the community at Kwale in Kenya's coastal region.

Asthana (1996:1468) describes the 1980s as the "decade of displacement". It witnessed the largest number of people displaced by development projects, whether through mining or through construction of large dams. Asthana argues that in developing countries, the scale of development-related population displacement has grown rapidly over the past decade due to compelling need for development projects. He points to the World Bank estimates that 300 large dams (constructed mainly with World Bank funding) displace over 4 million people



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<sup>5</sup>Also referred to as population displacement

around the world yearly. Urban development and transportation programmes, on the other hand, are said to displace an additional 6 million people every year.

While there exists no precise data on the number of people affected by development-induced displacement throughout the world, the World Bank estimates have been described by Stanley (2004:3) as “shockingly high”. Stanley points out that the estimate does not account for those displaced by other developmental projects, such as mining. Stanley, nonetheless, observes that anecdotal evidence and figures from the World Bank suggest that displacement in natural resource extraction is much lower than in dam and urban renewal development projects, although Downing (2002:7) mentions that the problem is “significant”. The present study will, hopefully, add a much needed qualitative dimension to the quantitative estimates, at least from a mining perspective.

To demonstrate the magnitude of mining induced displacement, Downing (2002) provides the following data: in Indonesia, 15,000 people were displaced in the Freeport Mine, while 20,000–30,000 were displaced in the Ghanaian Tarkwa Mine, and over 37,000 people were displaced between 1996–2001 in Southern Africa. In South America, 25,000–35,000 people were forcefully relocated in the Tucuruí Hydropower complex in Brazil, which was to be used to support a nearby mining operation. Other cases of mining-induced displacement and resettlement are visible in Papua New Guinea, Indonesia, the Philippines, Peru, Venezuela, Suriname, Guyana, Argentina, Chile, Honduras, Tanzania, Botswana and Namibia. Kenya can now also be added to the map of Mining Induced Development Resettlement (MIDR).

Stanley (2004:11-12) observes that while fewer people are displaced through mineral extraction projects than through dam related displacement, natural resource extraction breeds the most intense (sometimes physical) conflict. This is evidenced by conflict in Nigeria’s Niger Delta, in Chad, Sudan, Oman (among the Harasiis pastoral community), in Mozambique, and in Colombia among other places (see Chapter Three of this thesis for further elaboration on these conflicts). It is argued, for instance by Stanley (2004), that continuing conflict over dams and urban renewal projects is not as intense as those over mining projects. In India, an estimated 30 million people have been displaced since independence, with 2.55 million people being displaced between 1950 and 1990, and yet physical conflict has not been reported to the same magnitude as in mining projects (Stanley, 2004). This may be due to the symbolic significance that mining projects bear and which may be best understood through an ethno-ecological study. Many valuable mineral deposits



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are increasingly being discovered in the world's remotest regions, areas previously with little mining experience, and often populated by indigenous peoples, and where state influence may have been historically shallow. This has led to complex and often highly contested encounters, many of which have been prone to serious conflict (Szablowski, 2002).

Most of the literature on social displacement is found on dam-related projects. The probable reason for this could be that these projects are more spectacular, and impact a much larger number of people at any one time compared to mining. Secondly, mining projects are more often found in far more remote areas. Even so, the majority of these projects are funded by the World Bank (and its subsidiaries). The funding source of dam projects obviously comes with some visibility 'risks'.

### 2.3 Benchmarking involuntary resettlement

Policy guidelines on Involuntary Resettlement for development projects funded by the World Bank can be found in the World Bank Operational Directive 4.30 on Involuntary Resettlement, 1990<sup>6</sup> and in Cernea's (1988) Technical Paper No.80. The World Bank's other partners, such as the African Development Bank (AfDB, 2001:1-4) and Asia Development Bank (ADB, 1998:1-4), use these guidelines, but model them to fit local conditions. Tiomin (K) Ltd. did indeed confirm to this researcher that it had followed the AfDB guidelines in its involuntary resettlement programme (see Chapter Eight for elaboration on this).

Table 2.1 summarizes displacement statistics from World Bank funded projects between 1980 and 1995 and offers a glimpse of the scale of social displacement in Africa, while Table 2.2 provides details on specific projects funded by World Bank in Africa for the period 1981 and 1994:

<b>Sector</b>	<b>No. of Projects</b>	<b>No. of People Affected</b>
Agriculture	41	1,436,383
Industry and Energy	74	684,336
Transportation, Water and Urban Development	103	1,003,340

<sup>6</sup> Available : [http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol\\_Resettlement/\\$FILE/OD430\\_InvoluntaryResettlement.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_Resettlement/$FILE/OD430_InvoluntaryResettlement.pdf) - accessed 29/3/2012

Environment	3	22,396
Population and Human Resources	4	982
TOTAL	225	3,147,437

Source: Cernea (1997:14)

**TABLE 2.2: WORLD BANK FINANCED PROJECTS IN AFRICA AND NUMBER OF PEOPLE DISPLACED (1981–1994)**

<u>Country</u>	<u>Sector</u>	<u>Year</u>	<u>Project name</u>	<u>Estimated No. of people displaced</u>
Mauritania	AGR	1981	Gorgol Irrigation	3,000
Swaziland	IEN	1981	Power III	300
Cameroon	INU	1983	First Urban	24,000
Côte d'Ivoire	AGR	1983	Fourth Rubber Production	2,000
Malawi	TWU	1983	Lilongwe water I & II	400
Tunisia	TWU	1983	Urban Dev. III	3,100
Kenya	IEN	1984	Kiambere Hydro Power	6,000
Togo	IEN	1984	Nangbeto Hydro Power	1,000
Zaire-Burundi-Rwanda	IEN	1984	Ruzizi Hydro Power II	15,000
Ethiopia	AGR	1987	Forestry Plantation Dev.	3,000
Tunisia	TWU	1987	Urban Dev. I	1,250
Malawi	INU	1988	Northern Transport Corridor I	3,000
Mozambique	PHR	1988	Education and Manpower	200
CAR	IEN	1989	Mbali (Energy I)	300
Cameroon	TWU	1989	Second Urban	8,000
Madagascar	AGR	1989	Agri. Research	80
Mozambique	TWU	1989	Urban Rehabilitation	2,400
Mozambique	TWU	1989	Health & Nutrition	350
Côte d'Ivoire	AGR	1990	Forestry Sector	50,000
Ghana	INU	1990	Urban II(Sec. Cities)	1,000
Guinea	INU	1990	Second Urban	8,000
Kenya	AGR	1990	Third Nairobi Water Supply	500
Madagascar	TWU	1990	Tana Plain Development	10,400
Nigeria	TWU	1990	Oyo State Urban Dev.	5,700
Uganda	TWU	1990	Water Supply II	360
Dibouti	TWU	1991	Urban Dev. II	2,500
Kenya	IEN	1991	Export Dev.	450
Uganda	IEN	1991	Power III	300
Egypt	IEN	1992	Kereimat Thermal Power	500
Lesotho	TWU	1992	Highlands Water Phase IA	14,500
Malawi	IEN	1992	Power V	50
Malawi	TWU	1992	Local Government	100
Nigeria	TWU	1992	Multi-State Water I	3,300
Sao Tome & Pr.	PHR	1992	Health and Education	400
Morocco	TWU	1993	Land Dev for Housing	14,000

Nigeria	INU	1993	Lagos Drainage and Sanitation	300
Sierra Leon	TWU	1993	Freetown Infrastructure	80
Tanzania	IEN	1993	Power VI	50
Tunisia	AGR	1994	Agriculture Sector	2,000

**KEY**

AGR= Agriculture

IEN= Industry and Energy

TWU= Transportation, Water and Urban development

ENV= Environment

PHR= Population & Human Resources

Dev. = Development

Source: Cernea (1997:15)



Tables 2.1 and 2.2 show that the scale of social displacement in Africa is, indeed, large. This then demands, on the part of the funding agencies, the need to ameliorate the effects of such displacement. Cernea points out that

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Involuntary resettlement [has] been, and often still is, approached as a salvage and welfare operation, rather than one pursuing development objectives. In contrast with such approaches, the [policy] paper emphasizes that because involuntary resettlement dismantles a previous production system and way of life, all involuntary resettlement programs must be development programs as well. The backbone of any resettlement plan must be a development package consisting of a set of project funded provisions aimed at reconstructing the production base of those relocated and at re-establishing them as self-sustaining producers or wage earners. (Cernea, 1988:v)

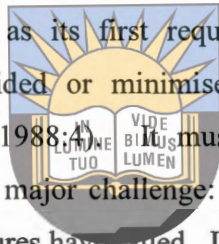
This suggests that the World Bank is desirous that developers reconstruct resettlers' lifestyle to the levels that they were before they were displaced, if not better—something that has proved unachievable in many contexts.

The World Bank (Cernea, 1988:3) and the AfDB (2003:1) argue that the types of projects that more often cause involuntary resettlement are those that are predicated on major changes in land and water use. This includes water resources projects (such as dams), highway/rail/airport constructions, construction of new ports and towns, and mine

development, among others, for which the World Bank provides financing. The Bank recognises that Involuntary Resettlement is:

By its nature...always an extraordinarily disruptive and painful process, economically and culturally: It dismantles production systems, it disorganizes entire human communities and it breaks up long established social networks, it destroys productive assets, it causes severe environmental effects and the loss of valuable natural resources. Research has found that forced resettlement also tends to be associated with increased stress (psychological and socio-cultural), and heightened morbidity and mortality rates. (Cernea, 1988:8)

It is “in recognition of the hardship and human suffering caused by Involuntary Resettlement, [that the World] Bank’s policy states as its first requirement that whenever feasible, Involuntary Resettlement must be avoided, or minimised, and alternative development solutions must be explored” (Cernea, 1988:4). It must be stated that in Africa this ‘requirement’ almost always confronts a major challenge: ‘development projects’ are often undertaken when all other economic ventures have failed. In most cases, especially in mining operations, these projects are seen as the only remaining alternative towards wealth generation. Governments therefore need little encouragement to implement such mineral-driven related developmental projects.



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According to Cernea (1988:13-17), the World Bank provides three main principles regarding resettlement. The first principle is for the recognition that the responsibility of relocating the affected persons belongs to the government. It recommends that this be done by offering a number of acceptable alternatives to the affected community, and that governments should also assist the affected community technically and financially in rebuilding their lives. Again, this is a huge demand to make, as many African governments lack necessary resources to raise the standards of living of their own ordinary citizens. The Bank’s second principle is to ensure resettlers’ participation, especially in decision making—a demand which, again, many African governments observe in the breach (see Chapter Eight).

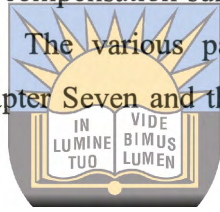
The third principle touches on the host population. The World Bank recommends that the host population should be incorporated in the resettlement process, in order to ensure that the host community welcomes the displaced persons. This recommendation arises out of the realisation that serious conflicts do arise between the host community and the settlers, usually over competition for resources, and the general feeling by the host community that the

resettlers would normally receive better treatment than the host community (through the offer of better services in term of housing, cash awards, education and healthcare facilities among other things). This comes with mixed results, as in certain cases, the host community welcomes the resettlers while in others, the host community resist the relocation of those displaced in their locality. Picciotto *et al.*'s (2001) analysed the host/resettlers relations in a comparative study of six dam-related displacement projects (in India, Thailand, Togo, China, Indonesia and Brazil), and noted that resettlers and host communities relations were, except in one project, found to be good. In Chapter Eight of this thesis, the relations between the host community and the displaced persons in Kwale is discussed in detail.

According to Cernea (1988:13-32) and AfDB (2003:9-15), the World Bank has also outlined a number of policies that have to be adhered to in involuntary resettlement programmes. The first is that implementing countries should, as far as possible, ensure that the displaced persons at least regain their previous standard of living, and that as far as possible, they be economically and socially integrated into the host communities. Research on this (see details in Chapter Three) however, shows that resettlers rarely come off the worse in instances of displacement, and that rarely do they regain their previous standards of living, and instead, their lives worsen after displacement (see Mburugu, 1994, Seagga and Olima, 1996 and Nayak, 2000). There are a few instances of successful resettlement (see Asthana, 1996, Wadley and Ballock, 1980), for which the authors attribute successful resettlement to the meaningful involvement of the local people. Secondly, for every involuntary resettlement programme, a detailed resettlement plan must be drawn up. Such plans should provide for far more than just the disbursement of cash compensation to those affected. The point that one has to bear in mind while looking at this is that plans are only as good as the commitment behind the plans, for without such positive commitment, successful resettlement may not be possible. There are also times when displacement projects get underway without the necessary plans having been implemented, as was in the case of the Kiambere project in Kenya as observed by Mburugu (1994).

The third policy is what is termed “the backbone” of the resettlement plan, and is the “development package” that is offered to assist in the reconstruction of the production base for those affected. It is expected that the package offered must provide sufficient opportunities and resources for the economic and social re-establishment of the affected community as self-sustaining producers or wage earners (although Cernea (2003(a)) later acknowledges—see Chapter Three—that at times resettlement packages do little to stem the

impoverishment of the community arising from such displacement). AfDB (2003:11), on the other hand, roots for compensation at “full replacement” cost. The literature later reviewed in Chapter Two (see for instance, Gyuse and Gyuse, 2008; Takesada, 2000; Fujikira *et al*, 2009) suggests that compensation is inadequate in stemming impoverishment that result from displacement. Discussion in Chapter Three as well suggests that achieving the optimum that compensation strives to achieve is quite a challenge as “sufficient” compensation may not be possible as not all things “social” (such as graves) can be satisfactorily compensated (see Goodin, 1989 and Radin, 1993 for instance). Some authors, such as Altinbilek (1999), McLeod (2000) and Kanbur (2002) argue that successful compensation is possible when consideration is emphasised on compensating at market value, adhering to the “pareto improvement’ and using the principle of ‘compensation surplus’ (see Chapter Three, section 3.6.1 for detailed discussion on this). The various packages offered to the affected community in Kwale is presented in Chapter Seven and the community’s reaction to these packages is presented in Chapter Eight.



According to the World Bank (Cernea, 1988:25) the following are identified as some of the assets that may be lost during displacement: housing, land (and improvements to both), access to economic opportunities (such as jobs) and public services, as well as non-economic assets (shrines, cemeteries, communal public buildings). Other assets would include, but are not limited to, roots, berries or leaves for dietary supplement or sale (which are ethno-ecological concerns), disruption of economic activities for traders, suppliers and distributors, loss of fishing waters, irrigation works, wells, standing crops and trees. Cernea (1988:26) acknowledges that some governments have outdated laws which often lead to unfavourable compensatory practices (as observed in Chapter Three, one community in South Africa actually had to pursue its case in courts in the United Kingdom to receive justice over environmental claims due to inadequacy of such laws in their own country). Indeed, the Kenyan government recognises that its mining and compensation policies need “review” (MoENR, 2000:22).

Intangible assets such as kinship groups, access to shrines and other places of cultural identification are usually not considered, and are normally quite difficult to compensate. Cernea’s observation regarding compensation are quite pertinent and demands citing at length:

Experience with resettlement of large populations tends to show that payment of cash compensation alone is often a very inadequate strategy for dealing with the displaced; in some instances, the entire compensation has been used for immediate consumption purposes, leaving the displaced with nothing to replace their lost income-generating assets and opportunities...Such compensation is usually not adequate, (e.g., in a project in Kenya the compensation offered per acre represents only some 20% of the actual cost of replacement land) nor is it commonly invested productively. If not given land for land, the displaced population is likely to end up in squatter settlements that undermine the project's objective. Experience in World Bank-assisted projects has shown that cash hand-outs often result in impoverishment. Under the pressure of immediate needs, or of cultural expectations, people frequently tend to use cash compensation for purposes other than replacing the land, after which those displaced are destitute and left to start farming on canal banks, encroaching, deforesting, overgrazing, etc. This is why the borrowers "land for land" approaches are to be firmly supported by the Bank which seeks their consistent implementation. (Cernea, 1988:26-27)



In other words, the World Bank is of the view that 'land for land' compensation is the most appropriate method. Syagga and Olima (1996:72-73) similarly argued in favour of "land for land" compensational regime after observing the detrimental impact that resettlement had on a community in Muranga District, Kenya (one which led to massive landlessness—this is elaborated in Section 2.5 of this chapter). Nakayama *et al.* (1999a:453) also recommends this option for the reason that cash payments were largely inadequate in enabling resettlers to obtain land of comparable sizes and conditions elsewhere due to market variability and ecological variations. Tiomin adopted this approach in Kwale, and the adequacy of this compensation is discussed in Chapter Eight of this thesis. What Cernea refers to as "land for land" compensation is also referred to as 'environmental compensation' (Cowell, 1997)—which Schmidt-Soltau and Brockington (2007:2157) argue is a "complex issue" which makes them question whether loss of land can ever be compensated for.

Schmidt-Soltau and Brockington (2007:2157) further argue that "reconstructing a community means attempting to replace through administrative routine an evolutionary process in which [socio-cultural] and environmental interactions arrived at through trial and error and deep knowledge develop, enabling a population to achieve a mutually sustaining social coherence and material sustenance over time". Reconstructing a community through administrative means is therefore a monumental task. Hilson (2002a:68) argues that "because of strong ties to the environment dating back thousands of years, monetary compensation rarely makes up for land loss". Nayak (2000) argues that "land for land" compensation failed in India as

resettling people on unfamiliar landscapes and environment was alienating and traumatic. . Mburugu (1994) also attributes this problem to the lack of equivalent agro-ecological land that is socially and culturally acceptable. The foregoing therefore shows that “land for land” compensation is challenging given communities’ attachment to certain environments (see Schmidt-Saltau, 1999 for instance and also the discussion in Chapter Three, section 3.5 on communities attachment to land). This approach is also problematic due to the administrative problems that normally accompany such exercise. Manga (1994:78) for instance, attributes the failure of “land for land” policy in Doula, Cameroon to what he calls “project inefficiencies” whereby several families were left out in the allocation.

The World Bank and the AfDB policies provide standards for involuntary resettlement programmes by recommending some minimum requirements that have to be met, such as provision of housing facilities, water supply systems, schools, and health care facilities among others, at the host site for use by the displaced persons. They also advocate for environmental management systems. In addition, the World Bank recognises the fact that indigenes may not be in possession of land titles and so advocate for recognition of traditional land owner systems, and recommends compensation on this basis. AfDB (2003:11-12) also recognises this complex system of land ownership and makes provision for recognition of titled and non-titled (e.g customary) ownership of land, and advocates for extension of assistance to “squatters”. This is particularly useful given that in Kwale, a good number of the affected residents were “squatters”—a phenomenon that stems from what is commonly referred to in Kenya as “historical injustice” at the Coast Province (see Chapter Six for details on this). As pointed out in Chapter Three of this thesis, it is usually the lack of fulfilment of these minimum requirements that conflict (revolving around land ownership, compensation of lost assets and the sharing of benefits accruing from the mining project) usually characterises mining projects.

Another salient aspect of the World Bank’s policy is that it has developed a set of elaborate procedures, methodology and tools that can be used to guide large scale involuntary resettlement.

A benchmark used by governments and extractive companies for purposes of guiding involuntary resettlement is the “Equator Principles”<sup>7</sup>. This is a financial industry benchmark for determining, assessing and managing social and environmental risk in project financing.

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<sup>7</sup> See EPFI, 2006—[www.equator-principles.com](http://www.equator-principles.com) accessed 12/8/2010.

Members of this Institution (the Equator Principle Financial Institute), offer development loans only to institutions and/or governments that comply with the nine Equator Principles. Principle one states that only those projects that have passed the environmental and social screening criteria as adopted by the International Finance Corporation (IFC) are eligible for funding. Principle two states that only those projects that have carried out a social and environmental impact assessment will be funded. Principle three dictates that the project must meet applicable social and environmental standards as defined by the World Bank Indicators Database, meet IFC performance standards, and meet the industry specific Environmental, Health and Safety (EHS) Guidelines applicable at the time.

The fourth principle dictates that all projects must develop an action plan to qualify for funding. The fifth principle outlines that developers must have consulted with communities affected by the project in a structured and culturally appropriate manner. Principle six provides for establishment of a grievance mechanism through which the affected community members can channel their complaints. Principle seven provides for an independent reviewer to be appointed to review the various assessment action plans, and adopted consultation processes. Principle eight provides for the developers to sign covenants indicating that they will comply with, among other things, the host country's social and environmental laws, and obtain all the requisite permits. Principle nine provides for the appointment of an independent monitoring and reporting expert.

Although the current study did not investigate whether these nine principles were adhered to by Tiomin Resources, it was noted during the in-depth interviews with company officials that the following were established by Tiomin: a Social and Environmental Assessment Plan, a Resettlement Action Plan, Independent Review Reports, and a grievance mechanism. Necessary permits (for instance, exhumation and reburial of remains permits) were also obtained by Tiomin. Since it received AfDB funding for its Kwale project, it is assumed that it was able to meet the nine principles. To what extent these processes and procedures were effective in alleviating the suffering of the indigenes is assessed in Chapter Eight of this thesis.

Aboudha and Hayombe's (2006) assessment provides some insights on this. To begin with, the authors criticised the manner in which the Social and Environmental Assessment was carried out by Tiomin, claiming that it did not meet local or international standards, and they therefore dismissed the Action Plan as ineffective. They listed a number of international

standards and laws that the project was likely to flout were it to go on. The authors further criticised the manner in which the external reviewer was appointed, arguing that since their appointment was carried out by Tiomin Resources, their independence in carrying out the necessary reviews was questionable. Despite these protestations, however, the project was funded by AfDB and the Kwale project was given the go-ahead by the Kenyan government in 2005 to proceed with the mining activity.

The benchmarking by the World Bank and the Equator Principle are necessary because of the risks that are associated with population displacement programmes. It is these risks that necessitate payment of compensation to those affected. A review of the risk involved is provided in Section 2.4.

## 2.4 Risks and impact associated with involuntary resettlement

Downing (2002:5) argues that the problem with mining-induced displacement and resettlement (MIDR) is that it poses a major risk to societal sustainability, and that according to the World Bank's Operational Policy 4.12 (2001), if these risks are not mitigated, involuntary resettlement projects would give rise to severe economic, social and environmental problems. When productive systems are dismantled, people face impoverishment resulting from loss of their productive assets or income sources. Impoverishment also occurs when people are relocated to environments where their productive skills may be less applicable and where competition for resources is greater. Even so, with relocation, community institutions and social networks are weakened and kin groups are dispersed, while cultural identity, traditional authority and the potential for mutual help are also diminished or lost (Downing, 2002:5).

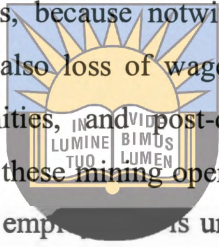
According to Downing (2002:8-12), the first and most visible MIDR effect is loss of land, which in turn creates "new poverty" (the second effect), which "significantly truncates social and individual chances for sustainable development". MIDR therefore creates landlessness, which in turn creates poverty, for the reason that the foundation upon which productive systems, commercial activities and livelihood are articulated are removed through the practice of eminent domain. He further argues that this form of decapitalisation and pauperisation occurs not only from loss of land due to mining activities, but also from the inability of those displaced to obtain suitable replacement land, usually because of inflated

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<sup>8</sup> Defined as the possibility that a certain course of action will trigger future injurious effect, losses and destruction (Giddens, 1995).

local land prices due to increased demand for land (in Chapter Eight we observe how in the Kwale displacement, the cost of land rose from Ksh24,000 per acre to Ksh100,000 per acre literally overnight!). Landlessness continues to take effect during the lifetime of the mine as a result of environmental degradation arising from mining practices. Downing reflects that in India, for instance, following displacement in six infrastructural projects in the State of Orissa, landlessness increased five-fold. This echoes earlier evidence that infrastructural development (in this case, the construction of a bridge) led to massive loss of land affecting the local people in Bangladesh (Zaman, 1996). Mburugu (1994) noted that resettlers in the Kiambere project ended up as squatters, while Nayak (2002) argues that this (loss of land) was the most serious consequence in the Orissa project in India

The third effect of MIDR is joblessness, because notwithstanding the economic impact directly related to loss of land, there is also loss of wage employment, loss of access to leasehold and share-cropping opportunities, and post-displacement unemployment or underemployment that festers in much of these mining operations. For Downing (2002:10), the argument that mining projects create employment is untenable: in the long run, mining activities are short-lived with a shorter lifespan compared to the lifespan of the sustainable economy that it dismantles.

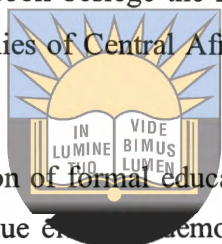


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The fourth effect of MIDR is homelessness, defined as the loss of house-plots, dwellings and shelter, and which becomes particularly chronic in instances of displacement (Downing, 2002:10). According to the author, in Teberebie in Ghana, for instance, locals lost their homes to pave the way for gold mining, and yet seven years down the line, the promised 168 housing units were yet to be constructed. He further provides a glimpse of an ethno-ecological interpretation to this when he argues that homelessness, even when alternative structures are provided, continues to linger because loss of a home is often associated with a profound loss of identity and cultural impoverishment as the place bears certain symbolic importance (as a home is simply not just a physical structure). Nayak (2000) also argued that loss of livelihood (and landlessness) was the other most serious consequence of displacement in the Orissa project, India.

Displacement also leads to marginalisation, which affects not only individuals but an entire community, because those affected slip into a lower socio-economic status relative to the others in areas into which they have now moved. Such marginalisation is accompanied by loss in self-esteem as they became the “outsiders” and “newcomers” in host communities

(Downing, 2002:11). Marginalisation at times leads to loss of cultural identity or distinctiveness as the outsiders are assimilated by the dominant culture, as happened to the displaced Yi community in Hongyang village in China, who lost their custom and identity to the Han (Chen, 2008:106-107). Syagga and Olima (1996), Padovani (2003), and Cernea and Schmidt-Soltau (2003) identified this negative impact among the population affected by the 3<sup>rd</sup> Nairobi project, the Three Gorges Dam in China and the pygmies of Central Africa, respectively (see sections 2.5 and 2.6 that reviews such effects in detail). Health risks are another effect associated with displacement and resettlement. The already poor health of the resettlers is usually further worsened by the stress and trauma of moving. Recurring problems revolving around poor access to potable water, safe sewage, increased diarrhoeal, dysentery and epidemic infections often soon besiege the resettled population. Cernea and schimdt (2003) also argued that the pygmies of Central Africa experienced increased health problems after displacement.



Another effect of resettlement is disruption of formal educational activities. Children often have to be transferred to other schools due to the demolition of their former schools or because they have had to move to areas lacking easy access to educational facilities. Studies have shown that a number of these children never return to school but instead join the labour force, as the chaos of relocation distracts the parents from focusing on the concerns of the children because they are struggling for survival in the new environment, and that the first casualty is usually the children's education (see Downing, 2002:11). Mburugu (1994) equally noted the effect of disruption of education activities among those displaced in the Kiambere project.

Other effects that Downing points out are loss of access to public services (since the displaced are usually relocated to very remote areas devoid of such facilities), increased food insecurity (loss of land leads to loss of the productivity base), the loss of common property (such as watering points, cattle dips etc.), experiences of social disarticulation (loss of social networks), the loss of civil and human rights (arising from having been dispossessed of the afore-mentioned) and loss of educational opportunities (most displaced persons are relocated to isolated countryside lacking in such facilities). Syagga and Olima (1996), Mburugu (1994), and Cernea and Schmidt (1993) (these are elaborated on in section 2.5 and 2.6 of this thesis), for exposition of these effects. Loss of civil and human rights is another notable effect which Hughes (2008), Hilson and Yakovleva (2007) and Holden (2005) touch on—see section 2.5, section 2.6 and section 3.4 for detail discussion on this). Chapter Eight of this

thesis highlights some of the effects mentioned above among the displaced community in Kwale.

While Downing's analysis of displacement-related issues are in line with Cernea's Impoverishment Risks and Reconstruction (IRR) model for Involuntary Resettlement (see Cernea, 2000a; Cernea, 2000b), Downing's analysis does not highlight differential risk intensities (in which women, children, the very poor and the aged are often the most affected in instances of displacement—see Bisht (2009), and risk to the host population (such as increased competition over resources with the newcomers, cultural clashes, competition for employment, and rises in prices of commodities, among others). Cernea's model (which identifies such risks as: landlessness, loss of livelihood, marginalisation and food insecurity, joblessness, increased morbidity and mortality, loss of access to common property, risk of social disarticulation, and loss of educational opportunities) has been used in the study of displacement projects around the world, and in Section 2.6, this thesis reviews some research that tested the usefulness of the model. In brief, Bisht (2009) in the Tehri Dam project in India and Safdie (2005) in the Three Gorges Dam in China noted the presence of all these effect.

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Cernea's model emerged following dissatisfaction with the Scudder-Colson model when it was realised that not all communities go through the described four stages that the Scudder-Colson model described (Stanley, 2004; Asthana, 1996:1469).

In brief, the Scudder-Colson model suggested that members of communities undergoing relocation react in three predictable ways. In the first period (which is the most stressful period leading up to the relocation, to the move itself and the first years thereafter) people tend to behave in conservative risk-avoiding ways, clinging to familiar practices and groupings. As and when communities re-establish themselves economically and socially, they leave this period of stress and insecurity and begin to behave in more innovative and risk-taking ways, which marks the second period. Their attitudes also become increasingly flexible, individualistic and open-ended—even beating the attitude of the host community within whom they have been resettled. This is attributed to the breakdown of patterns of community organisation and leadership that occur during resettlement that make for less restraints on diversity and individual initiative as the relocated community re-establishes itself. The third phase is when a community has successfully passed through the relocation experience and no longer needs outside management, and thus becomes integrated into the

wider regional setting and attains economic and administrative ability. This model was however criticised because it advocated for a unilinear reaction among all resettlement communities, thus leading for the search for other models, the most utilised one being Cernea's IRR (2008b).

Let us now review the literature on social displacement in Kenya.

## 2.5 Involuntary resettlement: The Kenya experience

Social displacement in Kenya in the post-colonial era (that is, after 1963) has been in relation to several projects, notably the Kiambere Hydro Power Project, the Third Nairobi Water Supply Project, the Lake Bogoria Game Reserve, the Sondu Miriu Hydro Power Project, the Turkwell Gorge hydro-power project and the Kwale Mineral Sands (titanium) Mining Project. Of the six, Kwale's displacement bears the distinction of being the first post-colonial anti-commons (large scale displacement event) in the mining sector for solid minerals, which makes the Kwale project unique and of particular interest.

The Magadi Soda Ash Mining Project (details of the Magadi project are presented in Chapter Three) and the Fluorspar mining project are other projects in the mining sector that displaced many in Kenya. The Magadi project took place in the early 1900s, during the colonial period, while the Fluorspar project took place during the dictatorial rule of President Daniel arap Moi<sup>9</sup> and was shrouded in mystery. Given that the current Kwale project took place 40 years after attainment of Kenya's independence, one would expect that a democratically elected government, such as that now in Kenya, would be more sensitive to the needs of its people and would adopt 'pro-people' programmes in the event of social displacement. However, empirical evidence (see Chapters Seven and Eight) show that nothing much has changed—for instance, the current compensation statutes and policies in place are those inherited from the British colonial government. Let us now review three of the eight social displacement projects mentioned above that have taken place in Kenya.

Syagga and Olima (1996) examined the impact of compulsory land acquisition in the Third Nairobi Water Supply Project (funded by the World Bank, through the African Development Bank and co-financed by the European Investment Bank, the Overseas Economic Co-operation fund of Japan and the Kenyan government), and argue that social displacement

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<sup>9</sup> President Moi was the second President of the republic of Kenya, and he ruled from 1978 to 2002 after the death of President Mzee Jomo Kenyatta who died while in office in 1978 (having ruled from 1963).

exposed the community not only to economic hardships but also to what may be termed socio-ecological trauma or shocks. The researchers argue that compulsory acquisition had immense negative effects on the income levels, land utilisation and farming practices, landownership structure, familial composition and cultural and social values, norms and bonds of the community. They noted that incomes reduced from Ksh50,000 (about US\$122.126 at that time) to Ksh9,128 (about US\$22.295) per ha per annum. Findings revealed that some of the land parcels that were acquired were now too small for profitable and economic utilisation and farming had to be sometimes abandoned or different crops that did not require large tracks of land adopted.

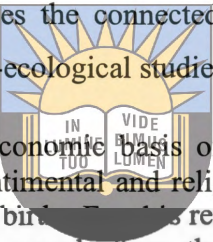
On land ownership structure, the study revealed that there were no drastic changes in acreage purchased, although the quality of land in the new settlement areas that those affected moved to was considerably lower. On familial composition, the study revealed that families were split up and social ties were lost. Many found themselves living among hostile neighbours, and it was envisaged that it would take the resettlers much time to re-establish strong social ties at their present resettlement sites. Social disorientation was found to have led to cultural erosion as resettlers had to adopt certain cultural patterns of the host community, and this led to some loss of social control (which also came about due to the splitting up of families). Rogers and Wang (2006:52-57) provide evidence of a displaced community in Mongolia, China, who because they were all relocated to one common site, were able to ameliorate the adverse effects of relocation as their social networks were not interrupted. This community was therefore able to call upon this reserve and adapt to their new surroundings.

In rural Muranga, it was noted that at the construction site, the sudden socio-economic changes in the environment (where some were able to obtain salaried employment, which in turn led to increases in the price of foodstuff and other services, such as housing) caused an increase in marital problems such as family break-ups, increased immorality and teenage pregnancies. Syagga and Olima (1996:72) noted that the majority of the respondents were of the view that land acquisition and resettlement was “a bad thing to happen to anybody”. However, the authors did not look at the deeper ethno-ecological reasons as to why the respondents were of this opinion. The probable reason why the community felt this way would be because the community became disengaged from their immediate environment, one to which they had become so accustomed, but they now found themselves in a totally different ecological and climatic setting. Syagga and Olima (1996:66) noted that the community objected to the displacement and that 90 landowners appealed in the courts

arguing against the compensation awards. Their major contention was that some assets that were largely non-quantifiable or intangible were not targeted for compensation. In Chapter Three, a review of literature that looks at the issue of 'fair' compensation, especially for non-quantifiable or non-tangible assets, is provided. An ethno-ecological study would help demonstrate just how 'tangible' these assets are, by providing the significant meanings that they bear to the community, and the difference they make in people's lives.

Another significant displacement project in Kenya was the Kiambere Hydroelectric Project, which Mburugu (1994) researched. Mburugu first observes that in Africa, perhaps more than in any other region of the world, a person's identity is tied to both land and his culture, and that a group's social organisation is conditioned to the available resources in the environment. This observation is important as it realises the connectedness that people have with the environment, which is at the heart of ethno-ecological studies. He argues that:

Besides the social, cultural, and economic basis of identity with ancestral land, there are strong aesthetic, sentimental and religious reasons for people to desire to remain in their place of birth. For this reason, rural developments that have the effect of dislocating people from their familiar environment should be avoided (Mburugu, 1994:148)

The logo of the University of Fort Hare, featuring a shield with a sun, a book, and the motto 'IN VIDE TUO LUMEN'.  
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From previous research on other similar projects in Lake Nasser (Egypt), Kariba (Zambia), Volta (Ghana) and Kainji (Nigeria), Mburugu (1994) argues that the following problems are repeatedly associated with dislocation: inadequate land for resettlement, disruption of valued family relations, decline in farm production, deterioration in housing conditions, increase in diseases (such as malaria and water-borne diseases), cultural disruption and social alienation. Mburugu argues that even in rare cases where planned resettlement has had relative success, the physiological, psychological and socio-cultural stress associated with displacement implies that some people, especially the aged, are unlikely to come to terms with their new home, and for this group, the transition period only ends with death.

In the 1984 Kiambere project, located some 110 km north-east of Nairobi, 6,500 people were displaced. Compensation in line with existing policy and laws was effected, which included cash for land and payment for other immovable assets. Mburugu argues that the existing laws at that time (which are still in force) were inadequate in carrying out a successful compensation exercise because of several faulty assumptions made by the law. To begin with, the law assumes that land of equivalent agro-ecological potential is always

available elsewhere in areas which are socially and culturally acceptable to the settlers, so land can always be bought elsewhere. The mention of “socially and culturally acceptable” land points to the important ethno-ecological issues that accompany displacement matters, for which this thesis explores. Secondly, it assumes that cash compensation for land condemned by the government represents the existing market value, which is hardly the case (see Zaman, 2002:260, and also refer to Chapter Three Section 3.7, which reviews works touching on the difficulty associated with compensating at market rate). In the case of Kwale, land values literally escalated overnight, as locals were eager to cash in on the windfall that resettlers had received, and increased demand always pushes up the prices.

Thirdly, it assumes that resettlers will always act wisely and use their cash to buy land, which is rarely the case. Mburugu states that in the Kiambere resettlement, only 14% of those affected used their money to buy new land. Fernandes (2000) found that in the Hirakud dam project in Orissa, India, money lenders motivated compensation beneficiaries to spend on trivia such as artificial jewellery. At the end of the day, the displaced persons were left with no assets other than some trinkets which the money lenders had sold to them at exorbitant prices; they ended up being absorbed into the dominant economy as suppliers of cheap labour. Thus the Orissa experience, and those mentioned in Kenya, show that monetary compensation is not a solution but a step towards rendering communities vulnerable to homelessness and food insecurity, among other risks. Gyuse and Gyuse (2008:261-262) note a similar trend of cash compensation wastage among those displaced in the Akasombo dam project.

One shortcoming that Mburugu noted in the Kiambere project was that in the initial surveys that were carried out, a socio-cultural survey related to the displacement and resettlement was never part of this exercise, despite the fact that the existing World Bank policy for projects funded by the World Bank dictated that this must be done. This gives credence to the assertion in Chapter One that some developmental projects do not adhere to guidelines that ostensibly exist to monitor such resettlement activities. It also demonstrates that avoidance of ethno-ecological issues associated with displacement accounts for much of the failure witnessed in such projects.

Mburugu observes that the Kiambere dislocation portrayed a sad story of hardship. Compared to the host population where they settled, the affected persons fared badly. For instance, the cash compensation was inadequate to buy equivalent land elsewhere, hence many ended up with small plots or none at all and ended up as squatters. Again, the socio-

demographic characteristic of the resettlers did not facilitate adjustment in the host areas, nor did it enhance their income earning opportunities. He observes that the resettlers' economic life worsened with the displacement. Before displacement, their average earning was Ksh15,893 (about US\$993<sup>10</sup>) per annum, but after the event, they now earned Ksh1,775 (about US\$110), an average drop of 89% in their income. This was largely attributed to the shrunken farm land size that they now possessed (Nakayama *et al.*, 1999(b) also noted this impact—shrunken size of land owned among the resettlers of the Cirata Dam in Indonesia). Mburugu noted further that most of the displaced were unable to purchase alternative land as the residents were compensated at Ksh700 (about US\$44) per acre while the market value was Ksh2,000 (about US\$125) per acre after the displacement. This was similar to the case of the Hirakud dam in India where, as Nayak (2000:73) observes, the compensation paid “was too less [sic] to construct new houses elsewhere”.

Mburugu argues that the trouble of reconstructing homes was exacerbated by the many demands that the rural folks were faced with such as payment of fees and debts, assistance to relatives and purchase of livestock. Others unavailably used their money to pay bride-wealth for newly acquired (additional) wives or to buy household goods. Others alleged that they had not bought land as they were waiting for better land deals or better investments, whereas in all likelihood they had probably wasted the money. Yet another effect of the displacement was that it brought about land pressure in the resettlement areas. Since most displaced persons choose to move an average of only 14.4 km from their original homes, so as to be with kin and relatives, this increased the population density in the host area(s), and thus brought about land pressure. Lack of access to valued resources was another effect that was felt. The displaced complained that they were now unable to access valued natural resources such as pasture for livestock, wood for fuel, water, trees (for building and fencing) in the new host areas as compared to their former lands. This further demonstrates the importance of ethno-ecological issues on matters of displacement.

The community also complained about the inaccessibility of schools, shops, roads and markets. Mburugu (1994:54) notes that “these observations lead to the conclusion that resettlers had nothing to show as a positive gain arising from displacement in the project area”. Mburugu concludes that one of the important lessons learnt from the Kiambere

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<sup>10</sup> The exchange rate at that time was about Ksh16 to one US\$.

displacement was that there was an urgent need for the review of existing (Kenyan) laws that relates to displacement and (land) compensation.

The other urgent lesson that Mburugu points out is that governments and development agencies need to ensure the availability of land to resettle the displaced because compensation offered is usually insufficient (see also Manga, 1994:78, who studied a project in Doula, Cameroon, which fell short of providing compensatory land to the displaced in an urban upgrading project. Several families were left out in the distribution due to “project inefficiencies”). But compensatory land as a form of compensation is hardly adequate for, as Mburugu observed, equivalent agro-ecological land which is socially and culturally acceptable to the displaced is rarely available. Compensatory land may therefore not be the ‘silver bullet’ that will ease the conflict that arises out of displacement. Nakayama *et al.* (1999a) follow in the tradition of the World Bank and recommends “land for land” compensation as the way out of such predicament. Takesada (2009) points out that cash-for-land compensation failed in Japan, especially when dealing with farmers living in remote areas, and suggest land-for-land compensation as a more viable option. Of interest then would be to examine how the compensatory land offered to the residents of Kwale helped matters. Chapter Eight offers insights on this.

To conclude, Mburugu further recommended the involvement of resettlers in decision making (see below on successful resettlement projects arising out of consultation and involvement of locals) regarding compensation payment and in all other pertinent matters so as to increase social acceptability of the development programme and hence quicker adjustment of the displaced in their new surroundings. Mburugu also recommends that in such programmes, the host population should be engaged in a useful manner during this process as they are also affected by the ensuing events. Mburugu’s study offers good empirical insights on the negative effects that displacement bears on communities, but the extent of this is not clear as the deeper ethno-ecological meanings that the community attached to their environment and the extensive use to which they put their environment were not examined, and idiographic narratives from the affected residents were not captured. This thesis hopes to extend knowledge in this aspect.

Cernea (2006) argues that displacement does not just have to be physical—restriction to access to resources (what Milgroom and Spierrenburg (2008:436) call “economic displacement”) is equally an act of displacement. Cernea adds that this has also now been

adopted as a definition of displacement. This widened the otherwise narrow definition that proposed that displacement only occurred when people lost their homes and their land. When development projects have the “right of way” or when “protected areas” are established, the populations with customary ownership (including indigenous groups) are either forcibly relocated, or are prohibited by ‘restricted access’ from using lands and resources declared as ‘project protected areas’ or ‘project security zones’, populations are thus said to have been displaced. It was in this manner (and in their physical dislocation later on), that the Endorois of Kenya were displaced.

The Endorois community (the current population is about 60,000 people) resided for centuries around the Lake Bogoria region in the then larger Rift Valley Province. During British colonial rule, the community continued to enjoy access to the land, but after Independence in 1963 the land was passed on to respective County Councils to be held in trust on behalf of the community. However, the land was gazetted as government land in 1973, effectively transferring ownership to the government and dispossessing the Endorois of their land. The land was converted into a game reserve in 1978 and 400 families were consequently dislocated from the land. Ksh3,150 per family was paid as relocation benefits, with promised assurances that they would be provided with alternative “home” land, and that facilities such as cattle dips, schools and running water would be provided. They were also assured that they would receive 25% of the revenue generated by the Reserve and 85% of the employment generated. By the time the community lodged their complaint to the African Commission on Human and Peoples Rights court, none of these promises had been fulfilled (African Commission on Human and Peoples Rights, 2010).

Before appealing to the African court, the community had petitioned the government and the courts in Kenya for a return of their ancestral land, or for payment of fair compensation for its lost land. But in 2000, the Kenyan court curiously ruled that the government had duly paid the expected compensation (of Ksh3,150). This obviously contradicted the existing compensation law that instructed that payment be made at market value<sup>11</sup>. To worsen matters, part of the community’s ancestral land that had initially been converted into a game reserve, was degazetted by the government and, in 2002, handed over to a mining company, contrary to the law which prohibited excision of land acquired through eminent domain to be turned over to third parties. The community therefore lodged a complaint to the effect that denial of

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<sup>11</sup> See Land Acquisition Act Cap 295 at <http://www.kenyalaws.org/klr/index.php?id=7> – accessed 23/9/2011

their ancestral land, the severe restrictions placed over access to Lake Bogoria, together with lack of adequate compensation, amounted to serious violation of the African Charter to which Kenya was a signatory (African Commission on Human and Peoples Rights, 2010).

The African Commission on Human and Peoples Rights court ruled in favour of the community in May 2009, noting that the Kenyan government had indeed violated articles 1,8, 14, 17 and 21 of the Charter. The court ruled that the government violated the rights of the Endorois with regard to property (illegal possession of ancestral land), health (that government action disregarded the well-being of the community. Writing on how displacement affects health, Crooks *et al.* (2008) pointed to stunting and underweight among children of those displaced in Gwembe Valley in Zambia to make way for a hydroelectric development project). The court ruling also covered issues such as denial of use of resources (especially Lake Bogoria), culture (separation from their ancestral home and restrictions to perform cultural rites on the shores of Lake Bogoria which the community considered as a sacred body of water) and natural resources, considerations that bear critical ethno-ecological importance. The Kenya government was ordered to restore the traditional land base of the Endorois People within three months following the ratification of the Court's decision by the African Union in February, 2010 (Tochamba *et al.*, 2010). This goes to show that governments have the potential to violate the rights of its citizens, and one sometimes needs to appeal to international courts for justice to be realised. The Endorois decision has been heralded worldwide as a victory stroke for the rights of indigenous People. However, implementation of the decision is another matter!

The above review illustrates that displacement in Kenya has largely had negative effects on the displaced communities. Much of the effects mentioned in Downing's and Cernea's models such as loss of land, new poverty, homelessness, marginalisation, health risk, access to public services, increased food security, loss of common property, experiences of social disarticulation are observed Murang'a, Kiambere and Endorois displacement. It is noted in all three cases that the deeper ethno-ecological meaning of the assets that the community were either fighting for their return and/or compensation were not provided, though references to this were made in all the three cases. In the 3<sup>rd</sup> Water Nairobi project, intangible assets, which bore important ethno-ecological importance (deduced from the fact that this was one of the issues the community listed in the case they lodged in court), were not compensated. While Mburugu (1994) demonstrates in the Kiambere project that displacement from familiar landscape impacts negatively on communities, the deeper ethno-ecological meanings that

communities attached to the environment were not provided. Similarly, in the Endorois case, the deeper ethno-ecological meanings of the landscape for which the community were agitating for their return were also not provided. Syagga and Olima (1996) acknowledge that compensation could be made more “just” if it took cognizance of local communities’ perceptions of land value, an area which this thesis addresses. Much of this impact, however, has only been based on experiences related to dam construction (which has been the major cause of much of the displacement witnessed worldwide). Quite possibly, mineral-related social displacement would be even more disruptive in a socio-ecological sense, given the symbolic meanings associated with such activity.

Let us now review displacement experiences from other parts of the world.

## **2.6 Involuntary resettlement: experiences from other parts of the world**

Cernea and Schmidt-Soltau (2003) examined displacement and resettlement in Central Africa. The authors agree (ibid.: 42) that involuntary displacement results in serious cumulative impact, especially when that event occurs from traditional lands. Using the Impoverishment, Risk and Reconstruction model developed by Cernea (see Section 2.4), the authors analysed the impact of displacement among the “peoples” of Central Africa’s rain forest, where an estimated 45,000 individuals were displaced, ostensibly to preserve the rain forest. The authors noted that land has a social, economic and cultural dimension especially for indigenous people, and further noted that this community lost between 70%-80% of their land without any compensation being paid to them. An ethno-ecological approach would dissect and unravell the important ethno-ecological significance of land, by demonstrating the meanings that the community attach to ‘land’ (and this includes all that that is found on it, such as plants, sacred places, physical structures and graves). It would have further demonstrated why the community felt particularly injured when they were displaced, and further show how the lack of compensation for their cultural artefacts and land, had caused further socio-cultural hardship to the community.

Cernea and Schmidt-Soltau argue that introduction of alternative income-generating activities (such as farming, livestock rearing and eco-tourism, among others) as trade-offs for the uprooting of long established indigenous livelihoods showed that cash compensation was certainly not a meaningful option for hunter-gatherers, since an entire change of lifestyle cannot be achieved overnight or even within one generation. The resettlement resulted in increased incidence of poverty, alcoholism and disease. With regard to risk of homelessness,

it was found that the pygmies were no longer able to construct their semi-permanent settlements within comfortable environments as these had already been possessed. Further, resettlement housing appeared to be associated with decreasing health status, which meant that they had difficulties adapting to the new set-up. The pygmies became marginalised as a result of direct instant loss of traditional rights and by acquiring the undistinguished status of displaced people. They also suffered from cultural alienation as they were forced to settle as strangers (without rights) in the midst of homogenous neighbours from different cultural, social and economic backgrounds. Since they no longer had access to 'their' forest, the pygmies lost access to common property resources. The risk of food insecurity and of increased morbidity and mortality was found not to be a factor.

Social disarticulation was found to be a serious risk as the forced change of life atomized existing social links within the group. This drastic change made stable adaptation difficult, if not impossible, to achieve without severe pain, emotional stress and conflict. The authors argued that the high prestige bestowed on the elders, one which arose out of their deep knowledge of the land and the related social structure, all but disappeared. However, the ethno-ecological uses of, and meanings attached to, the environment and the associated attachment to land, were not highlighted. Together, the extent of the pain and stress associated with land loss, loss of means of subsistence and marginalisation cannot be quite expressed. The present study wishes to extend knowledge in this area.

The Central Africa research also highlighted the realisation that, even with the best practices inked on paper by highly regarded institutions such as the World Bank, governments still find ways of circumventing or totally ignoring these rules. For instance, in the case of the Pygmies of Central Africa, it was noted that although the World Bank recommended that resettlement policies for all cases of displacement recognise not only legal rights but also customary rights of the indigenes, and the fact that the policy stresses that such persons should be informed of their options and rights pertaining to resettlement and must be consulted on resettlement alternatives as well as be provided with prompt and effective compensation at full replacement cost for lost assets, these were largely ignored by the DRC government.

Cernea and Schmidt-Soltau (2003:47) also suggest that the government acted in this manner because to recognise traditional land titles/rights would have meant a delay in the resettlement schedule and a delay in the mining programme, and argued that the government

therefore refused to give these rights legal recognition so as to “avoid endless discussions about compensating the un-commensurable”. A discussion on the ‘un-commensurable’, which would have enriched the discussion, was not given. This therefore underscores the need to examine the ‘un-commensurable’, and this can be done through an ethno-ecological approach. An ethno-ecological approach would have identified the ‘un-commensurable’ assets and provided the symbolic and critical cultural meanings that these assets bear to the community. This particular displacement in Central Province demonstrates the negative impacts associated with displacement as espoused in Cernea’s IRR model, and demonstrates the versatility of this model. It further demonstrates that ethno-ecological considerations are at the core of community disaffection when it comes to resettlement issues. The research also demonstrated that governments can circumvent the law in pursuit of their own interests.

Cernea and Schmidt-Soltau (2003) note that in another research by Schmidt-Soltau in which an evaluation of displacement programmes in Cameroon, Central African Republic, Equatorial Guinea, Gabon and Republic of Congo were carried out, it was found that of the eight projects studied, only one (in the Republic of Congo) had some limited success. They noted that none of the eight areas surveyed adapted an official strategy to integrate local inhabitants, and only one (the programme in Cameroon) included a resettlement component. This shows that there are fewer successes in displacement projects.

In another research in which relocated victims of displacement in Ekundu-Kundu, Cameroon, were interviewed, Schmidt-Soltau (1999), found that with regard to the relocation site, 70% were satisfied while 20% were not. As regards the provided houses, the majority (56%) did not like the houses as they found them to be too small and made of materials they did not like.

As for what he termed “ecological perception”, which involved asking the locals whether they were willing to stop hunting and trapping in the repossessed land, 71% of them said that they would not stop, arguing that that was their way of life. The displaced added that they did not fear confrontation with game guards with regard to this, arguing that they had better knowledge of the forest, and therefore not even an army battalion would be able to smoke them out of their hiding places in the forest. When asked which of the two places they preferred the most (between the former land and the resettlement site), a small majority (54%) preferred their former land. Schmidt-Soltau noted that 86% stated that they visited their old site to harvest, arguing that they did this because they were the traditional owners of

the forest, a land ownership issue which they claimed was not affected by the resettlement. This demonstrates the community's close attachment to their environment, an issue that is core in ethno-ecological studies. Most still considered themselves the traditional owners of the forest from which they have been displaced, which are issues, as observed in Chapter Three of this thesis, that ignites conflict between the community on one side, and the government on the other

This demonstrates communities' attachment to the land/forest, which displacement does little to dissolve. Their intimate knowledge of the forest also instils in them a feeling of invincibility enough to make them boast that even an army battalion cannot shake them out of the forest. Due to their long intimate association with their environment, they had established a strong bond with it such that they could not disassociate themselves from it, and hence they could not see how they could stop hunting in the forest. This is an important ethno-ecological observation. Most of the locals concurred that the resettlement had impacted negatively on their social lives. For instance, many now had to buy food as they could no longer rely on forest products. Many also felt exposed in the new area. Again, the traditional rulers felt that they were fast losing their prestigious places in the community. Their relative closeness to towns was now quickly eroding the traditional norms, mores and values.

Schmidt-Soltau (1999) mentions that totemistic belief (the idea that each individual's soul rests in some animal only known to himself/herself—and that when that animal dies the person also dies) did trouble the locals during the resettlement period. The idea that they would abandon these animals in their former site, thus exposing them to poachers, troubled many. The locals were afraid of the wrath of the ancestors, who would accuse them of having abandoned their ancestral land, where their secret objects or places of worship, shrines and graves were. They therefore requested the Cameroonian government for compensation (which had not been paid) which would be used to appease the gods.

The above study is important to the current work as it made use of and offers important ethno-ecological insights in assessing the impact of social displacement on a community that makes extensive use of environmental resources. The research acknowledges that communities do get attached to their environment and social displacement causes problems touching on adjustment in their new resettlement areas. A good example of totemistic belief is provided, one which demonstrates the meanings that have been bestowed on animals, and

further, the anguish associated with alienation from one's totemic animal. Whereas the displacement was in relation to a National Park Conservation project, where the land would relatively be left undisturbed, it is envisaged that mining related displacement would bear a different symbolic meaning altogether, as in this instance, the land would be ravaged and considerably altered. The Kwale experience in relation to this is provided in Chapter Eight.

In a review of literature on involuntary displacement, Asthana (1996) found that most projects demonstrated the risks outlined in Cernea's IRR model. Asthana argues that compensation for compulsorily acquired land during the displacement process does not effectively ensure family livelihood, because for low-income families in rural areas (often the largest group to be relocated) the capital realised through the sale of their properties at market prices does not necessarily secure access to other essential resources at the levels at least equal to those that prevailed before expropriation. This is for the reason that food security and employment are often matters that are related to social networks which are irrevocably disrupted during relocation, and compensation alone, however calculated, is unable to re-establish these, especially in cases of rural populations. Literature on the inadequacy of cash (and land-for-land) compensation and arguments for alternative compensation regimes such as compensation at "replacement value" or "cost benefit analysis" and "resettlement with investment" are elaborated in Chapter Three (Section 3.6).

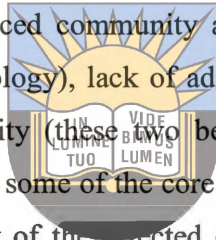
Asthana (1996) points out, however, that certain communities do react positively in instances of displacement. A case in point was the Karelian resettlement in Finland, and the Arenal Hydroelectric project resettlement in Costa Rica. In the two examples, the local inhabitants were involved in minute-to-minute deliberations on the need for the project (which they understood and approved), on the compensation rates (made in cash and securities and standard housing which they approved) and on the process (in which they were settled as one group, but first settled on temporary land to give them time to adjust to one another before final resettlement on the permanent alternative site), factors which led to the success of the project.

Chen (2008) attributes the experience of hardship among displaced persons to the varying interest that the government and the displaced have with regard to development:

[Re]settlors prioritise security of food supplies and sustainable income which are based on access to natural resources and traditional knowledge and culture inherited from their ancestors...the government lists house construction as the top priority. The re-settlers also care more about

comparing their livelihood with those of neighbouring communities, while the government stresses the stability of the communities and the overall success of the dam building. As a result, most communities are dissatisfied with their lack of access to natural resources and employment opportunities and also, with loss of their traditional culture. This dissatisfaction is increased when a local government does not keep its promise of providing electricity, roads and irrigation facilities, agreed to before displacement, as well as providing an inadequate level of compensation and as a result, livelihood quality declines (Chen, 2008:108-109).

Because of the above, Chen insists that cultural dimensions should be taken into consideration when decisions regarding developmental projects and resettlements are being made. Chen's observation brings out some very important issues: utilisation of environmental resources through lived experiences, lack of displaced community access to these natural resources (these two being at the heart of ethno-ecology), lack of adequate compensation and matters bearing on Corporate Social Responsibility (these two being at the heart of community-government/company conflict). These are some of the core issues that this thesis touches on, and which often lead to the vulnerability of the affected community, as will be shown in Chapters Three and Eight.



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This thesis looks at how these four processes/issues (that is, natural resources, their use, displacement and compensation) affect displaced communities and how this stokes conflict and breeds social disharmony. Since Chen did not demonstrate the resources that are missed and how they are/were used prior to the displacement, the author does not clearly elucidate how displacement negatively affects communities sufficiently to trigger conflict. This thesis attempts to show how the aforementioned affects and raises questions on matters touching on compensation, and how this eventually calls for finer compensation regimes and Corporate Social Responsibility programmes as a way of assuaging community disaffection (given that governments are likely to continue engaging in development activities anyway, some of which will continue to lead to displacement).

Wadley and Ballock (1980) looked at the satisfaction level of relocatees in Yallourn, Australia. They noted that despite conflict preceding resettlement, where the 4,000 locals were resisting relocation to make way for open-cast coal mining, the outcome of the relocation was surprisingly positive. It was noted that 94% of the relocatees expressed overall satisfaction at having moved from Yallourn. Reasons ranged from the fact that they were provided with better housing (they were now owners and not tenants), had a better

physical environment and better facilities at the host sites which they themselves chose, and because they participated strongly in the decision-making process. As mentioned early, lack of constructive engagement of locals soon to be displaced is one of the major factors that bring about much of the conflict witnessed. Locals rarely have the power to argue their case against usually overbearing governments.

It is noted that the residents of Yallourn were able to settle in their own homes, which were dismantled and re-assembled in their places of choice. Now this is quite interesting, for while certain houses can be dismantled and re-assembled, this cannot be said of other types of houses, such as those (in rural Africa) constructed with tree trunks, cow dung and soil, and roofed with grass—there is no way that such houses can be dismantled and re-assembled. As will be observed in Chapter Three, these ‘rudimentarily’ houses are not valued on account of the material that has been used to construct them, but on account of the meanings attached to them. The present study seeks to examine these meanings (see Chapter Eight of this thesis).

In Yallourn, residents were also satisfied with the compensation paid. The relocatees were quick to adapt to their new sites and quickly called it home despite the fact that the majority were persons above 40 years, who would have been expected to have formed strong attachments with their home/environment. Wadley and Ballock (1980:69-70) offer the explanation that the quick adaptation to the host site was probably because 43% of the household had visited another continent, were born overseas or had travelled interstate. In a sense, it would seem the greater familiarity with the outside world the easier the resettlement.

The Yallourn case demonstrates that consultation and involvement of the local community, which the World Bank and AfDB advocates for, can go a long way in making a success of resettlement projects.

In the Arena Hydroelectric project in Costa Rica, sound utilisation of social science data played a critical role in successful project planning and implementation (Asthana, 1996). This underscores the need for ethno-ecological studies prior to undertaking resettlement programmes. This is for the reason that ethno-ecological studies would identify the problem areas as researchers will be able to identify the issues that the locals are passionate about, and hence sound policies would be pursued, which may then avoid conflict. Those who have failed to do so have ended up with failed resettlement projects, as was the case of the Akosombo Dam on the Volta River where land was acquired from the locals without adequate notice, with demands for production of title deeds in order to qualify for

compensation; multiple problems with resettlement sites; unfair compensation of crops and houses, among others—see Asthana (1996:1473). However, this provided valuable lessons for Kpong resettlement project later on the same river, as this time around the local population were consulted and were involved in most of the planning and implementation stages of the project. The adverse impact of the resettlement was thus minimised.

Asthana (1996:1473) argues that a resettlement project at the Beles Valley project (in Ethiopia) failed largely due to lack of anthropological research on the resettler and host populations, which would have considerably lessened the suffering and hardship experienced by those displaced. Asthana further notes that Mexico's resettlement experiences have not been happy ones. For most projects, the resettled sites were located several hundred kilometres away, and some were located in dense tropical forest. Coupled with poor soils and crop diseases, the affected communities were struck by poverty, rendering them vulnerable to other shocks. In Indian Oxaca (Mexico), mishandled resettlement caused unrest and the army had to be called in to quell the local protest. Asthana also observes that resettlement in Manantali in Mali failed, largely due to lack of local involvement and also due to a flawed understanding of the existing social systems, among other things. This underpins the need for social science research before the implementation of resettlement programmes.

Nayak (2000) provides further evidence of how displacement adversely affects communities. Among the Kisan community in the Orissa project (India), Nayak identifies landlessness and loss of livelihood as the most serious losses suffered by this community. Nayak argues that the land-for-land compensation pursued by the government of India failed as resettling in unfamiliar landscapes and environments was alienating and traumatic. Along with the sense of loss of knowledge of the forest and location of all resources that had been passed down from one generation to the next, the Kisan community were forced to try and adapt to a new environment—a process that largely failed. This finding echoes Cowell's (1997) remark that this type of compensation is complex, and often fails, as it attempts in a matter of months to reconstruct a community's life that had been built over generations.

Other resettlement researchers such as Padovani (2003), Safdie (2005) and Heggelund (2006), all of whom analysed the Three Gorges Dam in China, noted the familiar pattern of hardship and suffering among the displaced. All three authors noted that the peasants resisted relocation from their ancestral lands but in the end, they were forced out and about 2 million people were displaced. The peasants were found to be disaffected by the compensation

meanings (i.e. that the company would actually be ‘harvesting’ their ancestral lands together with the bones of their ancestors), but the process would most likely leave the land ravaged and unsuitable for resettlement.

In assessing six dam-related displacement projects in Japan, Indonesia and Sri Lanka, Fujikura *et al.* (2009:417) conclude that “one shoe fits all” (uniform) compensational policies do not work as there are different dynamics at play in each project. This therefore calls for the need to have an open policy in which each project is determined on its own merit.

It is because of the above that Price (2009) concludes that displaced persons are victims and not partners in development-induced displacement projects, because they hardly share in the benefits that accrue from such activities, which Fernandes (2000) had earlier suggested they should. Fernandes (*ibid.*:4) states that displaced persons ought to benefit through compensation, through jobs, through payment of royalties, through becoming shareholders in extractive companies and through sharing in the profits. He argues that in reality, however, hardly any country legally recognises the right of the displaced to get a share in the benefits of the project, much less in ownership (see the ‘richest tribe in Africa’ (Mason and Mbenga, 2003) for one such rare case—although Mhwana and Akpan (2010) contend that the benefits arising from the mining venture do not trickle down to the locals but are captured by the elite). In any case, as Bhengara (1996:649) previously noted, in most mining-induced displacements there are usually two groups: those who benefit from the mining and those who pay for the mining—thus echoing de Wet’s (2002) thesis that not everyone can win in mining projects, given current realities and power differentials.

Bhengara (1996) argues that there is usually a massive transfer of resources from those with little (the poor), to those who have plenty (the rich). Bhengara further argues that mining projects systematically usurp the resources of the poor and that the wealth generated by them is transferred to the dominant sections of the economy. This, the author says, is reflected in the contrast between the environmental degradation of the habitat occupied by the losers, with the increased economic benefits enjoyed by the distant beneficiaries of the projects. Fernandes (2000) further argues that the displaced suffer from disintegration of the social system that sustains them, and that this weakens the group’s sustainable culture that would traditionally ensure the renewability of their resources and equitable distribution. Fernandes also notes that the displaced are also vulnerable to psychological shocks which prevent them from gaining awareness of their own strength. What Fernandes therefore calls “benefits”

cannot be benefits, when one suffers social and psychological losses, which Sen (as cited in Qizilbash, 1996) states, forms an integral ingredient for development to be said to have been realised.

Fernandes (2000) argues that if psychological infrastructure is considered during resettlement, then there would be increased hope that the society would share in the benefits of the project. Since in most studies the benefits mentioned by Fernandes are never achieved, then one would be inclined to accept Price's (2009) assertion that the displaced are indeed victims. This thesis contends that the psychological infrastructure that Fernandes advanced can be well understood through an ethno-ecological study which would reveal the meanings that communities attach to the environment and the use to which they put the resources therein. Unravelling this interconnectedness between humans and the environment will then enable us to better assess the impact of displacement and the adequacy or inadequacy of the remedial measures.

This becomes even more urgent when one considers that the new economic interventions pursued by governments on those displaced often do not work. Take for example the introduction of rubber farming in Koto Panjang resettlement villages of West Sumatra. This failed dismally, and thus compensation did not lead to the recovery of resettlers' livelihood to the levels before resettlement, let alone to improve them. The project led instead to increased poverty among the local community. Karimi *et al.* (2009) attribute this failure to the insufficient enforcement of the development plan. But given the social disruption that the project caused, it is improbable that even intense enforcement would have worked.

Gyuse and Gyuse (2008) earlier examined the impact of the Kainji dam in Nigeria 40 years after the resettlement with the intention of drawing lessons from the experience. The study was, however, limited to the planning process, architectural concepts and housing design. The first lesson they drew from the experience was that cash compensation was inadequate. They found that the money was soon spent, and that the displaced hoped either for more or for some other intervention to their predicament. The authors noted that in the Akasombo dam construction in Ghana, cash or assistance to construct replacement housing was offered. Those who chose cash compensation were left helpless when the money was delayed for up to five years, while those who chose replacement houses also suffered as the promised resettlement facilities, such as water supply, roads, and better housing, never materialised.

The authors noted that houses were designed without the participation of locals, so that in the end, the houses constructed were unsuitable both in form, style and structure consistent with the locals' traditions and environment; and so the locals disowned and abandoned these houses (Nakayama *et al.* (1999b:454-455) also point out that lack of participation by locals in the planning and implementation of the Cirata Dam project (in Indonesia) was one of the contributory factors that led to the failure of the project in terms of ameliorating the negative impact of displacement among resettlers). The literature continues to re-enforce the view that cash compensation, especially when dealing with rural folks in developing countries, is insufficient and only increases community vulnerability.

But as Altinbilek *et al.* (1999) observe, and as previously cited in the case of Yallourn (Australia), Karelian (Finland) and Arenal (Coasta Rica), experiences differ among countries. For instance, in their examination of five dam resettlement projects in Turkey, they found that only 25% of the affected families chose government assisted resettlement, as the remaining 75% preferred self-resettlement as in their opinion they had received sufficient compensation to afford their own resettlement needs.

Social displacement also bears other problems which Cernea (2003b) mentions. In an article 'The question not asked: when does displacement end?', Cernea (2003b) notes that one of the problems with involuntary displacement, one which turns those displaced to be more victims than beneficiaries of such projects, is that the decision to dislocate a population is usually made long before the actual physical displacement takes place, and continues long after the actual event. These decisions lead to 'cut off' dates and the legal prohibition of new constructions and new investments in the condemned areas. This in turn invariably induces depression, causes an upsurge in land prices, stops housing and enterprise construction, and leads to the freezing of public investments for public service within the area targeted for eminent domain action. Therefore the 'to be displaced' begin to suffer adverse economic consequences long before they are actually physically displaced.


Milgroom and Spierrenburg (2008:443-444) describe how the lives of residents in Limpopo<sup>12</sup>, Mozambique, came to standstill for several years—from 2001 when the decision to move them was made, up to and long after 2006 when the actual relocation was 'implemented'—when their land was earmarked for a National Park. Said one resident:

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<sup>12</sup> This is a national park in Mozambique, not to be confused with the Limpopo Province in South Africa.

Since the park was made we were supposed to leave. Since they said that, people don't construct houses, we don't plant trees. This house was built in 2000 but it was never really finished because the park came. There were trees but we stopped planting and the old ones died [papaya]. No one is investing, not to do things for nothing. Even now that we have accepted to leave, the park does nothing. (Milgroom and Spierrenburg (2008:443)

Much of this (hanging around waiting to be resettled) affected the inhabitants of Kinondo and Mivumoni in Kwale (see Chapter Eight).

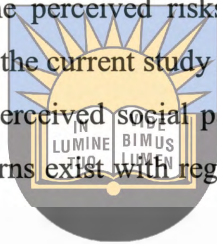
Cernea (then a Senior Consultant with the World Bank) surprisingly suggests that the end of resettlement can be determined through policy (i.e. by having it stated in a Resettlement Action Plan) and implementation of the same (Cernea, 2003b). This is simplistic and insufficient. It is known that the effects of resettlement last for a very long time, in what Kothari (1996:1477) calls the “trauma of displacement”. Displacement dismantles communities’ production systems, desecrates ancestral sacred zones or graves and temples, scatters kinship groups and family systems,  breaks informal social networks that provide mutual support, weakens social control systems, disrupts trade and market links, among others, and those displaced always live in fear of being displaced again. For instance, as shown in Chapter Nine, the titanium mining-related displaced and resettled residents of Kwale were fearful of further displacement after the award of a prospecting lease to Cortee Mining Kenya to search for niobium and other rare earth metals in the relocation site, Mrima-Bwiti. There is, therefore, no end to displacement, or the fear thereof. In an article ‘Whose Nation? The Displaced as Victims of Development’, Kothari (1996) concurs with Bhenghara (1996) that the displaced are indeed victims of development.

## 2.7 Conclusion

The literature on displacement highlights that, although experiences vary from country to country, involuntary displacement has the potential to put an entire community at risk, and it often does. Downing's (2002) and Cernea's (2000a) models illustrate that communities can suffer from “new poverty”, homelessness, landlessness, loss of livelihood, marginalisation and food insecurity, joblessness, increased morbidity and mortality, loss of social networks, loss of access to common property, risk of social disarticulation, and disruption and/or loss of educational opportunities. These can occur despite the benchmarks set by institutions, largely the World Bank, that finances displacement-inducing development projects. This, therefore,

calls for the need for better planning when it comes to displacement and resettlement. Given that communities, especially those in Africa, rely to a large extent on their environment, upon which entire livelihoods are constructed, this need becomes even more urgent. What the reviewed literature shows is that what would distinguish a “good” relocation from a “bad” relocation is the quality and intensity of community participation in the process. The recorded successes in Yallourn (Australia), Karelia (Finland) and Arenal (Costa Rica) are attributed to the meaningful involvement of the affected community in the decision-making process. One of the ways of achieving this is through the intensive participation of locals and by carrying out prior and on-going ethno-ecological analyses.

In the next chapter, the focus is on the literature on mining and its impact, but especially on compensation as a tool for mitigating the perceived risks associated with mining. This approach is pursued upon observation that the current study is also interested in conflicts arising from mining activities. Apart from the perceived social pathologies associated with social displacement, what other additional concerns exist with regard to mining? The next chapter addresses this issue.



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## CHAPTER THREE

### MINING, CONFLICT AND COMPENSATION DEBATE

#### 3.1 Introduction

Mining presents communities with opportunities for social and economic development through positive impacts such as increased access to jobs, healthcare, education and sanitation. But at the same time, it can also result in devastating impacts on human health, local systems, social structures, production systems, cultural traditions, physical displacement, demographic shifts and dependency (Holden, 2005:431). Mineral extraction has long been accompanied by social protest (Bebbington *et al.*, 2008), and some of these protests have been against social dislocation (reviewed in Chapter Two).

This chapter explores the various schools of thought with regard to the importance of mining (especially in Africa), and then reviews literature on the factors that exacerbate conflict between mining communities and extractive companies, and between mining communities and the state.



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#### 3.2 Importance of mining in Africa

According to Hilson (2002b), mining, especially of hard minerals, has taken place in Africa for many centuries. Forty thousand years ago, the San of South Africa were known to use mineral rocks for stone implements and weapons, and to use iron ore for painting. From the 11<sup>th</sup> century onwards, gold was being extensively extracted in large quantities from Archean greenstone belts of Zimbabwe, Botswana, Tanzania, Mozambique, and South Africa among others. This period was, however, overshadowed by slave trade, and it was only in the 19<sup>th</sup> century that the mining potential in Africa began to be realised. At this time European explorers encountered vestiges of earlier thriving gold mining industries, copper metallurgy practices and weapons crafted from iron ores, and begun reviving these activities. The end of the 19<sup>th</sup> century marked the era of the gold rush in South Africa, gold mining along the Gold Coast of Ghana, copper mining in Eastern Africa, and diamond extraction throughout the continent in places such as Botswana, Ghana, Liberia and in the Congo region (Hilson, 2002b:153).

bearing ores, and 29,174 of iron-bearing ores, as well as 595,507 kilograms of gold-bearing ores (Hilson, 2002b:153). Small scale mining has also played a crucial role in mineral wealth generation in Africa, and was a source of wealth for many empires and kingdoms before, during, and after the colonial period. Hallaway (as cited in Hilson, 2002b) estimates that in recent times, small scale mines produce gold and gemstones valued at a combined worth of U.S \$1 billion annually. Without a doubt, therefore, mining has been and continues to be of great economic significance to the economies of many African countries.

Much of the debate in Africa with regard to mining has been on the question of whether or not mining is good for development. While Graulau (2008) and Richani (2004) agree that mining is good for development, the same scholars argue that the structural constraints found in many developing nations render mining untenable. Graulau (2008:141) in an article entitled 'Is mining good for development?', for instance, contends that:

imports of capital, the introduction of new techniques of production and organisation based on the technical know-how of the industrial centres, and the creation of external economies through the construction of roads, installation of ports, railroads and urban public services facilitated the expansion and concentration of foreign economic power in the mineral sector at the expense of the development of the national economy.



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In other words, mining is viewed as the quintessential manifestation of the exploitation and dominion of foreign monopoly capital. Indeed much of dependency theory holds that Latin America’s problem of under-development, as evidenced in the conditions of marginality, poverty, and economic stagnation among others, can be attributed to exploitation by monopolist western monopoly capitalists. Other arguments have been in the form of the “resource curse” hypothesis which basically argues that mineral-endowed countries have continued to record poor economic performance when compared with other states (see Arellano-Yanguas, 2008; Bebbington *et al.*, 2008; Richani, 2004; Auty, 1998). Proponents of this view hold central the idea that mineral wealth leads to consumption and investment during boom periods, but cannot be sustained during low periods. “Dutch Disease”, as this is sometimes called, contributes significantly to this poor performance. It is also argued that the concentration of activity in one sector of the economy brings with it vulnerabilities associated with export dependence, which arises from mineral price volatility.

Auty (1998) demonstrated (refer to Table 3.1) the weak performance of mineral economies using data for per capita GDP over the years 1960–1990. Table 3.1 shows that both groups (referred to as “large” and “small” countries) of resource-deficient countries achieved superior growth compared with the other resource-rich states. It also shows that among the resource-rich countries, the mineral economies have had the slowest growth. The main conclusion drawn by Auty was that the resource-deficient countries out-performed the resource-rich countries and that among the latter group, the mineral economies recorded the most disappointing performance.

Indeed, Pegg (2006) later arrived at the same conclusion, noting that per capita gross domestic product (GDP) was negative for all three categories (the first category being where mining is “dominant”, the second where mining is “critical”, and the third where mining is “relevant”) of mining countries from 1990-1999.



<b>Resource endowment category</b>	<b>Number of countries</b>	<b>Per Capita GDP growth 1960-90 (per cent/Yr)</b>	<b>1970 Per Capita GDP</b>	<b>1970 Per Capita GDP</b>	<b>Cropland Ha/Hd<sup>1</sup></b>
Resource-poor					
Large <sup>2</sup>	7	3.5	196	21,048	0.15
Small <sup>3</sup>	13	2.5	343	1,937	0.16
Resource-rich					
Large <sup>4</sup>	10	1.6	574	22,988	0.56
Small					
Non-Mineral <sup>5</sup>	31	1.1	250	1,406	0.57
Hard Mineral <sup>6</sup>	16	0.8	304	1,227	0.66
Oil Exporter <sup>7</sup>	8	1.7	831	2,011	0.44
All Countries	85	1.6	362	5,666	0.48

Source: Auty (1998:6)

**Notes:**

1. Resource-rich = 1970 cropland/head > 0.20 hectares.
2. The six large resource deficient countries are Bangladesh, China, Egypt, Indonesia, Philippines and S.Korea.
3. The 12 small resource-deficient countries are El Salvador, Haiti, Hong Kong, Jordan, Kenya, Mauritania, Nepal, Singapore, Somalia, Sri Lanka, Taiwan and Tanzania.
4. The ten large resource-rich countries are Argentina, Brazil, Chile, India, Mexico, Nigeria, Pakistan, S. Africa, Turkey and Venezuela.

5. The 30 small, resource-rich, non-mineral economies are: Benin, Burundi, Cameroon, Chad, Costa Rica, Côte d'Ivoire, Ethiopia, Fiji, Gambia, Ghana, Guatemala, Guyana, Honduras, Lesotho, Madagascar, Malawi, Malaysia, Mali, Morocco, Nicaragua, Panama, Rwanda, Senegal, Sudan, Swaziland, Thailand, Tunisia, Uganda, Uruguay and Zimbabwe.
6. The 16 hard mineral exporters are Bolivia, Botswana, Burkino Faso, Central African Republic, Dominican Republic, Jamaica, Liberia, Namibia, Niger, PNG, Peru, Sierra Leone, Suriname, Togo, Zaire and Zambia.
7. The eight oil exporters are Algeria, Congo, Ecuador, Gabon, Kuwait, Saudi Arabia, Syria and Trinidad and Tobago.

Auty (1998:7-9) points out, however, that liberalization and depoliticisation of the economy could be beneficial for resource-rich countries. Pegg (2006) cites the experiences of Botswana (diamonds) and Chile (copper) and argues that mineral-dependent development and sustained economic growth are not incompatible. In other words, much of the recorded under-performance, especially in developing countries, can be attributed to negative interference by politics in matters economic, as argued by Karl 2007 (cited in Bebbington *et al.*, 2008). For Arellano-Yanguas (2008:13) of the available literature fails to sufficiently describe the causal relationship between resources and negative outcomes, of which conflict is the most glaring manifestation.

Other scholars have also challenged the 'resource curse' thesis. Bebbington *et al.* (2008:969-970), for instance, dismisses the notion of resource curse, arguing that the main reason there seems to be an inverse relationship between mineral wealth and development is the negative relationship between good governance and mineral wealth in developing countries, especially with the lack of transparency and corruption in the appropriation and use of state revenue. For these authors, this is one of the reasons armed conflict is prevalent in mineral-dependent economies. They (ibid.:977-978) further distinguishes between what "old mining" and "new mining", with "old mining" as that which damages the environment, has dangerous workplaces and ignores the needs of the local communities, and "new mining" as that which is socially and environmentally responsible, capital intensive, based on skilled labour and amenable to technologies that ensure that environmental risks are properly managed. However, the authors reiterate that until developing states embrace good governance practices, and until they put in place efficient systems, especially good legal systems that will protect the indigenes from the overbearing multinationals that operate where weak governments are found, much of Africa will continue to experience "old mining"—and with this "old mining", conflict is bound to continue. As Fig (2008) contends, extractive

industries have traditionally been extremely powerful in relation to fragile state structures in Africa, such as those in Sierra Leon, Liberia, and DRC, among others.

### 3.3 Mapping natural resource conflict and the Kenya titanium mining conflict

As mentioned in the introduction, one of the key areas of concern in the sociology of mining is why, despite the economic potential that mining has for the development of a country, conflict tends to characterize the relationship between mining communities and mining corporations, and between such communities and the government. A mining community is one that is significantly affected by nearby mining operations. The community may be associated with the mining venture through direct employment or through environmental, social, economic or other impacts (Veiga *et al.*, 2001).

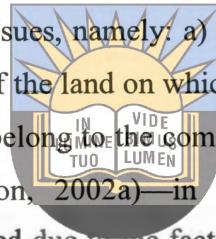
Examples of such conflict are many. Frynas and Wood (2001) single out the oil war in Angola, where they equate the unrest in the Cabinda enclave to that in Nigeria's Niger delta, and they attribute this conflict to the failure of the Angolan state to redistribute oil resources in a just manner. Martinez-Alier (2001) provides examples of corporate/state-community conflict in Ashio, Japan, in 1907, in Ecuador (where locals scuttled plans by Bishi metals, a Mitsubishi subsidiary), and in Bougainville (where the locals were throwing geologists into the sea in 1974). In all instances the protest was against copper mining. Martinez-Alier also mentions the conflict in West Papua, where, while under Indonesian sovereignty in 1977, copper and gold conflict reigned between the Amungme community and government authorities.

In Nigeria's Niger Delta, the local communities have been embroiled in conflict with the extractive companies (particularly Shell and Chevron) and with the Nigerian government ever since the first commercial drilling of oil begun in Oloibiri in 1956 (Bob, 2002; Omeje, 2004; Akpan, 2007). Richani (2004) narrates the on-going coal mining related conflict in Colombia, where multinational coal mining corporations are accused of funding and exacerbating conflict by supporting the sitting government against the local communities over coal mining and land rights. Yet another conflict can be found in Tambogrande, Peru, where Manhattan Minerals, despite having developed elaborate plans to relocate the 8,000 local community into a nearby town that they had constructed, were forced to abandon the project as a result of opposition from local farmers (Haarstad and Floyssand, 2007).

The map of natural resource-related conflict in Africa now includes Kenya, where local farming communities have in the last 12 years or so been protesting against the intended mining of titanium in Kwale. The titanium mining conflict in coastal Kenya has already been reviewed in Chapter One and the reasons for community contestation (revolving around “unfair” compensation offer, environmental management and land ownership) have also already been mentioned. The only addition that would be made to this literature debate would be to include the arguments advanced by Aboudha and Hayombe (2006) (see Section 3.4) which further extends this discussion.

### 3.4 Mining related conflict

Literature on mining conflict suggests that conflict between communities and mining companies usually revolves around four issues, namely: a) land ownership (Akpan, 2005)—the question is who is the rightful owner of the land on which the minerals are to be mined—in other words, does the “ancestral” land belong to the community or to the government?; b) “unfair” compensational practices (Hilson, 2002a)—in other words, feelings by local landowners that they are undercompensated due to the fact that compensation at fair market values often does not include lost subjective value and aspirations; c) inequitable resource distribution—in particular, feelings in mining communities about being cheated in the sharing of mining benefits and burdens (Frynas and Wood, 2001) and; d) environmental degradation (Turner and Brownhill, 2004)—the feeling among local communities that their immediate environment is being degraded to the detriment of their health and livelihood. A fifth grievance, that of human rights, is also emerging and suggests that the conflict arises out of the inhuman way that communities are treated during the process of mineral extraction (Holden, 2005).



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#### 3.4.1 Mining Conflict: The Kenyan experience

In the particular case of the Kwale community in Kenya, Abuodha and Hayombe (2006) have identified the impact of mining on the environment as one of the major factors that drives the Kwale titanium mining conflict. The authors point out that the titanium minerals targeted for exploitation have impurities of iron, thorium and uranium, and that in the absence of an effective Environmental Management Plan, the effects of stockpiling radioactive wastes and other impurities could lead to environmental degradation in both the terrestrial and marine environment. Such problems could become worse in cases where there are tailings dam failure (ibid.: 66-68).

Another issue highlighted by Abuodha and Hayombe (2006:69-70) are water conflict (associated with the anticipated damming of rivers in the mining site) and loss of fertile arable land and good fishing grounds (through displacement). For these authors, the compensation offered was too low (ibid.:73-74), as it did not take into account family size and structure, family assets and the cost of relocation. The authors recommended that valuation of assets should include structures, trees, and other viable land use systems or community shared resources, a recommendation which has ethno-ecological significance. They also argued that consultation and public participation by the locals, a pertinent requirement for EIAs in mining development projects, was lacking. Even when it did take place, it involved the local chief calling a “baraza” (public gathering) in which the official government position (usually misconstrued as “government Development Agenda”) was propagated by the government officials. The project thus stood the risk of violating international conventions such as the International Convention for the Prevention of Pollution of the Sea by Oil (through the use of Shimoni port as a loading facility), the African Convention on the Conservation of Nature and Natural Resources, the Convention on Biological Diversity, the Basle Convention on Handling, Transport and Disposal of Hazardous Waste, among a host of others (Abuodha and Hayombe, 2006:71-72).



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However, the authors offered little critique of the Mining Act which vests all mineral rights in the state and links compensation to the agricultural value of the land. While the study recommends that the valuation of assets should factor in built structures, trees, and other viable land use systems in determining “adequate” compensation, the deeper ethno-ecological meanings of these structures, which would have enriched the discussion, were not considered.

Loss of land, inadequate compensation and environment issues were also pointed out by Rights and Democracy (2006), Bank Information Centre (2006) and Global Response (2000) with regard to the titanium project. In another study carried out in Kenya, where local residents were socially displaced to make room for dam construction, the study acknowledged that compensation could be made more “just” if it took cognizance of local communities’ perception of land value (Syagga and Olima, 1996).

Schwarz (2007), the General Manager for the Tiomin Kwale project, in defence, argued that the environmental concerns raised by Abuodha and Hayombe had been addressed via an Environmental Impact Assessment carried out in 2000, and for which approval by the National Environmental Management Authority (NEMA—the government body charged

with the responsibility of assessing projects that may have an impact on the environment), was obtained and a licence issued in July, 2002. Thereafter, NEMA approved Tiomin's Environmental Management Plan (EMP) in January, 2003.

The host resettlement site was also subjected to an EIA exercise, which was approved in 2006. Schwarz argued that the project took note of the potential environmental impact resulting from radioactive waste, and for this reason it undertook the EMP exercise, for which approval was obtained. Furthermore, the EMP pointed out that only very low "unharmful" levels of radioactivity occur naturally in the sands of the Kwale deposit, and even then, an elaborate system under the EMP had been put in place to manage this. As for the matter of lost arable land, Schwarz maintained that the area cannot be classified as supporting luxuriant agriculture as claimed by Abuodha and Hayombe. At best, the company argued, in agricultural terms, it could only be described as marginal land with subsistence farming being the norm. Further, the company argued that access to the sea was not restricted as the mine was located 12 km inland and as such, the project does not encroach on the sea or fish landing points enjoyed by the community (Abuodha and Hayombe had however commented that restriction would arise because the residents would be relocated further inland, far away from the sea).

  
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As for the issue of compensation, Tiomin maintained that the rates had been mutually arrived at through joint consultation between the government, the residents, and the company (through the District Resettlement and Compensation Committee)—however, the present researcher found during his fieldwork that no meaningful consultation took place (refer to Chapter Eight for elaboration on this). Schwarz added that a Resettlement Action Plan (RAP) developed to World Bank standards and in line with the Equator Principles which defined compensation rates and relocation process, had been adhered to. As to the damage that the proposed landing facility at Shimoni would cause, Schwarz clarified that Tiomin had since abandoned this idea in favour of using the internationally recognised Kilindini port, which maintains internationally recognised standards on marine practices. Schwarz reported that Tiomin had acquired an adjacent 4-acre plot to gain easy access to this port facility.

If indeed the community was involved and participated in all decisions regarding compensation and relocation, why then have they continued to oppose the project? The effectiveness of the DRCC as far as representing the interest of farmers is concerned, is discussed in Chapter Eight, which also provides analysis as to why the conflict continues to

fester. In summary, the Titanium conflict revolves around the issue of environmental degradation, on land ownership and on the compensation for lost assets. It is therefore evident that mining conflict revolves around more than one issue.

A discussion on mining conflict in Kenya is not complete without mention of the longest standing mining operation in Kenya, which bears the unflattering distinction of being the longest running mining related conflict in the history of mining in Kenya: the Magadi Soda-Ash Mining. This conflict dates back to 1904 when a mining lease for this project was issued by Sir Donald Stewart, then the British East African Commissioner for the British colonial government. At that time, what is today known as Kenya was under British rule. Hughes (2008) argues that opposition to this mining project, which has been on-going since 1904, hinges on the manner in which agents of the East African Syndicate, the company that was at that time granted a 'research' licence to prospect for minerals in the then Maasai Reserve, 'fraudulently' acquired large tracts of Maasai land for the purpose of mining the naturally occurring trona at Lake Magadi, situated some 120 km south-west of the city of Nairobi.

Hughes argues that whereas the Maasai 'agreement' of 8<sup>th</sup> August, 1904 only allowed for European settlement, a move that physically displaced them from the wider Maasai land and into northern and southern reserves created for their settlement, they were made to sign additional 'agreements' on 9<sup>th</sup> and 15<sup>th</sup> August, 1904 in which they gave their 'consent' for mining to take place at Lake Magadi. The 20-year lease (later revised to a 99-year lease on 12<sup>th</sup> April, 1911) gave "full and uninterrupted right...to dig, get win and carry away all soda and other deposits minerals or precious stones there found" (Hughes, 2008:142).

Hughes argues that this concession was unfair, given that they were granted on land reserved for dispossessed Maasai communities. She argues that the first Maasai agreement of 8<sup>th</sup> August, 1904 had expressly stated that these reserves were not to suffer any further excision, except upon "express consent" by the affected community. Hughes further argues that a careful look at the handwritten original 1904 document shows that the so-called "consent" to vacate the land was inserted in the agreement after the Maasai representatives had 'signed' (thumb print impressions were used as there were hardly any educated Maasai then) the agreement. A second agreement granting extended leases into more areas occupied by the Maasai in the designated reserves were 'signed' in 1911 on four separate dates, on 4<sup>th</sup>, 13<sup>th</sup>, 19<sup>th</sup> and 26<sup>th</sup> April, 1911. Hughes wonders whether the Maasai actually realised what they

were putting their thumb prints to given that at the time none was educated and none could therefore read and understand the document which was crafted in English.

Hughes further wondered whether the whole document was translated to the Maasai, and if so, whether the translation was accurate. Hughes suggests that there were insertions in the 1911 document that appeared to have been made after the 'signatures' of the Maasai representatives. What raises further questions was the fact that whereas all the other 'signatures' had dates appended to them, the 'signature' of the Maasai interpreter certifying that the document had been correctly interpreted bore no date, leaving uncertainty as to whether the interpretation was actually carried out or not, and whether the 'signature' was placed days after the last Maasai representative had 'signed' the document. To this day, the Maasai maintained that they were not aware of what they were actually 'signing'.

It was the realisation that they had signed away their land (following the 1911 agreement that saw them being pushed out of Laikipia reserve and resettled further south), that made them lodge a case in the British courts in 1913, being the first people in East Africa to adopt such modern political processes to fight for their rights (for a review of Maasai protest between 1900–1960 see King, 1971). Armed struggle such as that of the 1890s was abandoned due to the fact that the Maasai had already been weakened by famine and rinderpest attack (see Kilson, 1955; King, 1971), and the sheer firepower of the British discouraged many from taking this route, opting instead for the court process. They lost the case, however, as all land was then deemed to belong to the Crown. Of note was that in 1924, the mining company was granted a fresh 99-year mining lease, which was to expire in 2023.

A case challenging this extension was lodged in 1954 but the Maasai lost on grounds that they had lodged their complaint outside the stipulated legal statute of six years in terms of government notice of 1920. But how many Maasai would have had access to this legal notice of 1920, let alone the fact that they would have been unable to read it in the unlikely event that they had possession of it? To further stress the illegality of the possession of the Maasai land, Hughes (2008:157-158) points out that Provincial Commissioner Sweatman had in 1933 asserted that the mining clause in the 1911 Maasai Agreement did not apply to the Magadi area, and that that being the case, then the mining company has been illegally occupying the land since 1911.

Failing to obtain a favourable ruling on the court cases, the Maasai were patiently waiting for the lease to expire in 2023, at which time they would ask the independent government to

correct the ills perpetuated by the colonial government. But to their surprise, the Kibaki government, even before the current lease expired in 2023, extended the lease in 2004 for another 33 years—this was done despite open protest from the Maasai. The resultant court case was thrown out on a technicality, and demonstrations thereafter met with brutal police force.

But land was not the only grievance that the Maasai bore against the Magadi mining project. Once operations on the project commenced, the community had to bear with the chemical stench from operations at the lake, a stench that can be smelled from afar, resulting in human sickness and health hazards. This formed part of the Maasai's 2003 court suit against the extension of the mining lease. The community also complained (before electricity was installed at the plant) of the destruction to their forest through logging to obtain firewood for industrial use at the factory. In addition, the Maasai protested against use of their limited water resources by the company. They demanded, and to date continue to demand, payment of royalties that were promised under the 1904 and 1911 agreements, which have never been honoured, causing one of the community leaders to remark in the 1960s, that:

for 50 years they have drained the life blood of the Masai<sup>13</sup>, and the Masai are now as dry as twigs...The Company had stolen Masai water...So where are all the profits of the company going? Into the pockets of Europeans. (Hughes, 2008:153)

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The Maasai also protested against the highhandedness with which the previous colonial and successive Kenya post-independent governments treated them whenever they have attempted to hold peaceful demonstrations. It is reported that one of the most vocal opponents of the mining venture, a lawyer for the Maasai on the cases lodged against the post-independent government, was shot dead in 2005 in an alleged robbery outside his suburban house in Ngong, where nothing was stolen from him. The perpetrators of this crime have to date not been brought to book. It is everyone's guess who could have been responsible for the murder— "those who did not wish to rock the Magadi boat because they were beneficiaries of the operation and had received kickbacks and shares", suggests Hughes (2008:153). In addition, the company used, and continues to use, underhand tactics to divide the Maasai in their quest for justice by allegedly bribing local community leaders to support the extension. What this story demonstrates is that despite historical injustices by colonial governments, the

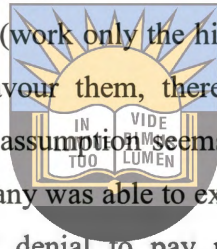
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<sup>13</sup> Earlier writings spelled the name of this community as Masai. They are nowadays referred to as Maasai, to denote the "maa" language.

present government, when dealing with influential extractive companies, is unable to act independently to protect its own people from exploitation.

It is such acts that made Dansereau (2005) question whether mining was not just a new form of imperialism. Dansereau points out that the World Bank's new approach towards mining in Africa is for "Government...to focus instead on the 'primary objective' of maximising tax revenues and obtaining a 'fair share of the economic rent' from mining rather than pursuing other economic or political objectives such as ownership of resources or enhancement of employment" (Dansereau, 2005:49), thereby giving extractive companies greater freedom in mining operations.

Dansereau argues that extractive companies are now freer to move around with less restraint making it easier for them to "high-grade" (work only the high grade deposits) and move on, and to pursue industrial policies that favour them, thereby making such policies more imperialist and less developmental. This assumption seems to hold some water judging by the ease by which the Magadi Soda Company was able to extend its mining lease long before the current one expired. Its continued denial to pay mining royalties to the Maasai community, 40 years after Kenya attained independence, is clear testimony to the new imperialism to which Dansereau alludes.



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Though Hughes offered useful insights on the fraudulent acquisition of the Maasai land by agents of the East Africa Syndicate, she did not go to the roots of the grievances which would otherwise have elucidated why the land held such importance to the Maasai, such that to date, almost a hundred years on, the community remains aggrieved. An attempt was made when the author mentioned the Maasai disaffection concerning the use of Kiserian River and streams emanating from Ngong Hills, which they revered as holy places associated with worship and belief (ibid.:145). Insights on these attachments would have benefitted readers in understanding why the disaffection has gone on for so long despite the attempts by the company to carry out some corporate social responsibility (CSR) activities.

The Magadi experience is particularly useful, given that it is the first major mining operation in Kenya, and the first in which social displacement took place, and as such, it offers crucial lessons for the Kwale project and other future mining operations.

### 3.4.2 Mining Conflicts around the World

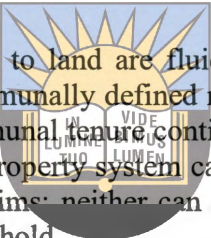
In this section, through its various sub-sections, a literature review of conflicts surrounding mining projects undertaken. The review is based on themes touching on conflict over land ownership, conflict over compensation of lost assets, conflict related to environmental degradation, conflict over sharing of mining benefits and lastly, conflict over abuse of human rights in the process of mining activities.

#### 3.4.2.1 The question of land ownership

On the question of land ownership, McLeod (2000) argues that for mining to take place successfully, the strong cultural and social attachment of indigenous peoples to their land has to be respected. For instance, the indigenous landowners in Fiji “believe that this [land ownership] ownership extends to everything below and above the area of land they own, including the minerals found below and the sky above.” (McLeod, 2000:116). McLeod adds that the Melanesians (Papua New Guineans) for instance regard themselves as “people who are distinguished from other nations or races by a singular physical and emotional relationship to ‘the land’ which all of them possess.” Hilson (2002a:68) extends this argument: while he mentions that environmental degradation and compensational issues also play a role in aggravating this conflict, he argues that conflict arises between communities and mining companies “simply because both place fundamentally different socio-economic values on land”. Overriding these values is the feeling among local communities that they are the real owners of the land, and as such, the government has no right to freely take possession of the land. However, he does not elaborate on these different values.

Akpan (2005) argues that the question of land ownership is what underpins much of the conflict associated with exploitation of strategic natural resources. While researching among some rural communities in Rivers, Bayelsa and Akwa Ibom States in Nigeria’s Niger-Delta region, he noted the disdain with which the locals held the Land Use Act (which allowed land expropriation by the state) and the 1969 Petroleum Act (which vests all petroleum resource rights to the federal government), which clashed with the traditional thinking of the locals who exercised allodial interest on land, as occupants and users of the land, and therefore considered themselves the real owners of the land. The locals, Akpan (ibid.: 145-146) points out, view that they own not only surface rights, but subterranean rights as well.

Land ownership is also central to the conflict in Prestea, Ghana, where the indigenous *galasey* (local term given to ‘illegal’ artisan miners) mining group are in conflict with Bogoso Gold Limited (BGL—the property of the Canadian-listed multinational Gold Star Resources) over mining concessions (Hilson and Yakovleva, 2007). Whereas the extractive company claimed that they had exclusive rights to land, having secured the requisite permits and leases, the artisanal *galamsey* claimed that they had indigenous ties to the land and that the recent policies were therefore inappropriate. The government on the other hand argued that it alone had the authority to determine who operates where and when as all land belongs to the state. It is evident from this that conflict tends to arise because of the multi-tiered system of land rights that exists in most developing countries, especially those in sub-Saharan Africa. As Firmin-Sellers argues (as cited in Hilson and Yakovleva, 2007:105):

The logo of the University of Fort Hare is a circular emblem. It features a central sun with rays extending upwards and outwards. Below the sun, there are several vertical bars of varying heights, resembling a stylized building or a set of columns. The Latin motto "VIVERE VINCERE" is written across the middle of the emblem, and "UNIVERSITY OF FORT HARE" is written around the bottom edge.

Throughout Africa, property rights to land are fluid and insecure. Private property, state ownership, and communally defined rights coexist in an ever-changing mix. Definitions of communal tenure continually shift. The farmer who claims land rights under one property system can never be certain when (or if) others will challenge his claims; neither can he predict whose claims the local community or state will uphold.

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Hilson and Yakovleva (2007) note that tension particularly picked up in June, 2005 when, during a public demonstration against BGL operations, the army opened fire on the crowd wounding seven locals. According to BGL, the locals were being unreasonable over claims over their ancestral land as they no longer have rights to the land, these having been legally leased to them. As one company official put it:

the main issue is...the mindset of these people—the *galamsey* people—whatever the government has to do to change their mindsets...unless that is done, and like I said, there should be some radical way of doing it...Prestea people think they are unique, they are in a different state, and they can make their own constitution (Hilson and Yakovleva, 2007:106).

This statement underpins how contentious land ownership is in much of Africa, and Bebbington *et al.* (2008), Kuecker (2007), Upreti (2004) and Miller (2002) equally identify this as being the dominant source of conflict in mining operations. It would appear that it is when communities are on the verge of losing their land, that they realise just how precious that piece of earth is to them; and it is possible that it is this realisation that then triggers the conflict. For as Haarstad and Floysand (2007) quoted one resident in Tambogrande, Peru:

When we noticed the dangers to our diversity, we realised how much we loved the birds, the lizards, the insects...Before this, we didn't think about how much our lemons were worth. (Haarstad and Floysand, 2007:300)

In Papua New Guinea, compensation failed to pacify local residents:

Monetary compensation was not enough: The village communities affected gave the highest importance to land as the source of their material standard of life, land was the basis of their feelings of security, and the focus of most of their religious attention. Despite continuing compensation payments and rental fees, local resentment over the taking of the land remains high, and there is strong opposition to any expansion of mining in Bougainville, whether by the existing company, the government, or anyone else. (Mezger 1980 as quoted in Martinez-Alier, 2001:158)



Finally, the tiny island of 160,000 inhabitants erupted into a secessionist war at the end of 1980s, which made some scholars, such as Regan (1998), believe that the major cause for the revolt was ethno-nationalist sentiments. Although Regan advances this argument, he contradicts himself when he cites the loss of land, limited and unfair distribution of compensation, limited benefits from the mining activities and environmental degradation as some of the major causes, which he describes as contributing to the “widespread antagonism to the mine” (ibid.:276). So attachment to land is clearly a concern.

The above reviews provide important ethno-ecological insights, and demonstrate just how intertwined with the environment the locals in Tambogrande were. The indigenes considered themselves one with the environment, so much so that they took everything around them for granted. But when threatened with social displacement, they suddenly felt very vulnerable as they realised that they would lose the natural resource to which they had grown so accustomed and which meant quite a lot to them. Indeed, as Haarstad and Floysand (2007:304) point out, current “struggles are increasingly struggles over meanings”.

Holden (2005:433) had previously argued that whereas discussions on the environmental effects of extractive industries pay ample attention to the effects of these industries upon the “biosphere” (the area upon the Earth containing life), and upon the “biodiversity” (the diversity of life upon the Earth), a paucity of attention is devoted to the “ethnosphere” (defined as the sum total of thoughts, beliefs, myths and intuition brought into being by the human imagination since the dawn of consciousness, or culture, intellectual and spiritual web

of human life) and to the Earth's "ethnodiversity" (spaces which the different cultures inhabit). There is therefore a need for deeper analysis of how mining activities impact on the ethnosphere, for just as the biosphere is eroded, so too is the ethnosphere. This thesis tackles this concern.

### 3.4.2.2 Compensation related conflict

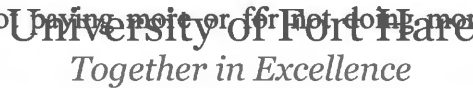
On the matter of compensation, Hilson (2002a:68) argues that "because of strong ties to the environment dating back thousands of years, monetary compensation rarely makes up for land loss". He argues that it was unrealistic to assume that any sum of money would compensate entirely for the disruption in lifestyle caused by local mining activities. However, Hilson does not delve deeper into highlighting the lifestyles that would be disrupted. An ethno-ecological approach, it is hoped, will uncover these deficits.

Richani (2004) agrees that apart from matters touching on land ownership, inadequate compensation or lack of compensation is the other factor that is most responsible for mining conflict around the world, especially in Colombia where he carried out his research. Akpan (2005) also argues that compensation matters spur conflict and points out that the existing laws in Nigeria spawn discontent in the oil producing states as they do not stipulate clear benchmarks as to what should be paid as compensation. The problem of "just compensation" therefore arises. Since the law on this is vague, the major extractive company (in this case Shell) simply co-opts the statutory compensation practices and makes slight improvements to them.

Bearing in mind that "current market value of land" is the general principle that guides compensational practises, and since most petroleum exploration and activities take place in remote rural areas, where market value is low, it is not surprising that compensation paid breeds discontent. The market value would be low as communities' socio-economic value of land is usually at variance with the government's view. Since Akpan did not examine ethno-ecological uses to which the indigenous put their land, for which a clearer understanding of the value of the land to the community would emerge, this leaves a penumbra over which the main points of agitation could otherwise have been pinned down. Akpan does, however, mention that economic compensation criteria normally does not take into cognisance the intergenerational economic and cultural importance of certain local economic plants (such as the palm tree that produces *pami* and *kaikai*) and this breeds conflict. In later writings, however, Akpan (2008, 2009) recognises this gap and recommends the need for research on

the relations between communities and extractive enterprises to go beyond economic considerations and take into account the idiographic narratives of the communities in which large-scale extractive industrial activities take place. This thesis takes this lead. McLeod (2000:116) had previously commented that to successfully introduce a compensation system, there should be a “clear understanding of customary as well as statutory law” and resolution of the inconsistencies that exist between them. In Chapters Seven and Eight of this thesis, the inconsistency that exists between the various statutory laws and cultural expectations are examined.

Kumah (2006:321) argues that for mining to be sustainable, the three important elements of sustainability—that is ecology, economy and social justice, as outlined in the Brundtland Commission Report of 1987 (which set out parameters for sustainable development)—must be incorporated. Kumar (2006:316) argues that since mining affects fewer people than dam displacement, this tends to render the costs of compensation for livelihood disruption and social upheaval small compared to total mining revenues. Hence compensation in such instances should be generous (which is hardly ~~the case~~) otherwise mining companies risk being regarded as greedy for not paying more or for not doing more (beyond payment of compensation).



What can be gathered from the above review is that it is this perception that fuels conflict between the community and the existing extractive companies, and between the community and the government (the government’s wrongdoing being its perceived failure to force the company to pay or do more—it is noted later on in this discussion that the “not doing more” actually means not incorporating the community as shareholders in the extractive company, not paying monthly royalties to the community, or lack of social provisioning).

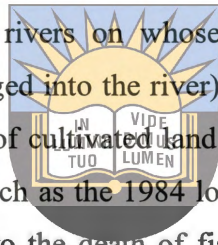
Akpan (2005) had earlier pointed out that lack of social provisioning (in terms of infrastructure, schools, sanitation, jobs etc.), as a method of compensating for the mining burden borne by the community, such as environmental degradation, were other points of conflict between mining communities and extractive companies, and between the communities and the state. This option is further investigated in section 3.7.

Martinez-Alier (2001) however observes that compensation in itself is not enough. As seen in the case of Papua New Guinea, compensation failed as the affected communities gave an equally high importance to land as the source of their material standard of life, and resentment over the taking of the land remained high despite the continuing compensation

payments and rental fee. This demonstrates that one perceived factor is invariably connected with another factor when one is looking at issues revolving around mining conflicts.

### 3.4.2.3 Environmental degradation related conflict

Hilson (2002a) identifies land/environmental degradation as the other problem that leads to conflict. He asserts that in the case of mining operations in PNG, despite the good economic returns (with after tax profits of approximately US\$200 million per year), mining operations in PNG have caused significant damage to the environment, destroying over 1,000 km<sup>2</sup> of virgin forest and wetlands, with an estimated 250 million tonnes of waste released into the surrounding environment since mid-1980. Hilson notes that conflict emerged in the mid-1980s when locals began agitating for compensation for damages to “their” land (ibid.:69-70). Mining operations had killed the rivers on whose resources the locals depended (exacerbated by untreated tailings discharged into the river) and had also caused the river to flood, which in turn displaced vast areas of cultivated land and trees and rendered the once fertile soil barren. Industrial accidents, such as the 1984 loss of cargo containers of sodium cyanide and hydrogen peroxide that led to the death of fish, prawn, turtle and crocodiles, further fanned the conflict.



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Court action by the locals barred the company from further discharging waste into the Ok Tedi/Fly river system, but by then the damage had already been done. It is such environmental impacts on the environment that caused one Bishop in the Philippines (where the church is particularly influential) to remark in a pastoral letter:

With mining, the land is permanently damaged. Next come[s] the rivers, and then our seas. Mining is such a short-term engagement while its adverse effects are long term. There is no such thing as sustainable development with mining, more so with open-pit mining. (Holden, 2005:430)

The above review points out that communities consider “land” as “their” land (a claim that resonates with the first conflict reviewed), and hence any damage to “their” land is an affront to their way of life. This is not only “their” land, but it is also the land from which they derive their livelihood. Given the meanings that communities bestow on land (see section 3.5 for a review of these meanings), the affected community is thus bound to feel aggravated by the mining activities that would be impacting on these meanings. Mining activities would especially cause more agitation, given the symbolic meaning that comes with it.

Martinez-Alier (2001) also points out that it was such environmental concerns that brought about conflict in Ashio, Japan. The residents described the environmental damage caused by copper mining thus:

the mine's refinery belched clouds containing sulphuric acid that withered the surrounding forests, and the waste water...ran off into the Watarase river, reducing rice yields of the farmers who irrigated fields with this water...Thousands of farming families...protested many times. The residents petitioned the national authorities and clashed with the police (Martinez-Alier, 2001:154).

It was argued that the public benefits that accrued to the country from the Ashio mine were far outweighed by the losses suffered, as compensation was not sufficient to cover these losses. Given the meanings that are bestowed on land (see section 3.5), and given further that communities view the contested land as “their” land (see the review in section 3.4.2.1), the affected community is bound to agitate for ‘adequate’ compensation should the land be degraded by the mining activities. This further demonstrates that there is a trail of factors behind any one mining concern. As Martinez-Alier (2001) then mentions, similar environmental concerns resulting from sulphur dioxide pollution by the Rio Tinto Company in Papua New Guinea perpetuated conflict with the local community which was only resolved when the company at last agreed to compensate the locals and this stemmed the tide of having its geologists thrown into the sea.

Kumah (2006:319—refer to Table 3.4) provides a chronology of cyanide spills in developing countries with the resulting environmental consequences, after which Kumah asks whether mining can be sustainable. Kumah reckons that this question arises due to the non-renewable nature of mining, due to the impact that it has on the environment and on the health of the surrounding community. Titanium mining accidents are also not uncommon, such as that which happened at 2.00 a.m. on 8<sup>th</sup> October, 2010 in Mozambique in the Northern Province of Nampula, where a containment wall around one of the settling ponds adjacent to the dredge mine ruptured, and a flood of water, sand and clay swept through part of the village of Topuito, destroying or damaging 115 flimsy houses and leaving their inhabitants homeless. Fortunately, this was not toxic waste (South African Resource Watch, 2010). One wonders what would have happened were it toxic. But coming close to the disastrous October, 2010

aluminium toxic waste sludge in Hungary<sup>14</sup>, the incident in Mozambique was enough to get the Minister of Mineral Resources to travel to the coastal district of Moma to meet officials of the Irish company Kenmare, which operates the mine. The foregoing reinforces the notion that lack of proper legal structures and practices, coupled with delays or absence of operational reforms in the mining sector (especially in developing countries) only serves to make matters worse in the mining industry. And this is despite the fact that there are policies in place by the funding agencies that are meant to guide the mining process against such eventualities.

**Table 3.2: Chronology of cyanide spills and mine-related accidents in the developing world**

<u>Mine/country</u>	<u>Date</u>	<u>Impact</u>
Harmony mine, South Africa	February 1994	10 miners killed by cyanide-laced mud.
Omai gold mine, Guyana	August 1995	All aquatic life forms in a creek that runs into the Essquibo were killed.
Kumtor mine, Kyrgyzstan	20 <sup>th</sup> May, 1998	Truck transporting cyanide to Kumtor mine plunged off a bidge, spilling 2 tons of sodium cyanide. Four people died and others were hospitalized. Communities were evacuated or displaced.
Baia Mare, Romania	January 2000	Thousands of tons of fish died in the Tiza and Danube Rivers. Rare Osprey, river otters, foxes, birds, and other mammals died from eating fish contaminated by cyanide.
Tolukuma mine, Papua New Guinea	March 2000	Dome helicopter of the mining company dropped a crate containing 1 tonne of sodium cyanide pellets into the water system in the rainforest.
Ghana Bogoso Goldfields 1994  Teberebie Goldfields 1996  Ashanti Goldfields 1998  Goldfields (S.A.) 2001 2001 – second spill occurred in the same area after 2 weeks	1994-2001	Communities were re-located, waters polluted, there were reported case of avian mortality, and crops were affected. There were serious health impacts including skin rashes.
Placer Dome Tailings disposal, The Philippines	1975-1991	Loss of aquatic life forms in Mogpog River and Calancan Bay.

<sup>14</sup> See <http://earthobservatory.nasa.gov/NaturalHazards/view.php?id=46360> – accessed 12/6/2011

Grasberg Mine, Indonesia	1996	The spill affected aquatic life forms in Ajkwa River and surrounding communities.

Source: Rainforest Information Centre (as cited in Kumah, 2006:319)

McCulloch (2005), who examined environmental issues in Prieska, South Africa, argued that damage arising from asbestos mining, which resulted in three deadly diseases (asbestosis, lung cancer and mesothelioma) was the major focus of conflict. The locals consequently sued the concerned mining company (Cape PLC, registered in UK) over the effects of asbestos. The interesting part was that they lodged the case in the UK. In 2003 they won the court 'battle' (in the UK) (McCulloch, 2005:73). This was a pointer and an indictment of local laws, especially those in Africa, as not being adequate in protecting its citizens against environmental malpractices by multinationals. The Maasai and Endorois of Kenya, as observed earlier, were also forced to lodge their cases in foreign courts as justice at home was difficult to achieve. It is observed that transnational companies also practice environmental racism, as they can easily engage in such practices in developing countries, especially in Africa, where stringent environmental laws do not exist, unlike in their own home countries.

For instance, Veiga *et al.* (2001:193) noted that in its mining operations in the Ok Tedi, PNG, Ok Tedi Mining Limited (OTML) discharged tailings into the river system, and 15 million tonnes of tailings were subsequently removed in the course of the dredging trial in the Lower Ok Tedi. NGOs and local community leaders noted that the kind of mining practice undertaken by OTML would not be allowed in Canada or Australia, and questioned why it was allowed in PNG. Veiga *et al.* (ibid.:193) observed that although multinationals firms often claim that they apply the same environmental practices in less developed host countries as in their country of origin, this is usually not the case. The common practice is usually to meet the standards of the host country's environmental laws, and proudly announce how they have done so, while knowing full well that these do not meet international thresholds. Similarly when compensation is provided in instances of environmental accidents, it is usually not "adequate" or "fair" due to existing weak legislation in much of the developing world. Akpan (2005) noted a similar pattern among petroleum countries operating in Nigeria's Niger Delta.

Alexander (1990) provides an early account of how over 80 years of commercial mining of tin has left a legacy of damaged or derelict landscape covering some 316 square kilometres of the Jos Plateau in Northern Nigeria, and points out that reclamation attempts have largely failed to rehabilitate the soil conditions 40 years after completion of the project (ibid.:48-49). Clearly, environmental concerns are a major issue in mining conflicts, even more so when the damage is as glaring or as dangerous as that referred to by Akpan (2006:28-29), which illustrates the environmental damage caused by gas flaring, tailings and oil spills in the Nigeria's Niger Delta, and Martinez-Alier (2001:160), which demonstrates how sulphur emissions usually provoke reactions because they come from single-point sources such as coal power stations and smelters, while other forms of air pollution such as nitrogen dioxide and VOC from cars are more dispersed and are therefore more peacefully accepted.

The review in this section demonstrates that the concern over environmental matters have roots in the question of land ownership, as communities view themselves as the 'rightful' owners of the land currently under mining activities. This then brings in the question of compensation as the communities feel that they should be compensated for the damages arising from the mining activities. And when this compensation is delayed or not paid, then conflict arises between the community and the extractive company, and/or between the community and the government.

#### **3.4.2.4 Conflict over unequal distribution of mining benefits**

Walton and Barnett (2008:5) argue that mining conflicts are caused not so much by environmental degradation as literature suggests, but by the unequal distribution of outcomes arising from environmental degradation and the process that causes it or from the profits emanating from such activities (see also Adebanwi (2004) who also emphasises this as the major factor in the Niger Delta conflict). In their study of the Tolukuma gold mine in PNG, Walton and Barnett (2008) note that mining operations had caused serious environmental damage, more so due to the 160,000 tonnes of contaminated tailings into Iwu Creek, which then runs into the Auga River. This caused environmental damage in both the mining lease area (MLA) and exploration lease area (ELA). However, only communities within the MLA region were compensated for bearing this burden, while those at the ELA were not. The authors identify this as being most responsible for the conflict.

The authors (ibid.:3) further argue that inadequate distribution of the returns from resource extraction activities has led to conflict in West Kalimantan, Nigeria's Niger Delta, Chiapas in

Mexico, the Zapatista rebellion, the 'Guinea Fowl' war in Ghana and conflict in Para, Brazil. An earlier observation by Adebani (2004:770) captures this contradiction when he quotes one local Nigeria Niger Delta resident who laments that "what we have here is a situation in which the states producing the oil wealth go cap-in-hand and the non-producing *far-flung* states enjoy the wealth".

Walton and Barnett also argue that many studies have shown that communities affected by 'externally-imposed' resource extraction activities rarely comply with these developments without some exercise of resistance. Since most extraction companies are foreign owned, most locals view their activities as neo-colonialism practices. In the Kenyan case, for example, Tiomin Kenya Ltd was a subsidiary of Tiomin Resources of Canada, a fact that was well known. The fact that the General Manager was a foreign white national only cemented this view.

Omeje (2004) and Bob (2002) both argue that oil extraction and distribution of the benefits as well as oil revenue politics informs most contemporary conflicts in Nigeria's Niger Delta. They note that whereas much of the oil revenue is derived from this region, it remains one of the poorest regions in Nigeria. Bob notes, for instance, that although oil, primarily pumped from this region, dominates Nigeria's foreign exchange earnings, the "oil minorities" receive few of its benefits. Bob states (ibid.:395) that "rather, the central government distributes most of these earnings to more politically powerful regions particularly the North, leaving the Delta one of the poorest and most backward regions despite its being the primary source of Nigeria's wealth". This has spurred unrest in the delta, leading to acts of sabotage and kidnapping of government and oil-company officials, conflict that has at times taken violent turns.

Frynas and Wood (2001:592) argue that the failure of the Angolan state to redistribute the oil resources in any just way was what prompted local unrest. This was most pronounced in the Cabinda enclave, where most of the Angolan oil has been extracted to date. The authors argue that grievance over state neglect and the prospect of huge oil revenues were undoubtedly the main factors in the armed conflict of the Cabinda separatist groups. The separatists made a dramatic public statement in early 2010, when they viciously attacked the Togolese football national team, who were on their way to the African Cup of Nations competition that was hosted by Angola.

Pegg (2006:377) argues that “mineral-dependent states have significant higher levels of inequality than states with similar incomes: the more that states rely on mineral exports, the smaller the share of income that accrues to the poorest twenty percent of the population”. In other words, sharing of benefits accruing from mining operations are not equally shared out, and this therefore brings about tension and conflict.

However, the feeling of not benefiting from the mining activities must be hinged on some form of ‘ownership’, which in this case would come from the feeling among the community that they are the ‘true’ owners of the land (and the minerals) that are being mined. This therefore gives them that natural tendency (that Imbum, 2007 refers to) to expect returns from what is “theirs”. As McLeod (2000:116) points out, indigenous landowners in Fiji believe that land ownership extends to everything below and above the area of land they own, and this includes the minerals found below and the sky above. It is this feeling of “ownership”, that then leads for demands in a share of the benefits; a demand which in most instances, they view as unfair as most of the benefits go to the extractive company and to the government. This discussion thus continues to show the interrelationship of the various factors that lead to conflict. Therefore to cause community affection, all these matters have to be taken into consideration when looking at mining projects.

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#### **3.4.2.5 Conflict over human rights abuses**

Other reasons for community-state/company conflict have also emerged. Holden (2005:427) argues that “perhaps the most problematic aspect of the conflict between mining and indigenous peoples...is the widespread allegations of violence and human rights abuses.” Due to protests against mining activities in the Philippines for instance, there are reports of:

arbitrary detentions, persecutions and even killings of community representatives, of mass evacuations, hostage taking, destruction of property, summary executions, forced disappearances, coercion, and also of rape by armed forces, the police or the so-called paramilitaries. (Stavenhagen, 2009, as cited by Holden, 2005:427)

Holden reports that the dangerous insecurity situation in the Philippines has in itself exacerbated the involvement of the military in the conflict between mining and indigenous peoples in the Philippines, particularly in the island of Mindanao. To provide security for development projects, the Philippine army carries out regular security operations in the vicinity of the project to flush out members of the armed Maoist New Peoples Army, the

Muslim Moro Islamic Liberation Front or the Abu Sayyaf. In the process, many indigenous peoples who have in the past articulated opposition to mining through legitimate social protest and the defence of their rights are prosecuted, allegedly for being members of the afore-mentioned armed rebel groups fighting the Philippine government.

Martinez-Alier (2001) argues that the ugly reprisal by the Indonesian army against protesters in West Papua exacerbated conflict between the community and the state. The indigenous peoples were protesting against water pollution in the Ajawa River by the Grasberg mine, owned by Freeport McMoran of New Orleans. She reports that at the initial stages of its operation in 1977, the locals (the Amungme) rebelled, and destroyed the pipeline carrying copper concentrate to the coast. Martinez-Alier (ibid.:159) remarks that “reprisals by the Indonesian army were terrible”. This sparked further resistance with complaints eventually being brought before the courts in class action suits. The Amungme representative, Yosepha Alomang, was subjected to horrible detention conditions as a result of these court cases. We have also observed how the Maasai were brutalised by the police whenever they attempted to hold demonstrations against the activities of the Soda Ash mining company and how their lawyer was mysteriously killed at the height of their protest against the extension of the company’s mining lease. Such reprisals together with human rights would most certainly sour the relations between the mining community and the government/extractive company.

The above stated conflicts raise the question as to whether mining operations should be allowed to go on even in instances where it is obvious that it would have a deleterious effect on the local population. Ali certainly thinks that they should not proceed, and argues that:

Mining companies and governments have to realize that just as a mining deposit under New York City would certainly not mean that mining will go forward, the same may be true for other places as well. This is where environmental justice arguments may start to creep in, despite the geological determinism of mining in general. (Ali as cited in Holden, 2005:432)

Abuses over human rights would usually be found to be anchored on other factors. This is because one would be fighting over something, for which the party s/he is in conflict with would prefer to deal with the issue in a rather unorthodox way, one which then results to incidence of human rights abuse. In this case of mining conflicts, mining communities would be protesting either over the taking of their land, or over the lack of compensation over the mentioned taking, or over the degradation of their environment and the subsequent failure to address this through compensation, or over the ‘unfair’ distribution of the benefits accruing

from the mining activities. It is in an attempt not to deal with these issues that the dominant party would then use force to have its way. The use of force then results to an abuse of human rights.

From the above literature, it is clear that the various reasons advanced are interrelated and one is then left to assess the concern that bears the greatest responsibility for a particular conflict. It is noted that monetary compensation for land or for environmental damage will not forestall conflict. The sharing of benefits that accrue from the mining process is equally problematic:

Wherever economically feasible large-scale miners have sought to uproot, relocate and compensate communities situated within the boundaries of their concessions – though agreements have often proved unsustainable, in turn, causing a series of long term problems. Notable examples include Yanacocha in Peru, Las Christinas in Venezuela, and Teberebie in Ghana...In these, and similar cases, large-scale mining companies working in tandem with governments have [often] overlooked several community needs, failing to devote considerable time to liaise with, and study the dynamics of relocated groups. (Hilson and Yakovleva, 2007: 11)

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Some of the overlooked community dynamics of relocated groups are the meanings that they attach to the geobiophysical environment and the needs fulfilled by such environments, which feed the conflict. These attachments make the community particularly close to their environment, so much such that “fair” compensation may be difficult to achieve.

### **3.5 Communities’ attachment to land**

Compensation (that is cash/monetary compensation for land lost, crops destroyed, physical structures lost etc.) as has been discussed above, is quite contentious. “Fair” compensation, it seems, is difficult to achieve for the reason that the parties involved—that is the community, the extractive company and the state—each attach a different value to whatever is being compensated. Whereas the company and the government are motivated by economic gains, the community’s interest in land is often driven by a different value system; to the community, not everything social can be compensated as these social things hold meanings that monetary payment cannot match. A review of the literature on the meanings that local communities attach to their geobiophysical environment—meanings that make them so

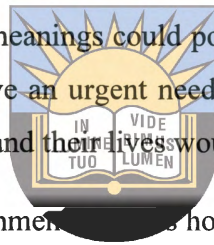
attached to their land and which in turn makes compensation problematic—is therefore necessary.

It is said, though sometimes misleadingly, that African communities hold the greatest attachment to land (the term ‘land’ here is used to refer to the soil, the crops, forest and animals together with all other physical structures within which a community exists). Misleading, because all societies hold some special attachment to their landscape. However, it is generally appreciated that in developing countries, such as those in Asia, Latin America and Africa, this attachment is very close due to the subsistence nature of the inhabitants’ livelihood.

Kinsley and Townsend (2006:527) point out that humans are innately connected and attracted to places in the natural world and that this intrinsic connectedness to nature is what is termed as “biophilia”. Humans rely intellectually, emotionally, physically and spiritually on nature. The authors add that human attachment to nature is grounded in knowledge and developed through experience. Therefore, communities that have lived together for a long time on a particular landscape develop what the authors call “Dig In” environments, that is, they get attached to these spaces. In the event that a community’s land is targeted for mining activity, one would expect fierce resistance from the local residents given this close attachment.

Smith (2002:434) on the other hand describes land as “sanctuaries that possess restorative powers”. In other words, landscapes are where individuals or groups connect with their inner spirits. Smith introduces Yi-Fu Tuan’s concept of “geopiety”, which he describes as man’s devotion to place and one’s native land or country. “Geopiety” defines homeland as “an archive of fond memories and splendid achievements that inspire the present; place is permanent and hence reassuring to man,” and “the more ties there are [to a place], the stronger is the emotional bond” (ibid.:434). Tuan (1975:152) himself earlier argued that “place is a center of meaning constructed by experiences”, and further stated that to know a place fully means both to understand it in an abstract way and to know it as one person would know another. In other words, we grieve the loss of land in the same way that we grieve the loss of a person. Hence it is this sense of attachment that makes social displacement particularly painful, and compensation quite problematic. Tuan further argues that to most people, places are constructed out of elements such as distinctive odours, textural and visual qualities in the environment, seasonal changes of temperature and colour, their locale in the physical sense among others. This familiarity is therefore significant.

Smith (2002) argues that it is because of this emotional bond and rootedness that the residents of anthracite mining towns in north-eastern Pennsylvania refused to leave their home in spite of the existing endemic poverty and economic collapse. This deep sense of attachment may thus explain why “fair” compensation is sometimes difficult to achieve, especially when “home” is considered as permanent and assuring. Their natural instinct when threatened with displacement would be to refuse to move out. Smith also notes that among the Hispanics in Rio Grande, residents culturally aspire to be laid to rest in a place for which they hold a particular affinity. Very often they call this place “home”. For some people, “home” is their place of birth; for others, “home” is a place where significant events unfolded during their lifetime. For most Hispanics, “home” was unquestionably the village of their family’s roots, so most desired to be interred in their ancestral land. Social displacement from these symbols to which a community has now attached meanings could possibly therefore generate tension and conflict, as the community would have an urgent need to ‘fight’ to retain these spaces, without which they would feel vulnerable and their lives would lose much meaning.



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Flynn (2007) examined the notion of attachment to one’s homeland among returning Russian migrants following the collapse of the larger United Socialist Soviet Republic (USSR). The central question he looked at was “what makes a place home?”. One resident said this of his home (*rodina*): “I consider that my *rodina* is where I was born, if nothing had happened, we would have lived in that place, our parents are buried there” (ibid.:468). Flynn observed that many Russians spoke about *rodina* not just as the territory where they were born, but where their roots were located—the place where their parents were born, where their ancestors had first set foot. Hence, this ancestral attachment to the land, the actual physical rootedness of families in the soil of the land, was highly significant for many of the returnees. This mirrors Muir’s (as quoted by Smith 2002: 435) reflection that “often the significance of place and the meanings associated with...[that place]...lie at the core of a person’s identity”, which then leads to one creating a symbolic attachment to his/her landscape.

The above is what leads Smith (2002:435) to comment that it is with this in mind that environmental psychologists view place attachment as a “psychological process” and suggest that place attachment can develop social, material and ideological dimensions, as individuals create ties to kin and neighbours. Smith argues that when one becomes familiar with one’s environment, and when they note that it is distinct from other places, one then identifies with this landscape and attaches symbols that represent it (the landscape). These symbols are then bestowed with meanings, meanings that soon become embedded in everyday life. It would

then be very difficult to tear such people away from such a landscape, which now defines their lives.

Shipton (1994:348) argues that people do not seek just material satisfaction in land, but also power, wealth and meaning, hence their aim can be political, economic and cultural. People relate to land not just as individuals, but also as members of groups, networks, and categories. Hence 'land' is only complete when considered vis-à-vis a collective of people. Ardrey (as cited by de Beer, 2006) argues that as a result of a long process of living together in the same habitat, members of an ethnic group develop a territorial consciousness in the area in which they live. De Beer (2006) adds that such consciousness is closely related to the history of the ethnic group which evolves within the native land so that the group's attachment to its homeland with its own unique resources often fosters bonds of patriotism among its members. According to Shipton (1992:361-362), to the Luo of Western Kenya, a place on the landscape implies a place within a kin group, and vice versa. This means that land provides one with identity and with much needed social ties, which are important to man as he is a social animal. Hence land offers one the sense of identity and belonging to a spot on the planet. Donge (1993) argues that one acquires his identity to the clan through land ownership traced through inheritance, and ancestral graves are usually good pointers to who owns the land that one is bequeathing to kin.

Donge and Pherani (1999:50) argue that land represents a core value to African societies, and that African communities are emotionally attached to "their" land, which in many instance represents an important source of their identity and which is typically seen in a holistic manner. The authors argue that in Africa, land claims/conflict is the ultimate test for belonging, hence local land conflicts in Africa are embedded in cultural patterns of belonging and in definitions of social order. The authors contend that all acts of land conflict are therefore group events and that local land conflicts in Africa are therefore embedded in cultural patterns of belonging. For instance, the election violence in Kenya in 1991 was "aimed at achieving justice in land claims by expelling those who had illicitly occupied land belonging to traditional occupants of the Rift Valley"<sup>15</sup> (Galaty as cited by Klopp, 2002:271). Indeed, Abuya and Akpan (2008) attribute the 2007 Kenyan post-election violence to the continuing land struggle between "owners" and "strangers", particularly in the regions previously referred to as the Coast and Rift Valley Provinces.

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<sup>15</sup> Then, one of the seven provinces in Kenya.

Shipton (1994) further argues that land is not just a simple commodity and states that:

Whether land is a commodity is an old problem...Here historically debarred from sale, here redeemable if sold, here pledgeable but not rentable, mortgageable, or saleable; land is nearly everywhere the subject of special protective strictures in local if not imported custom. Despite what economic development planners may think and hope, land is seldom if ever just a commodity. (Shipton, 1994:350)

Hence land is inalienable, and communities consider land as something that one cannot lose, as it forms part and parcel of their lives. Shipton adds that in much of tropical Africa, those who first arrived in certain territories consider themselves superior to latecomers, hence the principle of pioneer primacy. This dichotomizes relations into “sons of the soil” and “aliens”, “hosts” and “guests”, “permanents” and “temporaries”

Shipton (1994:361) adds that “land is filled with symbolism”, such that it is charged with meaning, such as places where placentas and foreskins were buried, or where initiation blood was spilled on the soil. These are signs of personal attachment to a place, and in some contexts, to a spot in the social order. In many societies, land and humans are thus closely intertwined. This is further demonstrated by Loftsdotir's (2001) article “where my cord is buried: WoDaaBe use and conceptualisation of land”. Loftsdotir's findings are best summarised in the following quote from her interview notes:

Do you know *siibiiru* WoDaaBe? There is a *sibiiru* which is a symbolic one, it is not a true *sibiiru*. But that time you are born, there is this something which gives you power inside the stomach of your mother. This is your nourishment. This something gives you all you need. This is the *sibiiru*. That time you are born, people take *redja* [razor blade] and cut this because it is long...when they have cut it, they put the *sibiiru* inside the earth. They make a small hole, like half meters deep, and cover it with earth. This is called “*up'ki*”, “*sibiiru ma oubama*” [You bury your *sibiiru*]. Sometimes, if you are talking to someone and you are asked “from where do you come? Where is your region? Where are you born?” You want to tell him where your *sibiiru* is. (Loftsdotir, 2001:15-16)

In other words, where one's placenta (*sibiiru*) is buried is most important as it marks one's lifelong commitment and union with that particular spot on earth. This same perception is shared by the Luo of Kenya, who say that “home is where the placenta is [buried]” (Shipton, 2009:85). Such practices bind one to land.

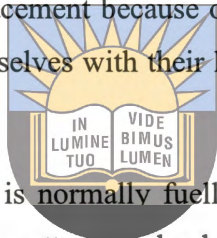
This was what had earlier persuaded Shipton to conclude that:

Land resettlement has a symbolic side. Uprooting a people from culturally and psychologically significant markers (e.g shrines, graves, sacred grottoes, trees, [and] watercourses) makes it hard for them to navigate through time and space and society. Resettlement shakes confidence in local religious and political leaders, *ipso facto*, they have failed to prevent the cataclysm itself. (Shipton, 1994:367)

It can therefore be inferred from the above that it is this uncertainty that drives communities to resist displacement. Shipton clarifies that nothing excites deeper passions or gives rise to more bloodshed than disagreements about territory, boundaries or access to land resources. It is for this reason that Marsh (as cited by Smith, 2002) argues that despite endemic poverty, communities will be found resisting displacement because of the intense bonds and sense of rootedness with which they associate themselves with their land. Hence, social displacement makes the community vulnerable.

De Beer (2006) argues that land conflict is normally fuelled by Africans' and capitalists' unique perceptions of and the values they attach to land. African traditional communal perceptions of land and the strong emotional and symbolic tenets they hold about land vary significantly from the individualistic and economic value and private ownership that capitalists attach to land. He adds that to Africans, "land, or more correctly, the soil is the medium through which Africans are linked to their ancestors" (De Beer, 2006:24). Hence, a grave is not just a place of remembrance, but a gateway to the supernatural world, where rituals are performed to maintain good relations with the ancestors.

Continuing the discussion on graves, Shipton (1992) notes that among the Luo of Western Kenya, the dead were buried within family homesteads, and that cultivation rights and broader claims of belongingness were justified by reference to ancestral graves. Burying kin on land thus solidified one's right to it. Settlers (*jodak*) would gain land in this manner. Shipton (1992:363-365) argues that the Kenyan government's policy of titling land (to enable residents to obtain loans from financial institutions) was resisted by the locals for fear that it would create a class system (as land would no longer be regulated by customs but by who could buy the most land), and would lead to individual ownership of land which would in turn restrict cattle grazing on shared resources. The greatest fear, however, was that it would lead to loss of land (through land repossession on account of failure to service loans) which



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was an abomination in their culture. Land was therefore considered as permanent and belonging to all kith and kin.

Land auctions by financial institutions became potentially hazardous to auctioneers, and even to the buyer himself, because the presence of ancestral graves and witnesses' reports of land use and transactions carried more weight than possession of the paper title. Shipton thus argues that:

The acute sensitivity of the Luo and other western Kenyans about land confiscation must be understood in terms of kinship and politics. Among the Luo, as among many other peoples with segmentary lineages, farmers identify a place on the ground with any ancestors buried there, and with a place in the social order. Land is considered a permanent family asset, essential to lineage survival, and never to be let go lightly. For Luo, as for other Kenyan peoples among whom rural crowding and a lineage system concentrate many kin together as neighbours, *mortgaging the land is mortgaging the ancestors*, and gambling against kinship and the social fabric itself. The attachment of a man to his land, particularly ancestral land, is conceived as something greater than his attachment to his word, his signature, or (as on the 'signature' blanks of *land agreement forms*) his thumbprint. In the Luo view, then, any confiscation of land by an unrelated authority is fundamentally *unfair*. In Luo speech, *land seizure* with the verb *peyo*, to raid or plunder. It is deemed close to an act of war. (Shipton 1992:375)

As Shipton (1995) remarks, among the Luo of Kenya, graves, always situated in homesteads and cemented for permanence, mark family land rights. Ancestral spirits perceived to reside around these spots continue to look after lineage interest in the land. Graves therefore denoted land ownership and served as 'title deeds'. Government land titles do not count for much. On the same matter pertaining to graves, land is thus important as it assures one of a final burial place: it assures communities that they will have a place to bury their kin. Even those who travel to other localities within the country or travel abroad for purposes of education or work, are appeased in the knowledge that when they die, they have a place back home where they can be buried next to their kin. Gugler (2002) in an article 'The son of a hawk does not remain abroad: Urban-Rural connections in Africa', narrates how communities in Nigeria believe that a kin must always be buried back "home" so that he "rests" next to his ancestors.

Hence Shipton (1992:380) concludes that "Land...remains Kenya's obsession; but the real concern is the attachment between particular land and particular people". To the Luo

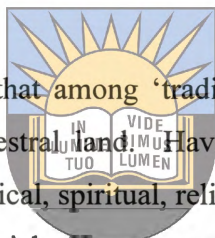
community of Kenya, their attachment to land is manifest in their traditional saying that “man is land and land is man”, echoing the biblical phrase “from dust to dust”.

Carr (2004) learnt that among the Chagga of Tanzania, land was of particular importance, as it was the burial grounds in which their ancestors are buried, and should at no cost be abandoned. As Eugenia (as cited by Carr, 2004:33) puts it, “You have to take care of the graves of your grandfather and grandmother until when you're dead then we will bury you there, too”—such sentiments are reflected in Chapter Eight on the ethno-ecology of land among the community of Kwale. Carr also learnt that the Chagga frown upon anyone among their own who sells land to ‘strangers’ and infers that only those who are irrational sell their land. For these reasons, therefore, the Chagga have a profound attachment to their land (and community).

Havemann (1999:92) also acknowledges that among ‘traditional societies’, there is “great spiritual and physical attachment” to ancestral land. Havemann remarks that the way in which ancestral land forms part of the physical, spiritual, religious and cultural mind frame of Australian Aborigine people was very special. He argues that land for Aborigine people is far more than just a property right—it determines the very rationale for existing as a human being and forms part of a community of persons sharing the same laws and customs. Indeed, Whittlesey (2004:89) remarks that land is the “soul foundation of human life”!

Shipton (1994:361-363) argues further that land is inseparable from religion. In many communities in Africa, land is an object of reverence, and thus some identify land as sacred, pure ethnic heartlands or as places of shrine for a supreme being. For instance, Islam, a religion practiced by many African communities, ties people to its land through sharia laws that forbid profiting from land sale (this is particularly useful when looking at the community of Kwale, many of whom are Muslims). The Fumar of East Timor, who view their landscape as inhabited by both humans and spirits, contend that if one is not buried with all the required rites, his spirit will be restless because “complete unity with the landscape is achieved upon death, when through burial, people become part of the spiritual landscape as ancestral spirits” (Bovensiepen, 2009:337). Hence, if one leaves his ancestral home, he is in essence abandoning the spirits of his ancestors and as a consequence, it is believed that he will never be successful in life as bad luck and misfortunes will persistently follow him.

De Villiers (2003) earlier argued that in Africa, and also among the Australian aborigines, there is a great spiritual and physical attachment to ancestral land, and that the way in which



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ancestral land forms part of the physical, spiritual, religious and cultural mindset is indeed special. James and Nkadameng (2003) argue, along the lines advanced by De Villiers, that land and life are synonymous, saying that:

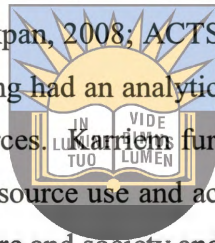
People regard earth as some kind of womb. It is where life comes from, so land is synonymous with life. It has broader implications—that each and everyone has a birthright. If you tamper with that, you tamper with where you come from, the womb, someone is tampering with your mother...Earth remains the source of your life. Of life itself. (James and Nkadameng, 2003:246)

The above statement echoes the Mijikenda saying that the earth is mother, and Smith's assertion that land is the soul foundation of life.

From the literature presented, thus far, one would understand the assertion by Barry *et al.* (2007) and Pankhurst (2000:293) that land (and shelter) is an emotive issue in Africa. Pankhurst suggests that land is usually at the centre of most conflicts in Africa as communities are intimately attached to their land, as this is where their 'living dead' are interred and they have the responsibility of looking after them. Their ancestors will protect them so long as they occupy the land left to them by those same ancestors. It is for this reason that de Beer (2006) points out that in South Africa, servitudes are sometimes registered by Africans on farms owned by whites as recognition of a right of admission to the graves of their ancestors. De Beer notes that after 1994, the land restitution programme began in South Africa, and graves were considered as evidence of land previously owned by communities who were deprived of their land under the apartheid system (such as the land claim by the Mekgareng community).

Mannan (2001) argues that land is not only useful in fulfilling present needs, but also acts as security in old age. Therefore, someone with land was deemed to have power and wealth, and was insulated against adversity in old age. Alienating one from this land will thus lead to feelings of vulnerability and loss of 'social security'. Indeed, Migot-Adholla *et al.* (1991:165-170) argue that even when African migrants retreat to urban centres in search of work, during long periods of absence, they still retain claims to land within the territory occupied by their kin, to which they return should their prospects in the city dim. Rural homes are, therefore, considered as the most secure form of security.

Zimmer-Tamakoshi (1997:663) earlier found that among the Gende of Papua New Guinea, land was a socio-cultural construct, encumbered by the actions and exchanges of the living, and guarded against improper intrusion by the watchfulness and demands of ancestral spirits. Bearing such meanings, one would therefore expect that acts of eminent domain would be met with much resistance—as violent or as intense as that of the Mau Mau of Kenya, or the Chiapas in rural Brazil, or the “contras” in Nicaragua, or the struggle against the *ladino* oligarchy in Guatemala, the civil war in El Salvador, or as dramatic as the historic “march for dignity and territory” by the indigenes in Bolivia (who trekked 550 kilometres from the Amazon rainforest, through the snow-capped Andes to Laz Paz to protest against logging on indigenous land and to claim indigenous land rights). Other instances of land conflict can be found in Namibia (Pankhurst, 2000), Zimbabwe (Goebel, 2005; Thomas, 2003), South Africa (Nyanto, 2006), and Kenya (Abuya and Akpan, 2008; ACTS, 2008). Indeed, Karriem (2009) acknowledges that political ecology has long had an analytical focus on struggles over access to land and the utilisation of natural resources. Karriem further argues that political ecology deals with social justice as it pertains to resource use and access, and that this brings to light the complex interrelationship between nature and society and livelihood.



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In another study among the Samburu ~~to Kothar, Lesorogol (2005)~~ found that possession of land was very important: community members believed that with land, one would have control over his own life/destiny. One of the locals said that “if you have your own property [land], you have authority which protects you and your property. Nobody will interfere with you”, (Lesorogol, 2005:1973). Lesorogol pointed out that the community were averse to selling land as this was a risky affair which could render one landless and unable to control his own affairs. One therefore, would be vulnerable to a life of destitution, since loss of land, poverty, and vulnerability closely associated (Daley and Holey, 2005).

Kaltenborn and Williams (2002:190) argue that most studies on “place” and conflict perspective tend to concentrate more on cultural clashes. However, the main weakness, according to these authors is the excessive focus on abstract value and preference statements (e.g utilitarian versus preservation values), as opposed to place-specific meaning and conflict. They suggest that a focus on place-specific meaning and conflict would lead to better understanding of these conflicts. Comparisons and generalisations can thereafter be made and better theories developed. The authors defined place as “the locales in which people find themselves, live, have experiences, interpret, understand and find meaning” (ibid.: 190).

For Kaltenborn and Williams, in understanding place as a centre of meaning, one's foundation is on the concept of "existential insidedness"—a phrase used to characterise a sense of belongingness and deep and complete identity with a place. The sense of "insidedness" is made possible by the long-term accumulation of experience in a place. Places can, in other words, be seen "as socially constructed entities to which various people experience different degrees of attachment and identification" (ibid.:191).

In Africa, land is also important for the fact that it is used for inheritance purposes. Lastarria-Cornhiel (1997) and Carr (2004) note that most land transfers in Africa are effected through inheritance. Land is, therefore, an intergenerational property, hence held in high regard. Social displacement not only threatens an individual's way of life but also threatens the natural process of land inheritance and ownership.

For the Mijikenda community of Kenya, who incidentally form part of the community within which the present study is based—see Chapter Six—believe that the earth is mother who is fertilized with rain by a supreme being (Yahya, 1998). All members of the community are her children, and all have equal rights to her. Strangers can only use the land at the pleasure of the elders, from whom authority must first be sought. This view is important in the sense that the Kamba community were permitted to settle in Kwale (especially around the area commonly referred to as Shimba Hills) by the Mijikenda, who were the first to have settled on this land (see Chapter Six). They were, therefore, assumed to have been granted user rights to the land. When the matter of compensation came up, conflict arose as to who now ought to be compensated—the 'real' owners (the Mijikenda) or the current occupants (the Kamba)? How this played out is illustrated in Chapter Eight.

Barring the cultural impediments stated above, land is also important to persons and communities because it can be used to access services, for trading purposes and, most important, to access credit (Taylor, 2004). Access to credit, and land for purposes of trading, is however, *per se*, not strictly an ethno-ecological concern as it is an economic concern. In other words, a person who has land can dispose of it to obtain funds when needed, or to dispose of it at a profit (for its value rarely depreciates). With land, one can access services offered within that locality such as hospitals, local government and central government services by virtue of being a resident.

In the neo-modernist sense, therefore, land is crucial for individual/family/community development and has many socio-economic benefits attached to it. This thinking also

emerges from what is known as the “evolutionary theory of land holding” where systems of using land for economic gain are not simply responses to changing economic conditions, but actually emerge from customary practices. This then allows for individual or community titling, whose end use is economic (Fortin, 2005). Because of this, land ownership becomes very attractive, thus making social displacement quite painful—especially when compensation is deemed to have been “unfair” or “inadequate”, thus leaving affected persons vulnerable to shocks (as observed in Chapter Two).

Clearly, all the above supports Shriver and Kennedy’s (2005:491-512) contestation that the degree of place attachment determines the intensity of community and government/extractive company conflict over ‘development’ projects.

Rogers and Wang (2006) offer a glimpse of how life would be after displacement (this from their research in Mongolia, China, on environmental resettlement—where 650,000 people were displaced to return acres of agricultural land and pasture to “nature”). Rogers and Wang (2006:57) cite Brown and Perkins who argue that spaces become places of attachment because they act as “anchors of meanings” to residents by symbolising and sustaining self, family or home. In other words, spaces or land give life a meaning to communities. Once they were uprooted from their original homes and settled in Wan Sheng, most resettlers spoke unfavourably of their new site. For instance, a 72-year-old woman said:

I was born over there (the original home), life was good, with fresh air and cool wind. Compared with here (Wan Sheng) the old village was better. There were blue mountains, grey water (expression used to describe clean spring water), good soil and our skin was always healthy. It was very clean. There was no need to walk very far, no need to spend money on corn. (Rogers and Wang, 2006:57)

This expression suggests that the residents were now feeling vulnerable as they no longer had access to the resources from which they had been displaced. When interviewed, some of the residents dismissed the resettlement as a “waste”, as they had to abandon all their resources and start life afresh. Another resident spoke in anguish, pondering where she would now be buried. She was eventually convinced that her ashes would be returned to the mountains. It was also noted that some residents returned for occasional retreats to their homes simply to “see”, or to visit graves or harvest crops. They describe the abandoned village as “bleak and desolate” (ibid.:58). One resident is said to have a large poster in his house of a forest as a

reminder of his old village, remarking that “I miss it sometimes. It is a place where I was born and grew up”.

Having been displaced, many were now unable to perform remembrance rituals such as *Qing Ming Jie* (the sweeping of graves in spring). Due to the restrictions in place (one would be fined for leaving paper money and incense at the grave sites—items that must accompany the ritual), they have had to make do with alternative sites to represent their graves, but much meaning of the ceremony was lost in this way. Attachment to a place creates security in one’s daily life, and hence displacement casts one among strangers and with it, one loses one’s sense of belonging and with it security. One then begins to fear for one’s own safety, that of one’s family and or one’s livestock (ibid.:62).

Another instance of land attachment and displacement is provided by Bovensiepen (2009) among the displaced community of Funar, East Timor. The inhabitants were forcibly dislocated from their ancestral land by the Indonesian military in 1975 and herded into Laclubar Town to facilitate military monitoring and control of their political activities. It was not until after the 1999 independence referendum that the government permitted the villagers to return to their lands. Bovensiepen argues that most residents returned to their ancestral land because of the spiritual potency of the landscape (it was believed that poor health and continuing bad luck of the residents was due to their separation from their ancestral lands).

The residents considered it crucial to maintain links with their *lulik* (places with ancestral connections), which meant that they were now proscribed or taboo land, whose settlement had to be negotiated with the spirits. Spirits were believed to roam the land, becoming the non-human owners of land. It was further believed that these spirits were angry as they had been abandoned by their descendants and as such, rituals to appease them were carried out by the returnees. The potency of the land was further enhanced by the spirits of the dead who were killed by the army during the rebellion and who had not been properly buried. Bovensiepen (2009:327) calls this the spiritual landscape which is “animated by the agency of the ancestors and the potential actions and intentions of other spiritual entities, such as land spirits and *lulik* potency”, thus creating an invisible spiritual realm that intersects the material world. In fact, the term “land” was used to refer to the collective of the different spirit types.

People’s relationship with the landscape is thus a holistic one, since the spiritual aspects of the landscape encompass political and economic factors. For the people of Funar, the landscape is not just a passive background to which meaning is attached; the spiritual landscape is itself an active and at

times creative and productive resource. The landscape has desires and preferences and it needs to be looked after and cared for. Rather than drawing a clear line of demarcation between the spiritual and the material landscape, then, we can see how for the people of Funar these two aspects are closely intertwined. (Bovensiepen (2009:328)

Most of the literature reviewed presents the view that people are attached to their environment—hence the ‘unmitigable’ pain of displacement. However, there are instances where people have been found to have ‘loose’ attachment with their landscape and were happy with their relocation. Three such instances (in Yallourne (Australia), in Karelia (Finland) and Arenal (Costa Rica) have been mentioned in Chapter Two of this thesis. One other incidence is mentioned by Hilson (2002a) in Ghana Tarkwa mine, where the local community were satisfied with the improved upgraded housing, improved sanitation facilities, and they were satisfied with the compensation paid for crops, land and physical structures, as well as with the social provisioning such as schools and markets that were provided. Cernea (2000a) also describes another community in China, who were satisfied with their relocation to pave way for the construction of the Shuikou dam. As mentioned in Section 3.6.1—see Cernea (2000a:35)—researchers are usually more concerned with describing displacement pathologies and hence little research has been carried out on positive experiences.

“Loose” attachment can also be as a result of social change (which is a forever on-going process in society), which leads to cultural, tradition and attitudinal changes. It would therefore be prudent to expect that the various attachments reviewed here would over time change, and communities would be “loosely” attached to land (sometimes as a result of urbanisation) and form attachment to other matters. Groups also do differ on the view they view matters, and that is why compensation and relocation could be easier for one group (as observed in the cases of Yallourne (Australia), in Karelia (Finland) and Arenal (Costa Rica) while it would be much more complicated for another group (such as the community in Kiambere and Kwale as discussed in the previous Chapters). Even within ‘homogenous’ groups, such differences could still be observed, based on generation, educational background or gender, for instance. A case of such difference is observed between the youth and the older generation on how the importance of graves in relation to ownership of land (see Chapter Eight)

Given that mining will usually be accompanied by displacement, and having noted that communities, especially those in Africa, are very attached to their land for reasons advanced in the literature so far, compensation, which is usually the only means available to ameliorate the suffering of those displaced, demands further scrutiny.

### 3.6 Compensation

One of the objectives of this thesis is to discern the compensational framework and practices in Kenya's titanium mining industry and to examine how this intersects with people's narratives and experiences. As such, further scrutiny on the issue of compensation is warranted. This is more so because literature highlights this disagreement over compensation as one of the conflict areas between communities and extractive enterprises/government.

#### 3.6.1 Debating compensation

The origin of compensation is traced to the emergence of eminent domain (the power of the state to seize private property for public good) and the emergence of eminent domain is in turn traced to feudal England (Benson, 2008:423-432). According to his account, in 1066, William the Conqueror seized all land in England and retained absolute authority over the use and disposal of all land. Landholders (mainly the barons) only controlled land as long as they performed the required duties (that is, carried out certain administrative functions on behalf of the King) and paid the required fees (known as "aids"—paid when the King's eldest son was knighted, or eldest daughter was married, or the King was captured and held for ransom). William's successor, William Rufus, was reported to have been very demanding in asking for "aid" to the extent that barons revolted against him from time to time. Rufus' successor, Henry I, was no better as he continued with the extortion practices of his predecessor. His reign was also characterised by revolts which he ruthlessly crushed as had Rufus before him. One group of the privileged, the Curia Regis,<sup>16</sup> soon changed this.

Curia Regis revolted in 1215, demanding an article that would govern their relations with the King. The King (then King John) bowed to their demands and signed the Articles of the

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<sup>16</sup> Curia Regis was an assembly of landholders (barons, archbishops, bishops and abbots of the church, together with members of the royal household) who met occasionally to advise the King on matters of law, war and justice and hence held considerable power that it could use to check the authority of the King but which it rarely exercised. Each needed the support of the other, and as such when the Curia Regis carried out one of their rare revolts, the King would move swiftly to satisfy their demands so as not to lose their support.

Barons which later became known as the Magna Carta, and which ceded substantial powers to the Curia Regis. The King's powers on land takings were now limited as Chapter 29 of the document proclaimed that "no freeman shall be taken, or imprisoned, or be disseized (meaning deprived of a freehold i.e. forcefully ousted from the land he possessed) of his freehold...but by lawful judgement of his peers, or by the Law of the Land" (Benson, 2008:426). Chapter 28 of the Magna Carta recognised the power of expropriation, but required the immediate cash payment for the land seized (hence the beginning of compensation). Benson argues that this event and the resulting document (the Magna Carta) are relevant for the evolution of the rules that ultimately would be referred to as eminent domain, and to which compensation was tied.

Thus, "compensation gradually became established as a customary obligation" (ibid.:429)—and with this, condemnation and compensation found their way into the legal books and constitutions of many countries. Through colonialism, these statutes spread to many British colonies, including Kenya, which almost wholly adopted the colonial British laws upon attainment of independence (for other accounts of the origin of eminent domain and compensation see Freund (1946), who traces this to the revolutionary wars of the 19<sup>th</sup> century, and Lenhoff (1942), who traces its development to the natural law movement, particularly in French writings on civil wars in the 17<sup>th</sup> century).

In the article 'Theories of Compensation', Goodin (1989) defines compensation as that which sets to provide a person with a full and perfect equivalent for what he has lost. Hence it should neither be less nor more. Goodin explains that in the law of torts, the compensation due to a beneficiary is the amount of the property-owner's loss, understood as the difference between his position in the baseline situation prior to the seizure and his position afterwards. Compensation is differentiated from restitution, which means giving back. Compensation therefore "counterbalances", "neutralises" or "offsets" the loss suffered. Goodin identifies two kinds of equivalence (compensation), that is, means replacing compensation (what he terms compensation<sub>1</sub>), and ends-displacing compensation (which he calls compensation<sub>2</sub>). The former means providing people with equivalent means for pursuing the same ends, while the latter means compensating people to pursue other ends, but which is anticipated would leave them subjectively well-off overall; for instance, transforming subsistence farmers into commercial traders. Goodin adds, however, that there is more moral superiority to the first compensation, and most compensation policies lean towards this type.

In compensating, policy makers and lawyers distinguish between compensating for pecuniary harms (which include damage to one's property or earning capacity or the creation of legal liabilities) and non-pecuniary harms (which include bodily harm, emotional distress, humiliation, fear and anxiety, loss of companionship, loss of freedom, distress caused by mistreatment of a third person or a corpse, among others). Social displacement can result in both pecuniary and non-pecuniary harms, both of which should therefore be compensated. Compensation<sub>1</sub>, he argues, is normally pursued to satisfy pecuniary harms, while compensation<sub>2</sub> is normally pursued to satisfy non-pecuniary harms. He further argues that for the economist, the choice between compensation<sub>1</sub> and compensation<sub>2</sub> boils down to cost.

[W]hat underlies...economists' insensitivity to the distinction between compensation<sub>1</sub> and compensation<sub>2</sub> is their studied indifference to the deeper structures of people's preference. With conventional consumer theory, everything is presumed to substitute for everything else at a margin. (Goodin, 1989:64)

Goodin further argues that there are some things that have close substitutes (for instances butter for margarine), but there are many other things that have no close substitutes, especially non-pecuniary harms. Hence, since there are no close substitutes for 'irreplaceables', it is impossible to compensate these in the first sense; therefore one resorts to compensating in the second sense (offering goods with different characteristics with different satisfaction). Goodin argues further that economists ignore any distinction between the two types of compensation for they argue that "indifference is indifference; it does not matter where compensation puts you on an indifference curve, just so long as you are restored to the same curve" (Goodin, 1989:65). Obviously this kind of reasoning cannot resound well with displaced indigenous communities, as no one would want to simply be on some "curve".

Monetary compensation has always been seen as the only available mode of compensation even though it appears only suited for monetary losses. Goodin posits that "the vast majority of compensation programmes doling out pecuniary awards do not even try to compensate for non-pecuniary losses at all" (ibid.:63). It is no wonder then that most compensational practices, especially in the mining industry, are fraught with problems and prone to conflict.

Goodin suggests the following precepts in matters of compensation. First, he suggests that prevention is better than compensation, especially where irreplaceable object(s) would be lost. Having analysed how closely attached local communities are to their land, and bearing in mind how people are intertwined with their environment (refer to Chapter Five of this

thesis, under ethno-ecology, for more clarification on this) this appears to be a sound policy shift. However, in the pursuit of economic growth, this suggestion stands very little chance of success. Secondly, he offers that where a lost object is replaceable, the compensation offered should include the closest possible substitute for that which is lost i.e. a house for another house or land for other land.

The problem with indigenous communities in Africa is that even seemingly pecuniary losses are intricately attached to non-pecuniary needs. For example, even if one replaces one's house with another house of a better standard, this may still not be enough, for the reason that the house condemned had been inherited from the father, and as such, was priceless to the owner. The same thing can be said about a piece of land or even an ordinary tree, both of which are intergenerational and serve several purposes as they hold several meanings to the owner. Goodin offers compensation<sub>2</sub> as the remedy for non-pecuniary losses, although he admits that it too has its own inadequacies.

An example where compensation<sub>1</sub> and compensation<sub>2</sub> were attempted is provided by Mejía (2000), in the Yacyreta Hydroelectric project in Brazil. The compensation provided had two options: 1) provide land nearby and offer financial assistance to the displaced persons to enable them continue with their brick-making income generating activity, or 2) be assisted to move to rural areas to begin life anew as farmers or to move to urban centres and become businessmen. In all cases, the resettlers failed in reconstructing their livelihood.<sup>17</sup>

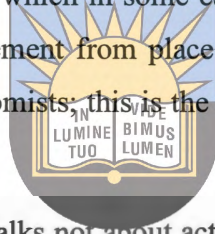
Cernea (2002, 2003a) and Kanbur (2002) offer a sociological and an economic critique, respectively, on the notion of compensation principle. In his article "Development economics and the compensation principle", Kanbur argues that specific compensation mechanisms and generalised safety nets would normally reduce the potential tension surrounding resettlement programmes. To begin with, he stresses the upholding of the "Pareto improvement" (at times referred to as the "Pareto efficiency"), which states that if at least one individual is made better off and no individual is made worse off as a result of these

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<sup>17</sup> Some because they had moved to a different ecological zone (as the clay they traditionally used was submerged by the dam water) were unable to succeed because of lack of material. Others simply took up the land offer to simply become land-owners as landlessness was a pressing problem in the area. Others failed because they employed the compensation money to meet other pressing needs, while others simply found the cash to be inadequate. Others were unable to restart life afresh barred from what they were used to. This demonstrates that alienating people from their environment renders them vulnerable to risk.

projects, then the compensation would be considered a success. In other words, therefore, compensation fails in cases where any one individual is made worse off. He argues, however, that achieving this is almost impossible, and if ever this threshold was to be used to gauge all developmental projects, then no such project would have ever seen the light of day.

Economists, therefore, developed a method of aggregation, which aimed at allocating weights to losses and gains arising from a project, but specifically giving greater weight to the gains and losses of the poor than those of the rich. In other words, if the gains outweigh the losses, and if the poor stood to benefit more than the rich, then the intended project is good and the compensation is right. Kanbur reviewed Lionel Robbins' argument in which it is argued that economists were not the right people to determine gains and losses as many other non-economic variables have to be considered which in some cases happen to be un-measurable i.e. emotional loss resulting from displacement from place of attachment. Such normative weights are beyond measurement by economists; this is the domain of sociologists, need one say!

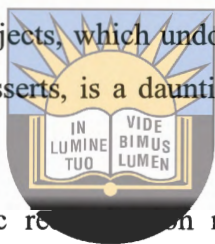


The “compensation principle”, therefore, talks not about actual compensation being paid, but rather that if they could be paid in principle so as to leave everyone better off, then the project should go ahead. It is difficult to comprehend how this can be done without paying out actual compensation which would be equal to, if not better than, the loss suffered by the affected. This again takes us back to the “Pareto improvement”, an impossible threshold to meet. Kanbur offers a possible solution to this dilemma:

where losses involve serious hardship to individuals, there must be compensation, or at least relief to cover subsistence...Where there are improvements, the law of averages may be trusted to equalise the benefits to some extent, but never completely. It will always be necessary to provide for individuals upon whom progress inflicts special hardship; if it were not possible to do this, we should have to reconcile ourselves to greater delays in the progress of industrial efficiency (Kanbur, 2002:8).

In other words, Kanbur admits that it would be impossible to ameliorate all effects suffered; and if this threshold must be met in every case, then industrial progress would be stunted. Kanbur argues that caught between policy paralysis and the illogic of the compensation principle, and unconvinced by the “law of large numbers” argument (that argues that provided a majority of the people benefit then the project is good to go), the solution is to provide for a cost-benefit analysis using weighted sums of gains and losses according to an

egalitarian scale of weights. The cost-benefit analysis should not use the cost-benefit methodology which justifies project investment by determining the aggregate of a project's benefits outweighs the sum of a project's costs by an acceptable margin, but rather it should use the "social" cost-benefit analysis approach, where principles of social pricing, using distributional weights, are applied. This view is further supported by Pearce and Swanson (2008) in which they argue that in evaluating resettlement projects, the cost-benefit analysis should be considered in favour of the principle of "willingness to accept" (WTA) compensation in lieu of property rights rather than an individual's "willingness to pay" (WTP) for the change in question. The authors argue that WTA offers a better threshold of acceptability of a project than WTP, which goes against the "pareto principle" (Daly, 2008, also supports this approach). Kanbur also advocates for development of elaborate compensation mechanisms for specific projects, which undoubtedly leads one closer to the Pareto improvement, but one which, he asserts, is a daunting task and may be practically impossible to implement.



Kanbur, therefore, calls for an automatic reversion mechanism and safety nets to complement project-specific compensation, which would prevent destitution in projects where compensation was not paid out, and the which would also prevent inequality from getting "too high". All this sounds good, but on the ground where it really matters, these principles do not apply as certain losses are uncompensatable in whatever way one looks at them, especially in the eyes of the displaced indigenous people—no wonder then the conflict between communities and governments continues, even in instances where "generous" compensational packages appear to have been paid out.

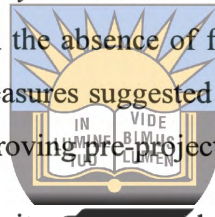
Akpan (2009) argues that in the rural Niger Delta, for instance, ideational universe comprising land, forests, shrines, ancestral cemeteries, and specific crops are valued both for their cultural and spiritual significance and for their functional or 'economic' worth. Land is simply not a 'piece of earth' but an extension of the community identity. Forests are equally not simply a collection of wild vegetation and an abode of wild animals, but their existence is bound up with the existence of the community. Tombstones and shrines are simply not 'physical structures' but physical structures with a spirito-social dimension, representing a connection between the living and the dead:

Once constructed, a tombstone has no clear market-related price and cannot be demolished, substituted or 'paid for' at will. It cannot be valued in terms of the amount of cement and steel rods used in its construction. Although

people drink *pami* (the wine tapped from raffia or oil palms) for pleasure, the wine has no substitute when demanded as part of bride wealth. It is also used as ‘incantation drink’ and as a social beverage at funerals, initiation rituals and indigenous festivals...their economic worth is tied to their cultural values. (Akpan, 2009:114)

Compensating for the loss of such significant cultural material may thus never be attained!

Cernea (2002, 2003a) in turn offers a sociological critique of the compensation principle, which is more or less a critique of the position espoused by Kanbur. Cernea (2002:28) is categorical “that compensation is *structurally* unable to resolve the task of restoring incomes and livelihoods to where they would be in the absence of forced displacement”. He doubts that even with the additional safety net measures suggested by Kandur, compensation would still serve the purpose of restoring and improving pre-project livelihoods.



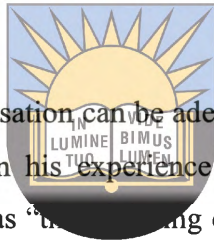
Drawing from previous studies (the majority of which demonstrate the negative effect of resettlement that left communities worse off after compensation)<sup>18</sup>, Cernea (2002) states that compensation was simply not able to generally compensate and secure the productive and enduring reestablishment of those displaced. Hence compensation cannot prevent impoverishment. For instance, he noted that in India alone, where more than 20 million people were displaced between 1950 and 1980, 75% (15 million) of those displaced ended up worse off than before resettlement. In China, where no less than 40–45 million people had been displaced between 1950 and 2000, only about a third resettled well (in short, ‘Pareto efficiency’ was not achieved).

In support of Cernea’s views on the inadequacy of cash compensation, Karimi *et al* (2009) found that majority of families in West Sumatra’s Koto Oanjang resettlement village suffered a worsened livelihood condition years after compensatory resettlement. This was despite a “generous” compensation package that included (a) two hectares of productive rubber plantation, (b) 0.4 ha of land to grow food, (c) 0.1 ha of land for a 36m<sup>2</sup> house with a

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<sup>18</sup> Although Cernea (2000a:35) acknowledges that researchers have been more concerned with describing and deploring displacement pathologies, and suggests that focus should also turn to positive experiences in reconstruction of livelihoods. To his credit he describes one positive experience in Shuikou dam in China, where land-for-land compensation (among others) was carried out: the novelty with this experience was that trees and crops were first planted in the resettlement site before the displacement took place. Another positive experience is also described by Hilson (2002)—see Section 3.4 of this thesis.

courtyard, (d) living allowance for two years and monetary compensation for all properties given up as a result of dam construction. The following social amenities were also established in the resettlement village: (a) drinking water supply, (b) school, (c) healthcare centre, (d) mosque and a market place (ibid.:460). Nakayama *et al.* (1999a:453), also found that despite compensation (which involved payment for lost physical structures, other immovable assets, loss of employment and income generating activities, among other things) and attempts to indemnify the community to rebuild livelihood in agriculture (aquaculture, to be specific), those affected by resettlement were found to be on the losing end, as surveys revealed that external entrepreneurs owned 52% of the agriculture business; the resettlers thus failed to enjoy the benefits of aquaculture to which they were entitled to. Land ownership was also found to have decreased by 21% whereas land was still the main source of income for resettlers engaged in agriculture.



McLeod however, argues that cash compensation can be adequate if one uses the principle of Compensation Surplus (CS). Drawing on his experience from Fiji, McLeod (2000:117) defines compensation in mining activities as “the summing of damages for any loss in value or damage to land, water, foreshore or other resources as well as rights, arising from prospecting, exploration and mining activities on land, water, occupiers and the surrounding communities, in monetary or non-monetary forms”. It is noteworthy that this definition allows for the compensation of social and cultural losses or “rights”, and also for recreational and conservation losses. Keeping in mind the Pareto efficiency (that demands that for a project to be efficient at least one person must benefit and no-one should be made worse off), McLeod suggests that the most appropriate theoretical measure for assessing the amount of compensation to be paid is the Compensation Surplus (CS) model:

$$CS = M - e(r, x^1, P_y, u^0)$$

Where  $M$  is income,  $e$  is original expenditure,  $x$  is the level of environmental quality supplied,  $r$  is the price of  $x$ ,  $u$  is the utility level and  $p$  is the price of good  $y$  which represents all other goods excluding  $x$ . He states that the CS represents a measure of willingness to accept compensation (this takes us back to Brätland’s idea of assent, without which compensation cannot be just). Going by communities’ attachment to land and Cernea’s critique on the inadequacy of compensation, the above formula would make no sense to an ordinary rural farmer who is on the verge of losing his ancestral land. In any case, since the compensation is pegged on the *willingness* (see Brätland (2006) argument below on this question—in which

he argues that assent/willingness is never present in instances of displacement) of the farmer to accept compensation, then this form of payment would ordinarily not apply to him. But what about instances when a farmer does 'accept' compensation (through coercion or for fear of losing out completely should he continue resisting)? Does this formula apply in such cases? Unfortunately, McLeod does not tackle this, or perhaps does not envisage this scenario.

Cernea (2008), argues for "Economic Rents" (defined as a surplus return over and above the value of the investment capital, materials, labour costs and other factors of production employment to exploit natural resources), whereby surplus benefits generated by extractive companies are ploughed back to assist in financing resettlement. For this to succeed, a high system of transparency and good governance is needed, a trait which is mostly absent in many mining concerns undertaken in developing economies, which Cernea (ibid.:71) argues requires appropriate political will.

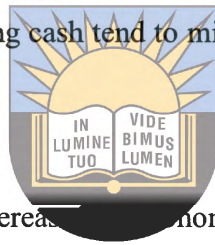
Cernea (2003a) re-enforces his arguments by stating that resettlers may come off worse, as indeed they often do, because compensation is never a new investment, but one whose function is damage substitution. In other words, compensation seeks to return only that which has been taken away from those affected. More often than not, it actually provides less than what was taken away. Cernea argues that to begin with, compensation in cash transfers upon those displaced all the risk related to the acquisition of replacement assets. Typically the purchasing power of cash compensation ends up being less than necessary to repurchase the assets lost. Furthermore, transaction cost, the production time wasted, the start-up cost of a new productive activity, among others, are also to be borne from the same "compensation" which further erodes its effective value/purchasing power. Various cultural pressures and other immediate needs (such as the payment of school fees, bride-price etc.) often diverts fractions of the compensation proceeds leaving resettlers the poorer. Unpredictable land markets further complicate matters for resettlers when they seek to purchase replacement land, and often the worth of compensation goes down.

Research has pointed to other practical limitations. Compensation as a remedial tool is "impaired by extreme vulnerability to administrative distortion, twisting and subtractions" (Cernea, 2002:32). Even so, under-compensation can come about as a result of:

- a) Undercounting of condemned assets for which compensation is due;
- b) Arbitrariness and market-defying subjectivity in the valuation of assets;

- c) Un-recognition of non-physical losses, difficulty of measurement, and failure to account for non-market income and costs;
- d) Under-compensation resulting from late disbursement of compensation to those who are left assetless for an unacceptable time period;
- e) Subtractions by corrupt officials of part of the compensation money before it reaches the beneficiaries;
- f) Under-compensation because of lost consumer surplus from existing assets;
- g) Pre-emptive exclusion of some common assets from consideration (for instance boreholes);
- h) Asset-price upward changes occurring after the determination of compensation, which diminish the purchasing power of compensation recipients
- i) Recipients unaccustomed to handling cash tend to misdirect compensation money and are soon left assetless and cashless.

(Cernea, 2002:32).



The above factors demonstrate that whereas economic theory that legitimizes the compensation principle may be strong in theory, it certainly is weak in practice. This observed flaw leads to what Cernea calls “repair” in the form of ad-hoc “grants” or “allowances” payable to resettlers over and above the calculated compensation. It is because of such matters that compensation falls short and is thus unable to prevent impoverishment. Cultural and psychological poverty soon follow as resettlers suffer cultural and psychological pains and losses which in-turn inflicts long-term harm. Since this loss is additional to the measurable market value of the physical assets lost, the magnitude and span of the material and non-material impoverishment of those displaced far exceed the redeeming power of compensation. McLeod’s Compensation Surplus hardly convinces that it would resolve the issues that Cernea points out.

Cernea (2002:37) further argues that what makes compensation inadequate is its inability to address the “time dimension of recovery”. Displaced communities not only lose assets, but also forgo growth which, without the project, might have continued. Upon displacement, it is usually necessary to finance a “catch-up” effort, which is often ignored when compensation is calculated. Most of the affected persons lose valuable time, which would otherwise have been used carrying out investment, as they have to wait for the displacement process to carry its course (which at times can last up to ten years, as witnessed in the Kwale Titanium project). This time lost is never compensated. Cernea (2008) thus advocates for the principle

of investment, that would ameliorate this, but which he notes is still far from being established. He recommends that governments should put up investment projects/opportunities (such as investments in government/company shares and bonds, perhaps?) for those displaced. Cernea also supports the idea of benefit sharing, which is in tandem with CSR activities. As will be seen in Chapter Seven of this thesis, the Kenyan government has no such mechanism (for resettlement investment), though some CSR activities were agreed upon. This thesis suggests that through the use of Corporate Social Responsibility (which is discussed in the following section), the “time dimension of recovery” and resettlement investment can be addressed.

There is also the critical issue of assent (or lack of it) in the compensation debate. Brätland (2006) comments on this within the context of “just compensation”—a notion which the author dismisses as unachievable, primarily because in cases of eminent domain, “justness” can only be achieved when the notion of assent is present. Defining “justness” as that level of payment for a taking that renders the property owner whole, Brätland notes that the act of taking property is inherently confrontational and coercive and thus devoid of assent.

He further argues that assent and just compensation are inextricably linked, and therefore acts of eminent domain and the offered compensation cannot return the affected person to the state of “wholeness” that he had before the taking, hence “just compensation” in such matters cannot be achieved. Brätland notes that the critical distinction between voluntary transfer of property and coercive transfer is that “assent”, which is the central element in the former, but is missing in the latter. He asserts that “since assent is never present in the context of takings no compensation can be considered just” (Brätland 2006:2). In effect, this means that in matters of forced displacement, compensation can never be “just” as assent is never present.

Brätland also faults the notion of compensating at “market value”, arguing that since market value is the price arrived at by two willing and informed parties who agree in an un-coerced transfer of property, it then follows that takings accompanied by compensation cannot be just as one partner is unwilling, and is damaged because:

- a) the owner in most cases feels a special attachment to the property (usually land and all that constitutes it) taken, and;
- b) compensation in the amount of fair market value in all cases will not afford the owner with the means necessary to buy comparable property yielding equivalent enjoyment (Brätland, 2006:9).

Contrary to what Brätland said about the inadequacy of compensating at “market value”, Nosal (2001) argues that this is possible, even when private land is acquired. “Market value” in most cases of takings is calculated by government functionaries (such as land valuers in the Ministry of Lands) and in most cases is found wanting, more often than not for the reason that they usually do not consider the social value of the land under consideration.

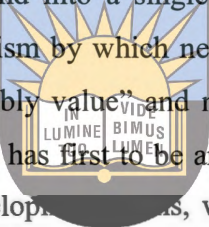
Nosal therefore develops a compensation model in which expropriated land (land taken for public good) is compensated at average market value of all land within the locality whether expropriated or not. All landlords in the locality determine the value of their property before the government comes in and decides the size and site of the socially efficient land (land bearing public good value and worth compensating) to be appropriated. Nosal proposes that it is the landlords themselves, who through equal tax are the ones who will in the end actually pay out the compensation to those finally affected, who determine the property values. Nosal notes that “in this equilibrium landlords receive the actual market value of their property if it is expropriated” (Nosal, 2001:438). This proposition is interesting, as it strives to achieve social acceptability of the idea of “market value”. The proposal has however yet to be tested hence its veracity is unknown. Nosal’s proposal is similar to that of Lehavi and Licht (2007:1704-1740) which shows that this idea is gaining currency.

Lehavi and Licht also add their voice to the issue of fair market value and suggest that this can be achieved through a proposed market-based mechanism for compensation in the form of what they call Special-Purpose Development Corporation (SPDC). Essentially, this system suggests the separation of the two components of eminent domain, that is, taking and just compensation. The end objective is to bring compensation much closer to the true economic value of the land and to make it therefore more just and more likely to genuinely maximize social welfare, as the land owners will hold shares in the project. Lehavi and Licht recognise that as currently practiced, “legal ‘air market value’ is practically a euphemism, in the sense that it generally does not fairly compensate landowners” (ibid.:1718).

The model they propose offer the condemnees a choice between either receiving traditional “fair market value” compensation or pro rata (‘earn as you go’) shares/securities in a special-purpose development corporation that would require unified ownership of the land and the development project. Roughly summarised, landowners would establish these SPDC, whose membership will be through shares, which will then negotiate for the price of the land with

the investors, while at the same time they will also be buying shares in the investment project. This ensures that the landowners continue to benefit long after they have been dispersed, and at the end of the project, they will continue to draw benefits from the sale of the land now abandoned. This is an interesting proposal which could be experimented on in matters of compensation. However, given the nature of government business in most of Africa, this system would be fraught with problems as to render it unworkable.

Heller and Hills (2008) argue for the institution of Land Assembly Districts which would replace the practice of eminent domain. Under this proposal, land owners possessing fragmented land parcels would place their land in a special district with the power, by majority vote, to approve or disapprove the sale of the neighbourhood to a developer or municipality seeking to consolidate the land into a single parcel. They argue that Land Assembly Districts would create a mechanism by which neighbours can bargain effectively for a share of the neighbourhood's "assembly value" and not merely the value of each lot before land assembly. But such a proposal has first to be anchored in law and it is unlikely that governments, especially those in developing countries, would encourage the creation of such an institution.

The logo of the University of Fort Hare, featuring a sunburst design with the Latin motto 'LUMINE VIDE BIVMUS' and 'LUMINE' repeated below it.

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The question one would pose here is whether there is any level of compensation that can be truly "just" if it is imposed upon the property owner. Brätland argues that this may be achieved if one employs the concept of "value to the owner", meaning that compensation is now pegged on the "reserve price" (which refers to the price at which the owner would willingly relinquish his property in a transfer free of coercion). As Kelly (2006:940) describes it, "the value of property springs from subjective needs and attitudes; its value to the owner may therefore differ widely from its value to the taker".

However, as Kelly (2006) argues, this notion has been abandoned in matters of eminent domain because:

a) although such things as emotional attachment may be important to the property owner, they cannot be objectively quantified. It is noted that emotional attachment and sentimental value of the homestead, residence or land that is being possessed and which has been in possession of the family for generations, may be the source for compelling reasons for

attachment and the dominant basis for valuation of the property on the part of the owner, and not any market forces;

b) awards would vary from case to case and this would be difficult to administer;

c) this would result in unsustainable excessive claims; and

d) the owner has a civic duty to give up land which the community requires.

Fernandes (2008) argued for compensation at “replacement value”, which is meant to address the issue of “just” compensation and compensating at “market value”. By “replacement value” he means rebuilding livelihoods, which is an act that goes beyond compensation. This is where social and cultural losses are quantified and compensated, as happens in India where the law provides for *poena doloris*, compensation for mental agony. But how do you quantify mental and/or psychological agony and attach some monetary compensation to it? This is the challenging part.

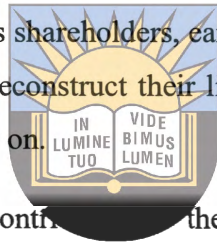


Brätland (2006:9) further argues that “just compensation” is determined not on the basis of the amounts exchanged in the transaction, but rather on the basis of the fact that the exchange was completed based on mutual assent. Brätland argues that without assent, “just compensation” cannot be achieved, and concludes that the concept of “just compensation” and eminent domain practices cannot be reconciled. He asserts that:

From both an ethical perspective, one can assert without risk of refutation that if the surrender of property by property owner is not voluntary, the presumption of injustice is manifest. Ethical breach is evident. Compensation cannot be just until it is voluntarily accepted by the property owner without coercion. Absence of coercion necessarily means that the owner of the property has the right to refuse all offers up to the point at which the owner values the money offered more highly than his property...from an epistemic perspective, the absence of assent bars any conceivable inference that compensation is just. No epistemic means are available to make any such determination. Market based benchmarks...are epistemically relevant to those willing to sell at a “so called” market price. These estimates or surveys have no relevance whatever in gauging just compensation for the un-assenting owner. (Brätland, 2006:19)

In short, in Brätland’s views of “just” compensation in cases of eminent domain are unattainable.

Fernandes (2000, 2008) argues that compensation cannot achieve its function since, even if compensation were to be “just”, it would not still resolve the problem of people’s impoverishment and immediate marginalisation. He argues that compensation alone is inadequate for people to begin life anew because most acquisitions are in the “backward areas” where land prices are low. Displaced persons are usually forced to seek alternative land elsewhere, normally in more expensive localities, and this diminishes the compensation awarded. Further, those in the background (i.e. adult children) do not benefit from the payment since only landowners are compensated. Third, he argues that livelihood is not only economic support. Around the land are built the owner’s economic, social, and cultural relations and even the community’s identity, and alienation from these is a total assault on his well-being, one that compensation cannot cure. Fernandes advocates for sharing of benefits (by way of permanent jobs in the project, as shareholders, earning royalties) as a possible way forward in assisting displaced persons to reconstruct their lives. This thinking is attuned to CSR activities, which will be explored later on.



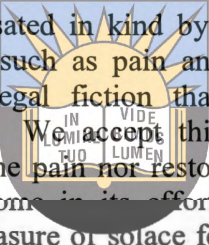
In earlier writing, Radin (1993:56-86) continues the discussion by introducing the concepts of “commodification”, in which governments conceive everything people value as if it were a commodity subject to market exchange, and “noncommodification”, otherwise equated to rectification. “Noncommodification” entails restoring the status quo ante (as before the ‘injurious’ action) or a state of affairs equivalent in moral value to the status quo ante—in this sense, pecuniary interest, such as attachment to land, houses, graves etc. In the former sense, harm to a person is equated with a dollar value and thus can be compensated at market value, while in the latter sense, dollars and commensurability (which compensation aims to achieve) are incompatible. Simply put, one can compensate harm resulting from loss of a car, for instance, but one cannot compensate a loss of an ancestral grave.

Radin (ibid.:60) argued that in rectification, compensation is “incomplete without attention to other injuries brought about by the wrong, such as loss of use value, loss of opportunity to sell at a profit, or emotional distress”, whereas in commodification, compensation makes the victim whole, as the victim is conceived to be indifferent between being harmed and getting the payment, and not being harmed at all. It is assumed that when the cost in dollars of the injury is paid, the victim is made whole. Having looked at the effect of displacement to communities in Chapter Two of this thesis, and also having noted how rural communities are attached to their geobiophysical environment, the commodification argument expressed here cannot hold. It is, however, unrealistic to assume that rural communities would be indifferent

to the harm caused to them through social displacement once they have been paid in dollar value.

In the rectification sense, compensation rests on the view that it does not imply commensurability between the harm and the payment, but rather that it addresses the central concepts of right and wrong; that is, that a wrong has been afflicted and an attempt is being made to right it. In other words a redress is being made, one which is not equated to restitution. The problem is that, in most cases, this redress is made in monetary terms which then assume that restitution has been made. In most cases of compensation, monetary compensation appears to be the only way out in redressing the harm done to the victim. On this point Radin concludes that:

An economic loss can be compensated in kind by an economic gain; but recovery for non-economic losses such as pain and suffering and loss of enjoyment of life rests on the legal fiction that money damages can compensate for a victim's injury. We accept this fiction, knowing that although money will neither ease the pain nor restore the victim's abilities, this is as close as the law can come in its effort to right the wrong...a monetary award may provide a measure of solace for the condition created. (Radin, 1993:71)



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The foregoing proposal is similar to that of Lehari and Licht (2007:1704-1749) which shows that this idea is gaining currency.

As observed in Chapter One of this thesis, one of the areas of conflict between mining communities and extractive companies is in the sharing of benefits—and costs. Community members are often disaffected by the fact that after their land has been forcefully possessed, they never appear to benefit from the proceeds that accrue from the project. They remain “watchers” while the company fattens their accounts with gems dug from their land. Lehari and Licht (2007), as reviewed above, have suggested a methodology that could ensure the continued enjoyment of project benefits by communities. From the review provided above, it is clear that “just” compensation may be difficult to achieve given the nature of the acquisition and the assets (some being intangible assets) that have to be compensated. Achieving “fair market value” is also problematic. Perhaps a combination of the models presented in favour of compensation would help matters, given that governments will

continue exercising its power of eminent domain. There is also the matter of Corporate Social Responsibility that is important to consider in this debate.

Corporate Social Responsibility (CSR) is suggested, in combination of the models suggested above, as yet another way through which mining communities may continue to receive benefits from the projects, and one which may also address the issue of rectification, and Brätland's concern of "just compensation", as well as addressing Cernea's concerns about the practicability of the compensation theory, the issue of the time dimension of recovery, and the issue of investment. What then is the role of CSR activities? This question is explored next.

### 3.7 The Place of Corporate Social Responsibility (CSR) in the Mining Industry

Dahlsrud (2006:7) notes that the popularly used definition for Corporate Social Responsibility in literature was that adopted by the Commission of the European Communities (CEC), which defines it as a system whereby companies integrate social and environmental concerns in their business operations and in their transaction with stakeholders on a voluntary basis. Dahlsrud provides a further 37 definitions in the same article, which more or less revolve around the same theme used by CEC (for a review of other definitions see Montiel, 2008<sup>19</sup>). For discussion purposes, this thesis adopts the definition provided by CEC.

The above definition informs that, apart from the business of making profit, extractive companies within the mining industry (as this is what we are mostly concerned with) should also concern themselves with activities that uplift the lives of the affected community. This should therefore be the role of extractive companies in CSR activities in the mining sector. However, CSR activities in the mining industry, as Kapelus (2002:275) observes, have long had a questionable reputation for social responsibility, especially in developing countries. As pointed out by Whitehouse (2003:300), this stems, first, from the inability of practitioners to agree on a universally accepted definition of CSR—one which would have set the parameters

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<sup>19</sup>A definition provided by Montiel (2008:253), which is also useful, is that CSR is a willingness on the part of a corporate, actively and with moral concern, to confront certain social problems that it deems urgent and to seek solutions to such problems insofar as the firm is able to do so. Such action requires that the corporate intelligently balances the needs of the many groups affected by the firm so as to best achieve both profitable production and the common good, especially in situations in which it is not required to do so by law or by external pressures that the company cannot easily resist.

for this activity and provide effective regulation. Secondly, it stems from the unscrupulous ways in which firms use this tool as a label to achieve their own needs/ends.

Hutchins *et al.* (2007:26-27) points out that CSR activities by extractive companies revolve around the following themes: a) societal legitimacy—the desire to obtain a licence to operate; b) responsibility to local communities—which implies that companies have a moral responsibility to uplift the lives of the communities around them; c) transparency of reporting, disclosures and accountability—the latest being the EITI<sup>20</sup> initiative, and; d) Protecting the natural environment (for sustainable development). Ali and O’Faircheallaigh (2007:6) argue that in view of the fact that most mining activities by extractive companies are non-renewable and lead to irreversible impact on the environment, this demands on the part of such companies their engagement in CSR activities. They suggest that CSR can provide a basis for managing conflicts revolving around issues touching on environmental degradation, compensation and sharing of benefits grievances that arise from mining activities. Indeed it was reported that in PNG, the local indigenous community insisted that multinational mining companies (MNMCS) should address their desire for more tangible benefits from the mining operations, and use CSR as a means of “compensation”, voicing that this would “guarantee the company peace” and ensure the safety for the life of the mine (Imbun, 2007:183).

It is now the norm for big business to be involved in community and social projects, and the proliferation of this phenomenon is attributed to the decline of the welfare state, economic crisis in the workplace, a rising neo-liberal movement, the process of globalisation, and to the failure of socialism (Kapelus, 2002; Makaros and Zehavi, 2008). To this list one should add the entrenched poverty found in most developing countries (where most of these big corporations now operate) as another reason for the emergence of this practice. CSR therefore requires a special interest in the affected community in fields such as education, culture, safe water, healthcare, basic sanitation, welfare, and housing among others (Szegedy-Maszák, 2008).

Kapelus (2002) previously highlighted that in carrying out CSR activities, the concerned company must first “identify” the community within which it intends to operate. This is

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<sup>20</sup> Extractive Industry Transparency Initiative is a global initiative (of governments, companies, civil society groups, investors and international organisations) whose aim is to strengthen governance by improving transparency and accountability in the extractive industry. It is the standard for companies to publish what they have earned and what they have paid out (in form of taxes or CSR benefits) and for governments to disclose what they have received and the ends to which they have put the money to- see <http://www.eiti.org>

indeed a daunting task, which may lead to what Akpan (2009) calls “identity rape” and “fragmentation” (see below for this discussion) of the community by multinational companies. Defining a community is a complex task which may in the end run the risk of defining the community as a construct, an imposing of order that does not necessarily fit the lived experience of the people in question (Jenkins (2004:26) and Kapelus (2002:280-281). Once the community has been selected, going by whatever criteria was adopted, the next task is for the corporate to design CSR programmes which satisfy either or both of the following functions: 1) programmes that help it discern and fulfil their obligations to stakeholders’ views, i.e. maximise profits; and 2) from the perspective of business strategy, programmes that minimise cost. Kapelus then examined the CSR activities of Richards Bay Minerals (RBM), a subsidiary of Rio Tinto plc and BHP Billiton plc, in KwaZulu-Natal, South Africa. Kapelus notes that RBM’s CSR activities are guided by two documents, one entitled “The Way We Work” (in which Rio Tinto affirms its commitment to widely acceptable norms such as human rights), and one entitled “Community Policy guidelines” of 1997 (which are a set of practical guidelines that facilitate the implementation of its values). RBM prided itself on supporting a variety of CSR projects in areas such as education (e.g. assisting local schools, promoting technical education, teacher training, promoting life skills), healthcare (e.g. running rural clinics, a 24-hour clinic for employees, an HIV/AIDS programme) and community development (e.g. gardening and cooking clubs, support for small businesses, support for a rural development centre), and in funding community projects (for instance in 1991 it spent R10 million on such projects).

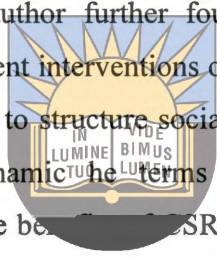


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But Kapelus argues that these programmes have not been without their dissenters who offer counter-narratives about the effectiveness of the programmes. Kapelus reports that locals are usually discontented by the manner in which RBM designed and carried out its programmes because they employed the “top down” approach, which left the local communities alienated from the programmes, despite enjoying the relative benefits. Secondly, RBM identified the Mbonambi community as the affected community, thereby making it an “island of development”, while the other surrounding communities continued to live in abject poverty, and this strained inter-community relations. RBM’s understanding of what constitutes the affected “community” has therefore led to uneven development and unwarranted tension. He also argues that in all its endeavours, RBM appears to implement programmes that maximise the company’s profits at the expense of the welfare of the community. This story appears to

establish the long held belief that multinationals are first and foremost interested only in activities that push up their profits.

The above scenario is similar to that reported by Kepore *et al.* (2008) who found that the CSR activities of Ok Tedi Mining Company Limited (OTML) had concentrated only on the communities living in upper Ok Tedi River (where their operational activities are based) while often ignoring the people in the lower part of the river (especially the Yonggom people) despite the fact that the company's toxic waste dumped into the river system passed through their villages and gardens. This is a theme that is echoed by many other researchers, including Akpan (2009), who noted the fragmentation of a community by attaching labels to 'groups' within the community depending on a groups valued position in relation to the extractive companies operations. The author further found that the company's social provisioning and other grassroot development interventions often "entailed a conscious effort on the part of the transnational companies to structure social inclusion and exclusion in the communities" (Akpan, 2009:112) a dynamic he terms "identity rape", whereby the companies denied others from enjoying the benefits of CSR—an observation similar to that earlier described by Kapelus (2007).



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'Identity rape' refers to "the process whereby, in order to apply a quantitative, economic criterion of social provisioning, a company appends novel tags to communities based on their sociocultural and ecological heritages" (Akpan, 2009:112). Based on these criteria, one community becomes infrastructurally "better resourced" than another depending on how it has been labelled. Communities were categorised into "key communities" (who in theory were to receive higher priority in social provisioning as oil wells or pump stations were sited on their land), "pipeline communities" (who, as the tag implies, were the communities on whose land the pumping pipes were laid down), and "landlord communities" (communities on whose land the company had their offices and/or residential houses). Those who did not fall under any of these categories were considered as "others", and were excluded from CSR benefits. Thus in its CSR activities, the company ended up "fragmenting" and "devaluing" communities, with the intention of saving on expenditure. Jenkins (2004) argues that in legitimizing one claim or group over another, MNMCs present the danger of perpetuating conflict and causing divisions within mining communities. Shell's activities demonstrate the extent to which multinationals may go in designing CSR programmes that are aimed at maximising profits while minimising expenditure.

Akpan (2009) also observed the deplorable quality of social existence that belies the vast natural and human resources that the country commands is best exhibited in the oil- and gas-producing Niger Delta region of Nigeria. In this region locals live in abject poverty while oil and gas continue to be mined and exported in large quantities. Community agitation for a better quality of life commensurate with the petroleum resources that are mined is at its highest. This is the environment in which Shell Petroleum finds itself. Akpan comments on the notion of “corporate citizenship”, the process through which over and above the payment of taxes and business royalties, transnationals become part of the broader socio-economic development process in their host country. The author noted that although Shell boasted of having spent US\$35 million on community projects and other grassroots empowerment initiatives in 2006, the communities in the study area continued to live in abject poverty. Some of the projects that were listed as having been carried out were either unfinished or unoperational.

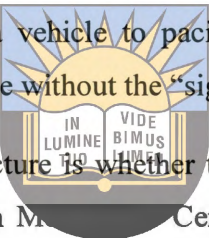


The same disconnect between CSR policy and practice is also evident in Szegedy-Maszák's (2008) study of the Cerrejón mining project in Colombia, managed by BHP and Glencore mining companies. Field results revealed that the impressive array of programmes/projects listed in company documents had not been implemented, and where completed, were not operational (this was very similar to Akpan's finding above). The study also revealed that whereas CSR activities were reputed to be carried out in the larger Cerrejón area, in fact only a few territories, such as Uribia, received excellent social services, while the majority of the indigenous population, such as those in Tamaquito, remained in a vulnerable situation.

Strangely, the Wayúu of Tamaquito were not recognised as indigenous Wayúu, by either the government or the company, and as such, they received no assistance from either. This “fragmentation” of the Cerrejón community (in a similar fashion as in the Niger Delta as reported by Akpan, 2009) brought about tension between members of the communities, as one group is discriminated against when it comes to social provisioning on account of being labelled as “outsiders”. The result has been unequal development which has further increased the tension between the communities and the company/government. The findings by Akpan (2009) and Szegedy-Maszák (2008) demonstrate the extent to which extractive companies can engage in ‘cloak-and-dagger’ activities of labelling and ‘fragmenting’ local communities in order to maximise returns by limiting their CSR operating zone.

Imbun (2007) argues that locals have a natural tendency to expect tangible projects and services from mine developers, such as establishment of health infrastructure, education, income facilities and communications infrastructure such as roads, and adds that this could demonstrate just how desperate the concerned communities were to have these services. He argues that due to the various direct environmental (such as water and air pollution) and social problems associated with the advent of mining (such as law and order problems, influx of outsiders, sexual promiscuity, social stratification and alcohol abuse), local residents were of the view that MNMCs should mitigate them by compensating them by the provision of appropriate projects as they were the originators of these problems. Fernandes (2000) had earlier supported the notion that residents are entitled to enjoy the benefits accruing from mining projects as a form of compensation as they are victims of the project. Imbun (2007) thus argues that CSR could be used as a vehicle to pacify local communities and thus minimise conflict as MNMCs cannot manage without the “significant other”.

The question that can be posed at this juncture is whether the “reconstruction” that Cernea talks about in his Risk and Reconstruction Model (Cernea, 2000a) can be undertaken through CSR methodologies. Cernea (2000a) mentions that the reconstruction reverses the risks to opportunities as follows:

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- (a) From landlessness to land-based resettlement
  - (b) From joblessness to re-employment
  - (c) From homelessness to house reconstruction
  - (d) From marginalisation to social inclusion
  - (e) From increased food insecurity to adequate nutrition
  - (f) From loss of access to restoration of community assets, and
  - (g) From social disarticulation to restoration of networks and community rebuilding.

A good CSR programme that targets these gains can, to some degree, lead to reconstruction of livelihoods. As observed earlier, Cernea (2000a) suggested the implementation of what he calls “investment financing” as a way of reconstructing the livelihood of resettlers. This can, in the present researcher’s view be carried out during the actual compensation process where resettlers can actually acquire shares in the extractive company, and/or benefit from future CSR activities. This would also address the time factor of recovery discussed by Cernea.

The above discussion on CSR shows that it can be used as a “compensation” tool, and to some extent can be used to assuage mining community grievances. However, for these to have a positive impact, extractive companies must engage in genuine CSR activities that target betterment of the lives of the local people, without necessarily causing divisions within the communities, as studies have shown.

### 3.8 Conclusion

In this chapter we have examined the economic importance of mining, and how states stand to benefit from mining activities. But we have also observed that mining can be fraught with problems ranging from damage to the environment to dispossession of land. Lumped together with the problems associated with social displacement, the need to ameliorate communities against these problems becomes necessary. This is usually carried out through compensation for lost assets. We have observed the difficulty associated with attempting to compensate for these losses. From the arguments raised, it is evident that “just” compensation is unattainable in instances of displacement as assent is missing, which is a crucial requirement for such activity and the fact that achieving the “pareto efficiency” perhaps unattainable, more so given the attachment that indigenous have on land. Various suggestions have been offered in an attempt to achieve “just” compensation, such as McLeod’s Compensation Surplus, Cernea’s “economic rent”, Lehari and Licht’s special-purpose development corporations, Nosal’s compensation at average market value of land, to Heller and Hills Land Assembly Districts. This thesis suggest that a model incorporating all these models, and which addresses the issues of compensating intangible assets, compensating at fair market value, achieving willingness to accept principle, achieving replacement value, meeting the question of assent and fulfilling the notion of time dimension of recovery, should be developed. Further, CSR has been offered as a possible way of assuaging community disaffection. Social displacement, as has been observed, leads to loss of land and, with it, loss of livelihood to sustain oneself. A community loses its sense of identity, loses the social network built over time, and above all, mining delinks the society from the environment that it has grown so accustomed to—in the final analysis, the community is left vulnerable. Vulnerability arises when the community is no longer within the environment that it was used to and around which its whole life revolved. The people feel vulnerable because the community’s way of life is threatened.

They are vulnerable because they no longer have within their possession the environmental assets that made their lives whole. The theory thus adopted for this study is the vulnerability theory, which seeks understanding of the coupled human-environment system in ways that are useful to different communities of stakeholders, whose concerns include an improved understanding of the vulnerability of people, places and ecosystems in the face of environmental changes. Vulnerability theory is triangulated with ethno-ecology, which describes how man manages his environment through a screen of beliefs and knowledge. These two theories will provide a better understanding of conflicts around mining activities, and would likely offer a better explanation as to why such conflicts become so intense in locales where mining is supposed to spur socio-economic development.



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## CHAPTER FOUR

### THEORETICAL FRAMEWORK —

#### ETHNO-ECOLOGY AND VULNERABILITY THEORIES

##### 4.1 Introduction

In deciding on a theory, it is essential to bear in mind that theory guides research and research guides theory. In the preceding chapters, readers will have noted the consistent use of the following phrases or terms: “attachment to land”, “social construction of nature”, “vulnerability” and “risk”. For this study, therefore, we need theories that will capture these concepts, and in so doing, address the aims of this research, which are to examine the meanings that the Kwale communities have attached to the environment, and the effects that social displacement has had on these meanings and how these intersect with community-state/enterprise relations.



A theory that enables us to understand how people in the study community socially construct their environment is therefore necessary. For this purpose, an ethno-ecological approach has been adopted. Ethno-ecology is used in this work both a theory and a method—its methodological component is discussed in Chapter Five. However, this approach is, on its own, not able to fully shed light on how displacement leads to states of vulnerability. It is also limited in explaining how feelings of vulnerability may lead to conflict—with communities on one side and the government/extractive companies on the other. To fill this gap, Vulnerability Theory (particularly the constructivist and the political ecology strands of this theory) has been adopted. The theory of Vulnerability is an emerging theory in Sociology (Parthasarathy, 2009) and therefore it will be discussed in much more detail.

This chapter therefore describes these two theories and illustrates how each will be used to guide the study and, more importantly, how each will assist in the analysis of the results obtained in the field.

##### 4.2 Ethno-ecological: A theoretical overview

Ethno-ecology is defined as:

[A]n interdisciplinary study of how nature is perceived by humans through a screen of beliefs and knowledge, and how humans, through their symbolic meanings and representations, use and/or manage landscapes and natural resources. (Barrera-Bassols and Toledo, 2005:9)

In other words, ethno-ecology is, among other things, concerned with how people attach meanings to their environment. This definition is illuminating, as the objective of this study is to unearth meanings that the Kwale community have bestowed on “nature” and cultural artefacts, and how this process of bestowing meanings and forming attachment to the environment breeds conflict when mining-induced social displacement takes place. Other definitions of ethno-ecology do not depart very far from the above stated definition.

For instance, Pedroso and Sato (2005) define ethno-ecology as a product of the combination of interdisciplinary fields, which studies how populations are culturally inserted in ecosystems through cognitive processes, such as emotional and behavioural responses, from which connections emerge. They add that these connections reveal interpenetration between society and nature, in which these two components complement, and even contradict each other. They further elucidate that this connection can be revealed by understanding the local myths and legends of a community with regard to the environment, and by attempting to learn about the population through uncovered symbolic interaction with the natural environment. Whiteford (1997:203) earlier defined it as the analysis of indigenous perceptions and linguistic categories that frame a bioculturally-described environment.

These definitions emphasise the theoretical concern of ethno-ecology, which among other things, is to assess the meanings that communities attach to the environment. The definitions further stress the interplay between humans and the environment, and the management of the resources contained in these environments, as guided by a set of cultural rules/beliefs held by particular cultural groups. The researcher acknowledges that the interplay between humans and the environment is a contested topic, and in section 4.3.6 mentions the two dominant views on this, that is the Realism Perspective and the Social Constructivist Perspective, and clarifies that the aim of the present work is not to extend the arguments in this realm, but rather to use one perspective (the social constructivist perspective) to advance understanding of its research aims.

From these definitions, it is clear that an ethno-ecological approach will assist in explaining the meanings that a community, such as that in Kwale, have bestowed on their environment and will then highlight how the community has become intricately connected with the environment. It will then show how communities through these symbolic meanings, make use of and manage the environment. This approach will thus shed light on the deeper dynamics of the conflict that arises between a community and the government/extractive company when they are threatened with social displacement in pursuit of economic ends, such as mining. By applying this approach, the study will be able to reveal the inextricable links between beliefs, knowledge and management of natural resources among the Kwale community.

The ethno-ecological approach allows recognition of the cultural value of the belief-knowledge-practice (*k-c-p*) complex (Barrera-Bassols and Toledo, 2005). By focusing on the belief system or cosmovision (otherwise known as the *kosmos* under the complex), and taking into account the whole repertory of knowledge or cognitive systems (the *corpus*) and by incorporating the set of production practices (the *praxis*), ethno-ecology offers an integrative approach to the study of the process of human appropriation of nature. The authors add that the *k-c-p* matrix, recognised as the main point of any given ethno-ecological study, allows a comprehensive and holistic understanding of the relationship between the three spheres involved in nature's appropriation. The present research seeks to understand how the *k-c-p* matrix (otherwise known as the ethno-ecological model) applies to the conflict witnessed in Kwale. The community's belief system regarding its environment will be investigated, and the community's knowledge about its environment will be examined. The ways in which they utilise their environmental resources, in view of the *kosmos* and *corpus*, will then be examined. How this leads to conflict in the event of mining will then be explored.

Duvall (2008:328), states that ethno-ecology offers an approach that can enable social scientists to understand how people 'encounter' physiographic phenomena. Duvall recommends that in such studies, more attention should be paid to the conceptual bases of such knowledge, which according to Barrera-Bassols and Toledo (2005) lies in the *k-c-p* complex. Wenzel (1999:114) earlier described how ethno-ecology has been used to examine the pattern of life of the people of Northwest Alaskan. Wenzel notes that the successful adaptation to the icy environment by the inhabitants required a detailed understanding of both the physical and biological processes. Moreover, he stresses that such understanding is a life-long endeavour, as much embedded in the details of the local Inupiat culture as in the efforts

of individuals. Hence a close encounter with the environment ensures adaptation, and alienation from such an environment would render a community vulnerable. As Gimenez (1993:31) previously noted:

[T]he study of perceptions is essential to the understanding and prediction of resource management decisions on local people. Secondly, an understanding of ecological perceptions, their relation to ecological conditions, and their bearing on behaviour is crucial to the design and implementation of development projects. Finally, ecological perceptions provide a useful approach to understanding the interactions between the physical laws that govern the behaviour of natural systems and the experiences that influence how people interpret and interact with these systems.

Sangkhamanee (2007:9-11) highlights that ethno-ecology primarily focuses on the ideas, perceptions and classifications of the environmental relationships of members of a particular community or culture. Sangkhamanee argues that the theoretical framework of ethno-ecology provides for revealing the cognitive aspects of human-environment relationships but at the same time takes into account behaviour that reflects people's ideas to the environment in which they live. This inevitably regulates the people's interactions with their environment. Thus, an *emic* view on representation of the environment from within—as opposed to the *etic* view from outside—is of key concern. The reference to an '*emic*' view is quite important as it offers a methodological approach that can be employed to obtain this insider view. It was for this reason then that ethnography was adopted as one of the principal data collection methods—see Chapter Five. The term '*emic*' implies that one has to immerse oneself in the study community in order to take note of the issues under study, and the most effective way to do this is to adopt ethnography as a method of study as it involves living with the community for an extended period of time in order to access this depth.

Barrera-Bassols *et al.* (2006:124) state that indigenous environmental knowledge systems are holistic, accumulative, dynamic and open systems built upon the local experience of present and earlier generations, which are embedded in a monistic view of the surrounding world, what Nygren (1999:277-283) calls "situated knowledge", in which nature and culture cannot be separated. They state that this system is built upon a complex interrelation between beliefs, knowledge and performance which reflects facts, meanings and values of particular cultural matrices and social experiences which shapes the immediate environment. To tear

one away from this environment to which one attaches symbols and meaning will most likely be met with resistance, which can only be understood once one unpacks these meanings and symbols.

Ethno-ecological research such as that of El-darier *et al.* (2001), Pedroso and Sato (2005), Silvano and Begossi (2005), Howard and Nabanoga (2007) and Ladio and Lozada (2008) demonstrate the complex and interdependent relationship between physical spaces (environment) and socially constructed space, in both the empirical and ideological sense, and the dynamics of both in shaping each other. How would a community respond when their familiar surroundings suddenly change? Rhoades (2008) offers a demonstration of such an outcome. In his study on the disappearance of glacier on ‘mama cotacachi’, a glacier mountain in the Northern Andes of Ecuador, Rhoades found that the mountain was sacred to the local Indian community, and, since the Great Ice Age, has provided water and nourishment to their fields, animals and homes. It was also central to the local cosmology. But rather suddenly, the glacier lake started dropping a metre a year, till eventually the mountain lost its glacier cover. The local Cotacachi people could not comprehend what had happened. As Rhoades (2008:39) argues, “they have no collective memory of their homeland without the glacier and no cultural framework for understanding why the ice disappeared or for coping with the consequences”. The sudden change in Cotacachi made the community feel suddenly vulnerable.

The Cotacachi case presents an interesting case for understanding local people’s early perceptions and responses to the unanticipated disappearance of an important cultural symbol and livelihood resource. It is conceivable that the sudden displacement of a population to pave way for mining of precious minerals, such as titanium for instance, would present a similar dilemma to the dislocated community.

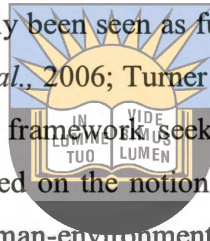
Whiteford (1997:205) believes that ethno-ecological studies will not be complete without recourse to socio-economic and political history in which the people’s beliefs and behaviour are embedded. Sangkhamanee (2007:11) suggests that being under the discipline of ethnoecology, ethno-ecology involves the use of ethnographic, ethnohistorical and linguistics methods to study place-based ecological knowledge; it involves the study of the cognitive structures and local languages that constitute the traditional environmental knowledge of local cultures. Campbell (2009) adds that it is important for ethno-ecological research to take cognizance of the fact that historical and political processes also shape environmental

perception. It is partially for this reason that Chapter Six, which touches on the socio-economic and political background of the study community, has been included in this thesis.

### 4.3 Theorising Vulnerability

As stated in the introduction of this chapter, ethno-ecology on its own is insufficient in explaining how displacement from a socially constructed world may lead to states of vulnerability. It is also limited in explaining how such feelings of vulnerability may lead to conflict among mining stakeholders. Vulnerability theory helps the researcher to find the 'missing' analytical threads.

The concept of vulnerability has increasingly been seen as fundamental to the understanding of the human-environment nexus (Rygel *et al.*, 2006; Turner *et al.*, 2004), which is a primary concern for this thesis. The vulnerability framework seeks understanding of the coupled human-environment system and is predicated on the notion that vulnerability resides in the condition and operation of the coupled human-environment system, including the response capacities and system feedbacks to the hazard encountered (Turner *et al.*, 2004).



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Kelly and Adger (2006:328) and Rygel *et al.* (2006:743) point out that the origin of the word “vulnerable” lies in the Latin words *vulnus*, meaning “a wound”, and *vulnerare*, meaning “to wound”. Specifically, the word vulnerability derives from the Latin word *vulnerabilis*, which was a term used by the Romans to describe the state of a soldier lying wounded on the battlefield. Rygel *et al.* (2006:743) thus define vulnerability, at the very basic level, as the capacity to be wounded or as the potential for loss. The relevance of this discussion is that it defines a prior damage and not an unexpected future stress.

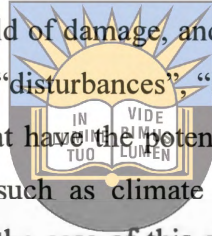
Conversely, by analogy, vulnerability of individuals or communities is determined primarily by their existing state, that is, by their capacity to respond to that hazard. Vulnerability is thus defined in terms of:

ability or inability of individuals and social groupings to respond to, in the sense of cope with, recover from or adapt to, any external stress placed on their livelihoods and well-being. (Kelly and Adger, 2006:328)

UN/ISDR (2004:7) defines vulnerability as:

The conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a community to the impact of 'hazards'. These 'hazards' might originate from the natural environment, such as droughts, floods or sinkholes or may be anthropogenic in nature, for example nuclear meltdowns, pollution or terrorism.

Lange *et al.* (2010:2) define vulnerability as the degree to which a “system is susceptible to, and unable to cope with, injury, damage or harm”, and add that vulnerability is a function of exposure, effect (also termed as potential impact, sensitivity), and recovery (also termed as resilience or adaptive capacity). Luers (2005:215) defines vulnerability as the susceptibility to damage, and states that it is often characterised in terms of one or more of the following: the sensitivity to or exposure of a system (people or place) to shocks, stresses or disturbances, the state of the system relative to a threshold of damage, and the system’s ability to adapt to changing conditions. The terms “shocks”, “disturbances”, “stresses” and “perturbations” are often used to refer to exogenous forces that have the potential for creating adverse impact. These forces would include phenomena such as climate variability and change, floods, hurricanes, market fluctuations and, as in the case of this study, social displacement. This theory is therefore relevant in analysing vulnerability emanating from social displacement.



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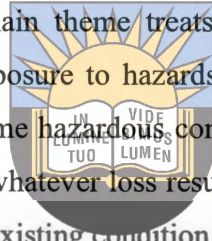
Luers (2005) adds that endogenous forces can also stress the system. These forces could be poor land management systems and cultural practices among others. These are generally referred to as “sensitivity of the system”. Smit and Wandel (2006) identified occupance characteristics (e.g settlement location and types, livelihoods, land uses etc.), as reflecting broader social, economic, cultural and political conditions, and he terms these as “drivers”, “sources” or “determinants” of exposure and sensitivity (ibid.:286). In this research, sensitivity is manifested by the meanings that the Kwale community attach to the geobiophysical environment. In other words, the system is sensitive to the degree to which the society has socially constructed its environment—the communities’ attachment to the environment is their “sensitivity”.

Luers (2005:217) defines sensitivity as the degree to which a system will respond to an external disturbing force, which in our case is the force of eminent domain and the associated social displacement. Delor and Hubert (2000:1586) emphasise that three co-ordinates must be brought in when defining vulnerability, viz: exposure—the risk of being exposed to a crisis situation (in the case of Kwale, titanium mining is the risk in question), capacity—the

Development is therefore increasingly being seen as a process that involves harmonious relationships between society and the environment, and vulnerability in society is thus understood as the reduced capacity to adjust to perturbations in the environment (Fussel, 2007). In our case, perturbation would be social displacement whereby the study community loses its assets such as land and associated cultural artefacts. Having thus been displaced from their familiar surroundings and from where the assets through which they can pursue their livelihood, the community therefore have a reduced capacity to confront the perturbation in the system (which in this case is displacement).

#### 4.3.1 Themes in Vulnerability studies

Rygel (2006) states that from various researches carried out, two main themes on vulnerability have emerged. The first main theme treats vulnerability as a pre-existing condition and focuses on the potential exposure to hazards. Studies conducted under this theme tend to assess the distribution of some hazardous condition, the human occupancy of the hazard zone, and the degree of loss of whatever loss resulting from a particular event. In the case of the Kwale community, the pre-existing condition could be said to be the particular human settlement and its ties to the environment.

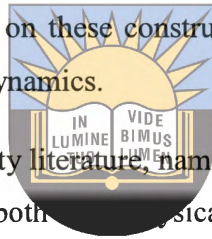


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A community's close tie to the environment exposes it to a distinct experience of vulnerability marked by shock (as elaborated later in this chapter) in the context of the present study, the one event that could eventuate this is social displacement associated with titanium mining, or as Holden (2005) argues, the highly intrusive nature of mining operations. Indeed, the fact that many communities call these remote mineral-rich environments home and yet remain subject to the rule of eminent domain and other laws that truncate their ecological rights is seen by analyst as particularly 'hazardous'.

The second major theme suggests that individuals and groups exposed to a hazard are not vulnerable to the same degree; rather, people display patterns of differential loss. Vulnerability differentials manifest in terms of education and other socio-economic status. In addition to exposure to stress or crisis, the differential vulnerability is also said to depend on the *coping ability*, defined as a combination of resistance (the ability to absorb the damaging impacts of a hazard and continue functioning) and resilience (the ability to recover from losses quickly) of those affected.

Rygel (2006:744) adds that studies that follow this second approach assess the social vulnerability of people and communities. He states that people living at the margins—such as those without access to social services or political power—are more vulnerable than those with better access to resources. Rygel argues that poor people are more vulnerable than those with better access to resources, because they are more likely to live in substandard housing, suffer from malnourishment, have fewer opportunities for education and employment, and are less likely to have health or property insurance. Rygel notes that research that subscribes to this second major perspective stresses that vulnerability is socially constructed—an aspect that is of concern to this study. The first objective of the research is essentially to unearth the social construction of nature (the larger environment) by the displaced residents of Kwale by finding out the meanings that they attached to the environment, while the second objective looks at the impact of social displacement on these constructions (meanings). This theory will therefore aptly help us examine these dynamics.



A third theme is emerging in the vulnerability literature, namely, vulnerability as a “hazard of place”. This view treats vulnerability as both a physical risk and as a social response within specific environments. This element combines elements of the two first themes, the biophysical and the social. This approach posits that a place is vulnerable because of the place (environment) that one occupies. Hence if one occupies an environment that is rich in minerals, one is vulnerable. If one occupies an environment that is disease loaded, one is vulnerable. If one occupies an environment from which one draws all of one’s needs and is thus heavily dependent on it for survival, then one is at risk and vulnerable in the event that something unexpected, such as social displacement, takes place.

Adger (2006:270) draws attention to two relevant existing theories on environmental resources and environmental risk: the vulnerability and related resilience research on socio-ecological systems, and the separate literature on vulnerability of livelihoods. However, as Adger demonstrates, the two viewpoints have overlapping ideas. The present adopts the former theoretical leaning (socio-ecological systems) as it is the one that focuses more on the human-environment nexus, which happens to be the main focus of this thesis. Adger (ibid.:275) further categorises the various theories under the two theoretical leanings (that is the vulnerability and related resilience research on socio-ecological systems, and the separate literature on vulnerability of livelihoods) into “antecedent” and “successor” traditions in vulnerability research. Among the “antecedents” are (i) vulnerability to famine and food security; (ii) vulnerability to hazards; (iii) human ecology; and (iv) pressure and release.

Among the “successors”, are (i) vulnerability to climate change and variability; (ii) sustainable livelihoods and vulnerability to poverty; and (iii) vulnerability of socio-ecological systems (which is the focus of this study).

Under antecedents, the ‘vulnerability to famine and food security approach’ was developed to explain why vulnerability to famine occurred even in the absence of shortages or production failures. It was thus used to describe vulnerability as a failure of entitlements and shortage of capabilities. The ‘vulnerability to hazards approach’ was developed to identify and predict vulnerable groups and critical regions through consequences of hazard to livelihoods. This approach was mostly used in climate change research. The human ecology approach, on the other hand, was used for the structural analysis of underlying causes of vulnerability to natural hazards. Last but not least, the pressure and release approach further enhanced the human ecology model by linking discrete risks with political economy of resources and normative disaster management and intervention (Adger, 2006:275).

The “successors” approaches have developed along similar lines but with different emphasis. The ‘vulnerability to climate change and variability approach’, for instance, aims at explaining social, physical or ecological system vulnerability to primarily future risks. The sustainable livelihoods and vulnerability to poverty approach aims to explain why populations become or stay poor based on an analysis of economic factors and social relations.

The last approach under this category, the ‘vulnerability of social-ecological systems approach’, explains the vulnerability of coupled human-environment systems. This last approach is of particular interest as it is the one that directly relates to the present research. Research within this last approach has further developed into several strands, namely, the biophysical, human ecological, political economy, constructivist and political ecology strands (McLaughlin and Dietz, 2008). This thesis will briefly comment on all these strands but it will delve more deeply into the constructivist and political ecology strands.

#### **4.3.2 Biophysical perspective**

The biophysical perspective focuses on the vulnerability or degradation of biophysical conditions and extrapolates directly or indirectly from these to the impact on human occupants of a landscape (McLaughlin and Dietz, 2008:100). This perspective is by far the dominant approach for explaining vulnerability to climate change and other natural hazards.

Literature on this (such as Yarnal, 2007; Fussel, 2007; Clark, 2007 and Few, 2007) highlights the fundamental role that environmental variability (timing, duration, frequency and magnitude) plays in determining the extent and patterning of human vulnerability. The drawback of this strand is that it neglects the social, economic and political factors that shape the real understanding of exposure to and impacts from the environment, and for this reason, this perspective was not utilised in this thesis.

#### 4.3.3 Human ecology perspective

McLaughlin and Dietz (2008:108) note that the earlier attempts to integrate social factors into vulnerability analysis can be found in the works focusing on the human ecology of natural hazards, especially the works of geographers attempting to explain the recurrent failure of the United States of America flood control policies in the 1920s and 1930s. Using a functionalist approach, some researchers argued that social systems make continual homeostatic adjustments (for instance in cropping patterns and flood storage systems), to various environmental events. In the long term societies adjust through a linear sequence of developmental stages, each representing an increase in society's overall capacity to control nature.

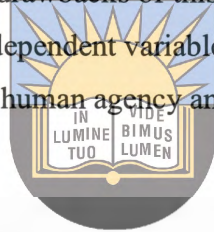
From this perspective, disasters occur when the buffering capacity of society is overwhelmed by natural events. The principal contribution of this early work was its emphasis on environmental variation as a causal force influencing social change and vulnerability. Literature on household livelihood and coping strategies are a result of this research. This literature (such as Eakin, 2005) focuses on household responses to famine or other natural hazards where, in the face of declining entitlements, households respond by activating short-term insurance-like mechanisms, through disposal of productive assets and through destitution and distress migration.

#### 4.3.4 Political economy perspective

This perspective is heavily influenced by the works of Karl Marx, especially that on metabolic rift in which Marx combined the concept of social-ecological metabolism in the laws of motion of capitalism. Marx believed that while large-scale industry appropriated surplus value from its workers, large-scale agriculture, because of its focus on short-term profits, degraded the environment. This perspective therefore conceptualizes vulnerability as

fundamentally a class phenomenon (Cardona, 2003) and states that in recent times, explicit political economy approaches to vulnerability have emerged. Proponents of this perspective identify the theory of marginalization that draws on accounts of underdevelopment to explain differential vulnerability of classes to natural hazards as one such development.

Research on food entitlements (in which entitlements is defined as “the set of alternative commodity bundles that a person can command in a society using the totality of rights and opportunities that he or she faces” (McLaughlin and Dietz, 2008:102) is the other new approach. Fussel (2007:159) supports this view as he argues that structure, and not nature, technology or agency, is what creates vulnerability. He argues that vulnerability is determined by the availability of resources and, crucially, by the entitlement of individuals and groups to call on these resources. The drawbacks of this perspective are that it dismisses the critical role of the environment as an independent variable structuring social relations, and the manner in which it discounts the role of human agency and culture.



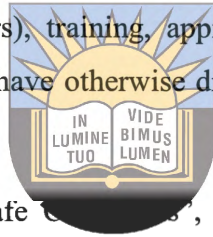
#### 4.3.5 Political ecology perspective

This thesis draws reference from this perspective, and as such, this strand will be discussed in more detail. Van-Riet (2009) points out that this perspective emerged as an offshoot of the political economy perspective, and that it attempts to integrate the concerns of cultural/human ecology within a political economy framework. Among the reason why this perspective was selected is because it integrates the human ecology perspective and the political economy perspective.

Van-Riet adds that as the field developed, it shed the reductionist approach adopted by neo-Marxism analysis of treating the environment as a dependent variable. This approach now treats the environment as an independent variable and emphasises its role in affecting society, which is the direct opposite of the traditional political economists' view in which the environment was affected by human action. This view now accommodates the view that both sides can affect each another.

The pressure and release model is mentioned as one that has adopted this relational approach to vulnerability. This model explains the progression of vulnerability, which argues that the further one is from access to power and resources, the more vulnerable he becomes (Van-Riet, 2009:197). This is exacerbated by the dynamic pressure that is exerted on that particular social system. The author explains that the progression occurs in three steps. The

first step is what he calls “Root Causes” which include: limited access to power, structures, resources, economic and political systems. In the present research, “root causes” would be limited resources that the community in Kwale remains with after they have been depleted of their resources through displacement. The community will now have limited economic resources as their resource base (land) has been condemned. Being simply farmers, they are far removed from access to power. The “Dynamic Pressures” is step two and include: lack of local institutions, training, appropriate skills, local investment, local markets, press freedom, and ethical standards in public life. Other macro forces include rapid urbanisation, rapid population growth, debt repayment schedules, deforestation and a decline in soil productivity. In the particular case of Kwale, the locals are removed from access to local institutions (institutions for credit facilities for instance), lack local investments (members of the community are mainly subsistence farmers), training, appropriate skills (many are semi-illiterate farmers), from which they would have otherwise drawn resources from to confront the perturbation in their system.



This then progresses to step three, “Unsafe Conditions”, which include: fragile physical environment (dangerous locations, unprotected buildings, and infrastructure), fragile local economy (livelihoods at risk, low income levels), vulnerable society (special group risk, lack of local institutions) and public actions (lack of disaster preparedness and prevalence of endemic disease). In the case of Kwale, the community (after displacement) find themselves within fragile physical environment which are strange to them. After displacement the community find themselves in a fragile local economy as a result of having lost their assets such as land and crops and other public resources. Since the community is composed of mainly poor local farmers, they are therefore identified as a vulnerable group (as a special group lacking local institutions). These three steps lead to states of vulnerability such that when a ‘hazard’ does strike, those affected have limited response capacity. The model was originally developed for hazard/disaster research, but is now being utilised in social science research. The present research adopts this model and its application is demonstrated in Chapters Eight and Nine.

Another model associated with this approach is the Access Model. This model considers how the relationship between the access of households and communities to various resources, and the choices made within constraints, impacts on their ability to withstand shocks (Van-Riet, 2009:196). Cyr (2005:4) argues that “the central premise behind the Access Model is that...vulnerability of social groups can be minimised by identifying the intervention points

through which enhancements in the allocation of additional assets and resources can be made”. Since the pressure and release model already accommodates this aspect (access of households and communities to various resources), this model will therefore not be utilised in the present study.

In recent years, political ecologists have made more fundamental breaks with conventional Neo-Marxian assumptions by acknowledging nature as an independent order and by drawing upon the constructivist (we shall look at this approach shortly) tradition of creating a typology of “regimes of nature” (meaning there are many “natures” as defined by different communities) that do not reduce the multiplicity of the social and biological worlds to a single determining force (McLaughlin and Dietz, 2008:104). Political ecologists are now incorporating constructivist insights into agency and culture into their analyses of vulnerability, which demonstrates that constructivism needs integration into this approach. It is because of this leaning that this perspective has been selected as it will combine very well with the constructivist perspective to explain the vulnerability of the Kwale community as a result of social displacement. However, McLaughlin and Dietz contend that although this perspective also acknowledges the need to conceptualize historical diversity and the role of the environment in structuring social relations, the perspective still lacks a clear conceptual mechanism for connecting patterns in the diversity of social structures over space and time to changes in the biophysical, economic, social, political and discursive environments. The scholars reckon that it is the absence of such a mechanism that prevents political ecology from generating a framework capable of integrating the above perspectives on vulnerability. The perspective is still useful in explaining how the politics affects the environment and vice versa. In combination with the other perspectives (which in this case is the constructivist perspective), it is a useful tool in explaining phenomena from that angle.

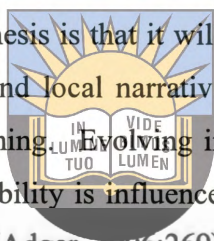
#### **4.3.6 Constructivist perspective**

The constructivist approach is the main strand that is adopted for this study. This approach emphasises the role that human agency and culture play in explanations of vulnerability. This perspective treats “categories as social conventions that are negotiated and contested by actors situated within historical contexts...[where] actors interpret their experiences in relation to “frames” which provide “schemata of interpretation” [and which then] enable[s] individuals to locate, perceive, identify and label occurrences within their life space and the

world at large” (McLaughlin and Dietz, 2008:102). This perspective emphasises the role that culture plays in shaping definitions and exposure to risk.

Cardona (2003) argues that vulnerability is socially constructed and is a result of economic, social, and political processes. He adds that risk is socially constructed, even though it has a direct relationship to physical and natural space. He argues that in developing countries, changes in the environment processes increase the vulnerability index.

Whereas the various perspectives highlighted above are relevant, this study is of the view that this approach, together with the Political Ecology approach, bears the most relevant applicability to the study as the constructivist approach focuses on the role of human agency and culture and emphasises the role that culture plays in shaping definitions of and exposure to risk. The special appeal it has for this thesis is that it will enable the researcher to assess local “constructions” of the environment and local narratives about vulnerability to socio-ecological risks in the face of titanium mining. Evolving insights into the vulnerability of socio-ecological systems show that vulnerability is influenced by the build-up or erosion of the elements of socio-ecological resilience (Adger, 2006:269). Resilience (and adaptation) in the case of Kwale could be eroded by social displacement and lack of entitlement to the resources previously derived from the environment, but now lost. This theory will assist us to dissect this.



There have been two dominant views on how nature is constructed. The first perspective views nature as being ‘out there’ (otherwise known as the Realism Perspective), while the second perspective views man as being part and parcel of this nature (the Social Constructivist Perspective—see Cunliffe, 2008). Constructivists place people and their interpretation of the natural world at the centre of their research and analysis, while Realists contend that the reality of the material environment needs to be taken into sociological theorizing as direct information.

The Realist perspective suggests further that nature is balanced and at its best when ‘dehumanized’, while the Constructivist perspective contends that nature is socially constructed. Realists within environmental sociology thus tend to turn to materialism and think in terms of nature’s ontological independence of human action and conceptions. They emphasize natural limits to human action. Constructivists, in contrast, underscore the extent to which nature as it is known is constructed by human action and cognition (Proctor, 1998; Hull *et al.*, 2001; Demeritt, 2002).

Amidst these parallel views, Foster and Clark (2008:317) acknowledge that a third stream on the construction of nature has developed: the Actor Network Perspective. This stream focuses on the dialectical relation between nature-culture. This view postulates that the concepts of “nature” and “culture” should be replaced by “nature-culture”, in which both human and nonhuman actors (now both referred to as “actants”) are seen as interacting with and mutually constituting each other. McLaughlin and Dietz (2008:103) refer to this new approach as ‘Reconstructed Realism’ or ‘Moderate Constructivism’, which abandons the strict divide between Realism and Constructivist approaches. This thesis, however, does not aim at extending these arguments, but rather aims at using the arguments advanced by the constructionist and the “nature-culture” perspective to further the understanding of how nature is constructed by communities, especially in mining communities such as that in Kwale.



Gross (2001:395) holds that the Actor Network perspective circumvents the shortcomings of the other two streams, because it holds a “metaphorical midway position that can be used to look at both sides simultaneously via a declared symmetry between humans and their material environment.” Gross thereafter uses Simmel’s ideology of “sociation” to show how one can move back and forth between the natural and the cultural, without either reducing society to nature, or nature to society, but instead exploring their interaction via a switch between two levels of observation. Gross states that it is the surprise, puzzlement, disorientation, or—at its extreme—the helplessness of human action in nature with regard to natural action, that will be observed in order to switch to the origin of the surprise and amazement. In other words, it is in their disorientation that a community will stop, and switch, and reflect on the origin of their present state of affairs. In this case, community vulnerability could be traced to the lost assets that bore meanings to the community.

Greider and Garkovich (1994) are among those who earlier advanced the constructivist view. These authors argued that every river is more than just a river, and that every rock is more than just a rock: these natural presentations carry meanings that are very important to the affected community. They add that “landscapes” are:

the symbolic environments created by human acts of conferring meaning to nature and environment, of giving the environment definition and form from a particular angle and vision and through a special filter of values and beliefs. (Greider and Garkovich, 1994:1)

The authors further argue that cultural groups transform the natural environment into landscapes through the use of different meanings for the physical objects and conditions. These symbols and meanings are therefore socio-cultural phenomena. In other words, human beings bestow objects in the natural environment with meanings derived from their cultural experiences. Greider and Garkovich demonstrated this through two examples. First, while the World Bank would be more concerned with the costs of the lakes created by the dams as they flooded thousands of acres of highly productive land versus the benefits from the jobs created by the new sources of the hydroelectric power in the damming of the Narmada, the holiest of the holy rivers in Hindu religion, the Hindu community would be more concerned about how the damming of the river would affect the healing power of the Narmada river.

Second, while the U.S. Department of Energy would be more interested in the safe disposal of radioactive waste at the Yucca mountain, one that would hold the waste for about 300 years before disintegrating and forming a natural barrier, the local Paiute community believed that the rocks were not just mere rocks, but were also powerful elements of the natural environment that could heal, bring luck or bring bad omens. For these elders, the 'yellow cake' observed frothing from the rocks was a sign of the anger borne by the rock spirit, angered that the rock was mined without appropriate cultural precautions and angered further by the improper uses that the rocks were put to, uses of which the spirit did not approve. These two examples illustrate the divergent meanings that two groups of people bestow on the same environment and how the two parties react differently to changes effected on the same environment. From the foregoing, the authors conclude that "each culture constructs its own world out of the infinite variety of nature...[Nature is] socialised...recognized...[and] made into material manifestation of social structure" (ibid.:6).

Murphy (2001) demonstrates how the social construction of one's environment can lead to vulnerability. He points out that some communities living in the valleys of St Lawrence in North America had become ensnared in the material infrastructures (particularly automotive movement and individualistic heating systems) that they had constructed and upon which they had now become dependent, such that when the prolonged freezing rain that fell in January 1998 knocked down their power systems and disrupted this order, the consequences were fatal.

However, the Amish families were almost unaffected by the storm. Having eschewed modern technology, and used instead candles to light their homes, milked their cows by hand and

heated their homes with wood stoves where they also cooked their meals, the Amish averted a technological disaster. Murphy states that this example combines the best of both Realism and Constructivism. Some communities in the valleys of St Lawrence therefore became vulnerable, by constructing their lives upon these infrastructures and depending on them. The research questions for this thesis seek to assess how the local community at Kwale have constructed nature and how these constructions have been impacted by social displacement following titanium mining, and how this has possibly led to states of vulnerability. From this perspective, the study will derive on how the community in Kwale has attached meanings to their immediate environment (to land and crops) and to various cultural artefacts (graves and physical structures). With displacement, the community loses these assets and like the community in St. Lawrence, they are left vulnerable as they are now unable to recall upon their previous resources to confront the perturbation in their system. This theory is therefore relevant to this thesis.



Drawing heavily from the constructivist perspective, while at the same time picking insights from the Political Ecology strand, this study seeks to understand if, and how, titanium mining induced social displacement has contributed to the vulnerability of the Kwale community. As Delor and Hubert (2000:1562) argue, research into vulnerability should pay attention to people's actual living conditions in order to discern the potentials and weaknesses that could make them vulnerable, and how an adverse event could also make them vulnerable. This is precisely what the current research strives to do through an ethno-ecological approach.

#### 4.4 Conclusion

In his article "Social and environmental insecurities in Mumbai: towards a sociological perspective on vulnerability", Parthasarathy (2009) argues the case for adaption of vulnerability theory in the understanding of social phenomena. He argues that there is a need to mainstream the concept of vulnerability in sociology by explaining and explicating its analytical value. Noting that a large body of literature has come out of climate-related research which has been influential in defining the concept, he argues for a sociological understanding of vulnerability that is more nuanced and more appropriate in capturing the greater complexity of social structures of developing countries. He states that "just as a spectrum of light is formed by refraction of light through a prism, vulnerability can also be seen as prismatic, that is, as an outcome of the refraction of inequities and adverse factors in

society through a particular hazard” (Parthasarathy (2009:119). In other words, human action, such as government practice of eminent domain, can lead to states of vulnerability.

This thesis seeks to unravel the meanings that communities bestow on the geobiophysical environment (the ethno-ecological theory will be employed to highlight these) and to assess how these meanings are impacted upon by titanium mining induced social displacement, leading to states of vulnerability (which the vulnerability theory will be used to explain).



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## CHAPTER FIVE

### METHOD OF STUDY

#### 5.1 Introduction

Among the objectives of this thesis was to examine the social construction of “nature” and cultural artefacts by highlighting the meanings that communities in Kwale attach to the environment, and to demonstrate how these constructions were impacted upon by titanium mining-induced social displacement. The thesis also aimed at investigating compensational practices in Kenya’s titanium mining industry and to examine how these intersect with grass-root sentiments. This chapter is therefore concerned with elucidating the techniques that were employed to meet these objectives. In brief, the data collection methods used in this study included individual in-depth interview, key informant interview, focus group discussion (FGD), visual sociology and ethnography. The justification for use of each technique is also provided.



In certain instances, researchers would normally include a description of the study community in this chapter. However, for this thesis, a full description of the study community is reserved for Chapter Six, as it is felt that a more detailed description of the community is required, because the scope of the study calls for a deeper understanding of the historical and socio-cultural setting of the community. This will then offer a deeper understanding of the impact that titanium mining-induced social displacement has on the Kwale community from an ethno-ecological view. An intimate knowledge of the study community is therefore desirable.

This chapter therefore confines itself to presenting, describing and justifying the methods adopted in this study.

#### 5.2 Study site and choice criteria

Kwale District<sup>21</sup> is the chosen setting for this study (refer to Fig. 5.1 below for location of the study site). Kwale is selected because, of the four areas for which mining rights has been

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<sup>21</sup> Before the promulgation of a new constitution in August 2010, Kenya was made up of 7 administrative Provinces (which consisted of a collection of Districts, Kwale being one such District) that formed the second tier of government. After August 2010 this second tier of government (Provinces—the first being the national and the third being the district level) was abolished and the country was sub-divided into 47 administrative Counties, which now form the second tier of government. Some Counties (such as Kwale) were further divided

granted to Tiomin (K) Ltd by the Kenyan government, that is Mamburi, Sokoke, Vipingo and Kwale (see Fig. 5.2 for the location of these sites), it is only in Kwale that the project has taken off. Consequently, this is the only place where social displacement has taken place. Mainly for financial reasons, Tiomin suspended mining activities beyond prospecting in the other three sites. The titanium project is located in what is at present referred to as Kwale County (at the time of the study it was referred to as Kwale District).

Kwale County is neatly tucked in the furthestmost south-eastern corner of Kenya (see Appendix I), lying between latitudes 3° 3' and 4° 45' South and longitudes 30° 31' and 39° 31' East. Kwale County lies about 40 km south of the city of Mombasa. The County has an area of 8,322 km<sup>2</sup> and borders Taita Taveta County to the west, Kilifi County to the northwest, the Indian Ocean to the east and the Republic of Tanzania to the south (GoK, 2002:4).

Prior to the promulgation of Kenya's new constitution on 27<sup>th</sup> August 2010, Kwale was one of the Districts under what was then referred to as Coast Province. For the sake of discussion, and for ease of reference, the term Coast Province will be used to describe the coastal region of Kenya. Since the research was carried out while these administrative units were still referred to as Districts, and for further ease of reference, the term District will henceforth be used in this study to describe the research site.

At the time of the field study, Kwale District was divided into 5 administrative units (called Divisions), namely Matuga (with 6 locations—Golini, Mbuguni, Ngobeni, Waa, Tsimba and Tiwi), Kubo (with 6 locations—Mwaluphamba, Mkongani, Mangawani, Lukore, Mwaluvanga and Makimboni), Msambweni (with 11 locations—Mwereni, Lunga Lunga, Vanga, Pongwe/Kidimu, Dzombo, Kikoneni, Mivumoni, Msambweni, Kinondo, Ukunda and Diani-M), Kinango (with 6 locations—Vigurungani, Ndavaya, Puma, Kinango, Gandini and Mtaa) and Samburu (with 8 locations<sup>22</sup>—Kasemeni, Mwatate, Mwavumbo, Makamini, Samburu, Chengoni, Taru and Mackinon Road). Politically, the District is divided into three constituencies, namely Matuga (consisting of Kubo and Matuga Divisions), Msambweni

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into smaller units referred to as Districts, while other Counties were not—they were simply left as they were but are now referred to as Counties rather than Districts.

<sup>22</sup>For further administrative purposes, Counties (which are administered by District Officers) are sub-divided into Locations (and administered by District Officers of lower ranks and by Administrative Chiefs—there are 37 locations in total in Kwale), which are further sub-divided into sub-locations (administered by sub-chiefs—there are 86 sub-locations in Kwale).

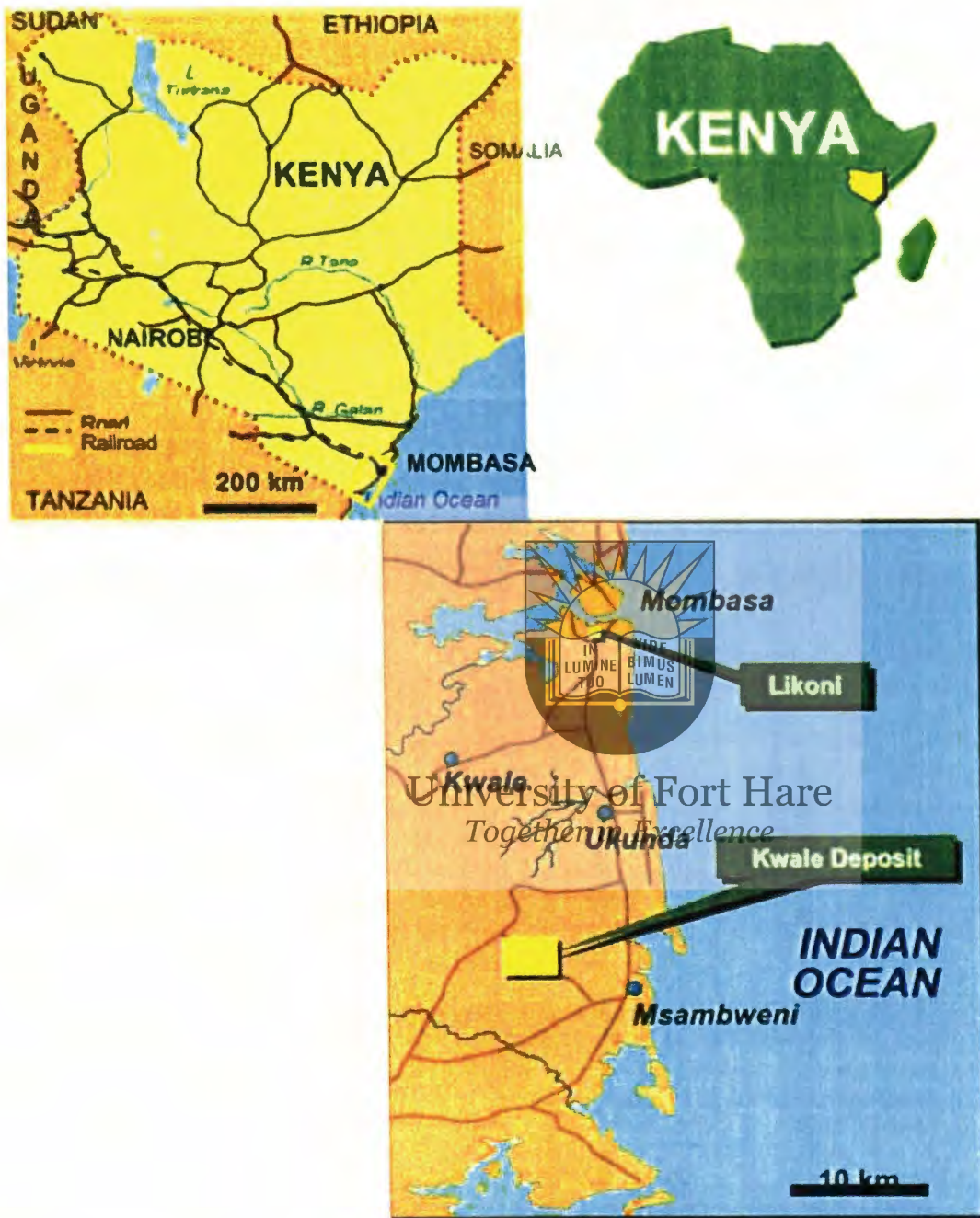
(consisting of Msambweni Divisions) and Kinango Constituencies (Kinango and Samburu Divisions)—refer to Appendix II (GoK, 2002:5)<sup>23</sup>.

The mining site is located south of the Shimba Hills Settlement in Msambweni Division. The Kwale titanium deposit is about 10 km inland from the Indian Ocean. The Kwale deposit is found within the central dune (in Kinondo Location—most people were displaced in the village of Maumba within Kinondo Location, hence sometimes the reference to relocatees as ‘Maumba people’), and the southern dune (in Mivumoni Location—most people were displaced in the village of Nguluku, hence sometimes the reference to relocatees from this place as ‘people of Nguluku’): the population in these two dunes were therefore dislocated. The researcher’s actual field research was preceded by a pilot study which was conducted in January 2009. This was done to establish the research problem on the ground and to also establish initial necessary contacts with the community and the extractive company, and other persons who would be involved in one way or another with my research. Another visit was made in June of the same year, in which the research instrument was pre-tested and amended as necessary. Further contacts and final arrangements for the preparation for the field work were also made. The actual field work was carried out from August to December of 2009, with another short stint of three weeks carried out in January 2010 for, among other things, member verification. It is worth noting that the field work was carried out when the short rains were expected (from October to December), but which (thankfully for the researcher, but not for the farmers) had failed to come, thereby making movement within the research area much easier.

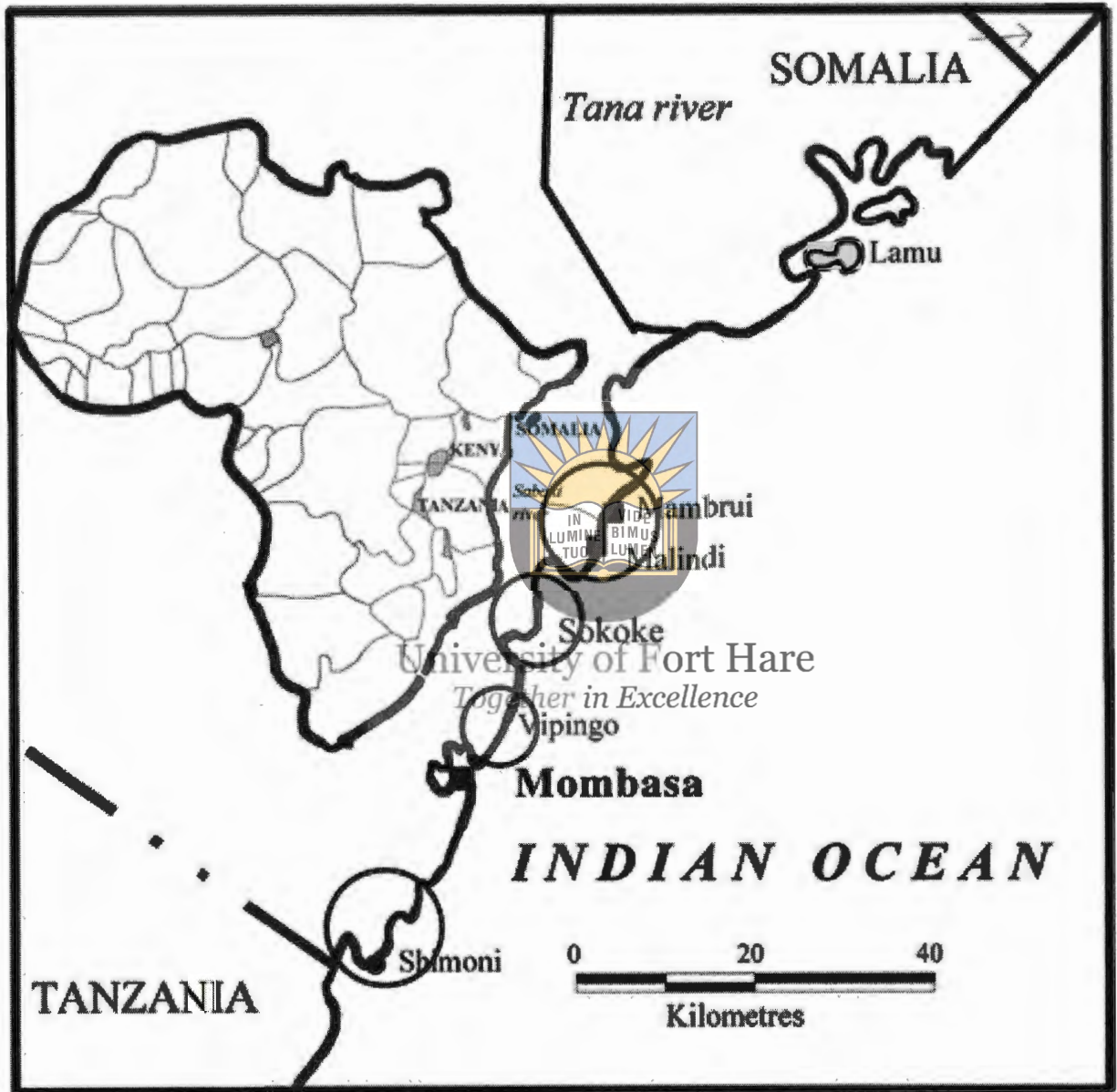
Kwale District has four major topographical features, namely the Coastal Plain (which is the coastline of the District about 250 km in extent), the Foot Plateau (which is behind the Coastal Plain, lying at an altitude of between 60–135 metres above sea level and consisting of magarini sands), the Coastal Highlands (commonly known as the Shimba Hills—these rise steeply from the Foot Plateau and are composed of mazera sandstones, with medium to high agricultural potential) and the Nyika Plateau—referred to as the hinterland, and underlain by basement rock, with livestock rearing as the main activity (GoK, 2002:6).

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<sup>23</sup>These were the number of constituencies existing at the time of the study. On 1<sup>st</sup> June, 2011 the Kenyan parliament approved an additional constituency, Lunga Lungu.



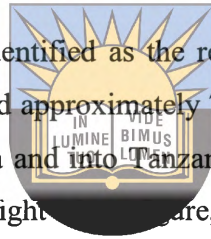
**Figure 5.1: Location of the Titanium Mineral Project in Kenya: top right, map of Africa with Kenya depicted in yellow; top left, map of Kenya with location of Kwale boxed in yellow; bottom, the titanium deposit in Kwale (Source: Coastal and Environmental Services (2005a))**



**Figure 5.2: Tiomin's four licensed sites at the Kenyan coast: circled from north to south, they are Mambri, Sokoke, Vipingo and Kwale areas (Source: Abuodha and Hayombe (2006))**



The District has a monsoon type of climate, with hot and dry weather from January to April, and relatively cool weather between June and August. Rainfall comes in two seasons: the short rains (also known as *vuri*) falling from October to December and the long rains (also known as *mwaka*) experienced from March/April to July, with total precipitation varying between 900mm–1500mm per annum along the coast and between 500mm–600mm per annum in the hinterland. Average annual rainfall ranges from 400mm in the hinterland to 1,200mm at the coastal belt. Average temperatures range from 26.3° C to 26.6°C in the coastal lowlands, from 25°C to 26.6°C in Shimba Hills and from 24.6°C to 27.5°C in the hinterland (GoK, 2002:6). For those unfamiliar with these figures, these temperatures are comparable to summer temperatures in South Africa and Europe. Indeed, therefore, the region is quite hot and humid.



The host site (Mrima-Bwiti, which was identified as the relocation site for the displaced), covers an area of 4,360.8 ha., and is situated approximately 7 km from the coastline, north of the A14 road, which leads to Lunga Lunga and into Tanzania. Figure 5.3 depicts the exact location of the mining area and on the top right of the map, readers will note the location of Mrima-Bwiti. The most notable feature in Mrima-Bwiti is the Mrima Hill, which is said to be radio-active and hence no settlements are permitted on it. The land here is low lying and, in some parts, swampy. During the rainy season the area becomes flooded and movement becomes very challenging. A walk through Mrima-Bwiti reveals the wetland type of vegetation, with sedges dominating the wetter areas and water-loving grasses settling along the drier margins.

Slightly elevated areas are dominated by palm savannah, which dots most of the landscape here. The same palm savannah dominates the rest of the study area. These palm trees apart from beautifying the landscape and providing the much needed shade from the burning sun (under whose shade most of interviews took place), provide nourishment and are a source of income for most of the local inhabitants. These trees also hold important cultural value to the local inhabitants (more on this discussion is provided in Chapter Six). In fact, the Coastal Province of Kenya is well known for its coconut trees. Another popular and visible tree in this landscape is the local mango trees. These trees are found in cultivated farmlands but can also be found growing in the wild. Just like the coconut tree, they also hold important nutritional, economic and cultural value to the local population.

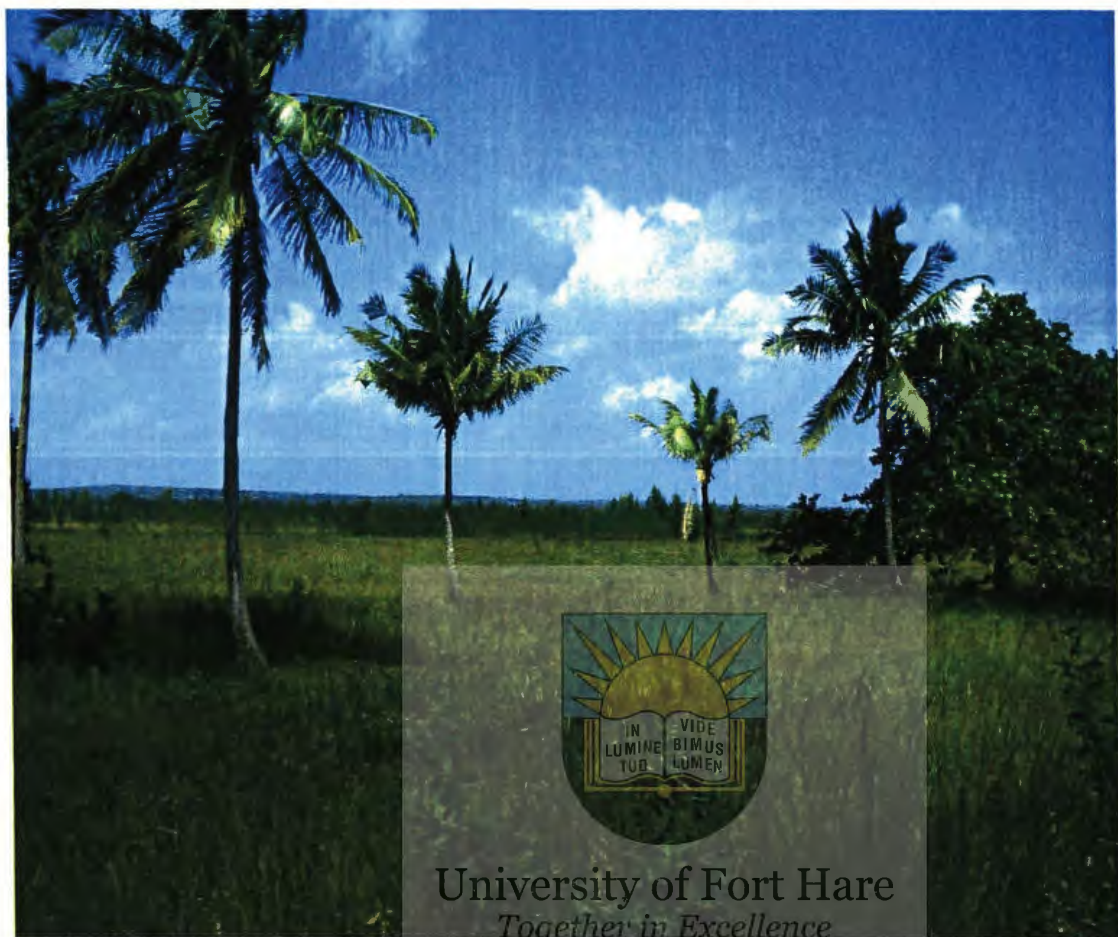
The vegetation in the entire Kwale District varies from the scattered coconut plantations along the coastal strip, to low thorn bush and shrub vegetation, to forest and open savannah in the hinterland. From the forest important *mbambakofi*, *msandarusi* and *mvule* trees for logging can be obtained. It is important to note that most of the existing forests constitute former settlements or *makaya*, which hold important ecological and economic uses and are of immense cultural value to the community (GoK, 1987). These *makaya*—which bear important identity and cultural attachments to the Kwale community—will be described in detail in Chapter Six when reviewing the socio-cultural aspect of the community.

When interacting with the local population at Mrima-Bwiti one quickly notices that the population is of mixed origin (Digo, Kamba, Luhya, Sirazi, Kikuyu, Taita, and Duruma among others). Most of the inhabitants here are squatters (squatting on government land), having once been employees of the defunct Ramisi Sugar Company which went into liquidation some years ago. Coast Province has the unenviable distinction of having the highest number of squatters in Kenya. The reason for this and its implications are discussed in Chapter Six.



And interviewing the displaced residents from the mining areas of Nguluku and Maumba, one notes that the population here mostly comprises people coming from the Digo, Duruma and Kamba ethnic groups. Some were land titleholders while others were squatters. For purposes of this study, all the displaced persons will be referred to as the Kwale community. Those displaced are now found all over Kwale District. A few, however, moved to the outlying Kilifi District. Some 40 families around Shimba Hills, in Kinondo and Mivumoni Locations of Kwale District, are still on their land, awaiting compensation and eventual dislocation.

The total population size in the District was 626,936 in 2008 with an average density of 65 people per kilometre. Its under-5 mortality is 118/1000 (the highest in the country), maternal mortality is 650/100,000 while life expectancy is 51.2 (GoK, 2002:8).



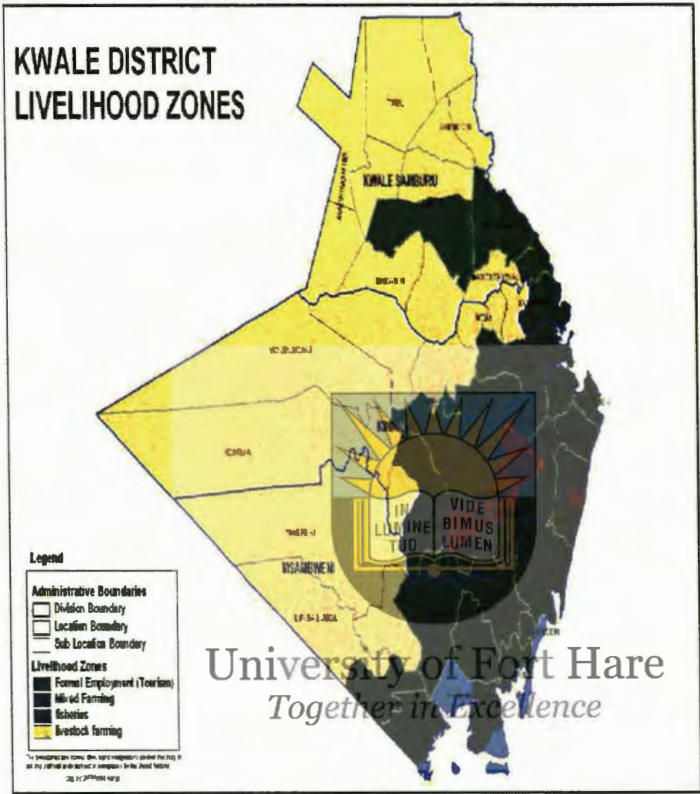
Abuya, 2009

**Plate 5-1: Common landscape in Kwale (notice the coconut palm trees)**

Livestock farming is practised in the hinterland of Kinango, Samburu and Lungalunga. Livestock production accounts for 20% of household incomes while 27% is from firewood collection/charcoal burning. Mixed farming is practiced throughout the entire District with the main source of income being cash crop farming at 22% and 18% from livestock production. Fisheries livelihood is mainly along the coastal line and fishing is estimated to contribute 60% of household income in the locations this is carried out. Petty trade in the District accounts for an estimated 11% of household income. Formal employment/tourism livelihood is found mainly in Diani and urban centres and casual wage labour and small businesses constitute 40% of income.

The foregoing array of livelihood may paint a picture of a vibrant local economy, but this is far from the truth. Absolute poverty is reported to be about 44.8% and 52.4% for rural and urban populations respectively (this region is the second poorest after the semi-arid North

Eastern Province) (GoK, 2002:8). Poverty is very evident in this region. Figure 5.4 provides the District's livelihood zones. Of particular interest is the livelihood in Msambweni which is the one at risk of being disrupted by the mining operations.



**Figure 5.4: Kwale District Livelihood Zones** (Source: [http://www.aridland.go.ke/semi\\_profiles/kwale\\_profile.pdf](http://www.aridland.go.ke/semi_profiles/kwale_profile.pdf) – accessed 7/2/ 2010

The information depicted in Figure 5.7 is summarised in Table 5.1.

**Table 5.1: Kwale livelihood zones**

<u>Divisions</u>	<u>Livelihood zones</u>
Kubo Matuga	Mixed farming
Msambweni Lungalunga. Diani	Fisheries, mixed, farming, formal employment / tourism.
Kinango Ndavaya. Kasemeni Samburu.	Livestock rearing

Source: [http://www.aridland.go.ke/semi\\_profiles/kwale\\_profile.pdf](http://www.aridland.go.ke/semi_profiles/kwale_profile.pdf) – accessed 7/2/2010

Many a time the researcher encountered the pathetic living conditions of residents, most of who eke out a living from subsistence agriculture, which forms 80.6% of most household incomes. Their mud-thatched houses, covered by *makuti* grass (coconut leaves), and often in deplorable conditions both inside and outside (with some leaning threateningly to one side), are what meet researchers coming into this area. In other areas of the Coast Province, especially in Kikambala area in the North-Coast leading towards the popular tourist and historical town of Malindi, it is not uncommon to come across houses with only a semblance of a door. One also finds this phenomenon in Kwale, though not very often. Visitors to this area would be mistaken in thinking that the lack of proper doors was a response to the overwhelming (at least to a visitor) heat and humidity; but one soon finds out that it is because house owners cannot afford to fix proper doors, or simply because they see no need to do so, as there is nothing in these dwellings worth stealing anyway.



GoK (2002:10) further records that the three most prevalent diseases in this area are malaria, respiratory diseases and skin diseases, and that the doctor/patient ratio stands at 1:82,690. Only 133 km of road is tarmac while the major roads are dirt roads (1,268 km) or murrum (120 km), which, as mentioned earlier, makes movement across the District quite a challenge. While carrying out the research, the researcher had to use a four-wheel drive vehicle to navigate the often rugged terrain. To reach the scattered displaced persons, one has to drive through dirt roads which serve as the only means of access into these areas (see Plate 5-2).

The existing tarmac road in the District only serves the main stretch from Mombasa to Ukunda, to Lunga-Lunga and into Tanzania; or curves out from Ukunda town to serve the tourist hotels that dot the length of Diani beach (in Diani Division). Any other diversion from this tarmac road leads one to a murrum road or, more often than not, into a dirt road.

While carrying out the ethnographic study, which entailed living among the community members, the researcher slowly got used to living without electricity. Only 13% of the population in the District have access to electricity, with most of this 13% being residents in the urban centres (GoK, 2002:10). The rest of the population either use paraffin lamps when night falls, or make do without light (see Plate 5-5 that depicts nightlife in Kwale).



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**Plate 5-2: Visiting the communities in Kwale**

Many, however, simply opt for an early supper and early retirement to bed, because most cannot afford to manage these lamps due to the ‘high’ cost of paraffin. Having noted the lack of electricity from his earlier pilot visits, the researcher invested in a pressure (paraffin) lamp to serve him in the evening, and it soon became quite popular (and indeed helped in conducting many informal interviews late into the night) with the locals as they visited the researcher’s abode to ‘enjoy’ the light.

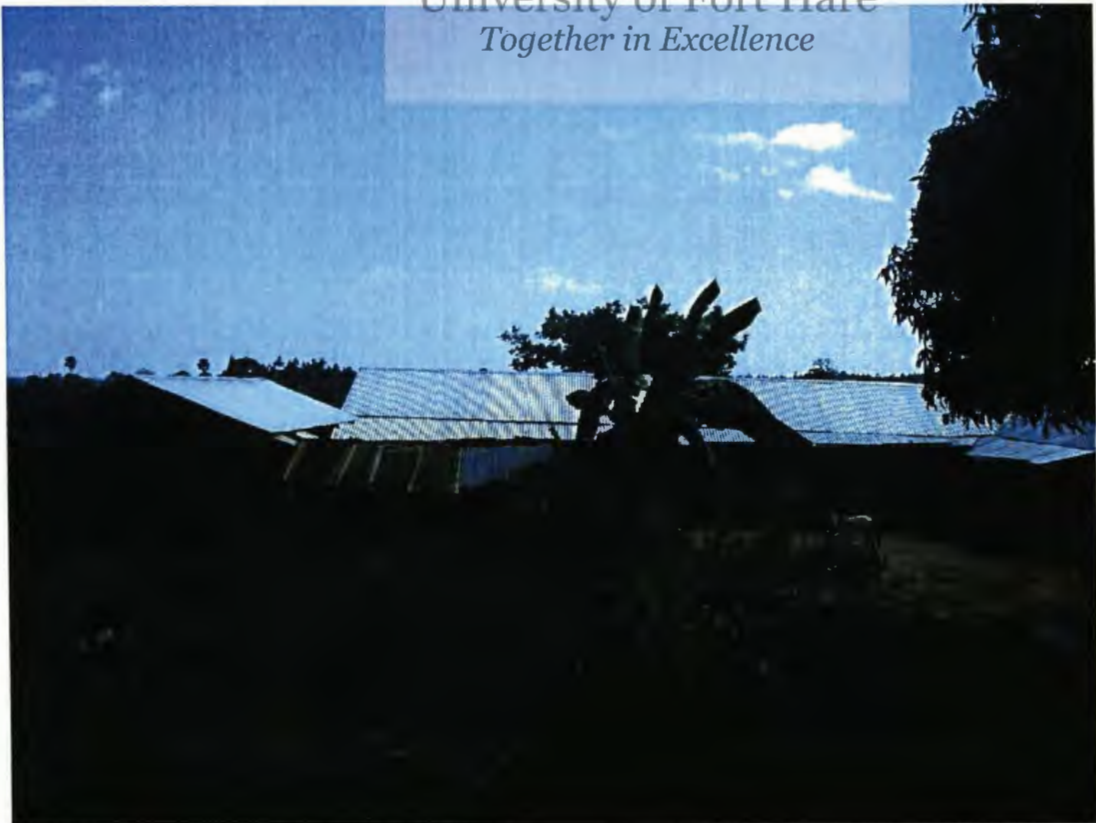
Most of the houses in this District are constructed from mud and cement, with *makuti* (coconut leaves) as roof cover (refer to Plates 5-3, 5-4 and 5-5 for instance, which depict housing structures in Kwale District). Housing structures in the town of Ukunda are a mix of houses constructed with either bricks or coral reef stones while others are constructed with mud and cement. Though some houses have corrugated iron sheets for roofing, for many, *makuti* remains the roofing material of choice, as it has a cooling effect inside the houses in the hot weather.



Abuya, 2009

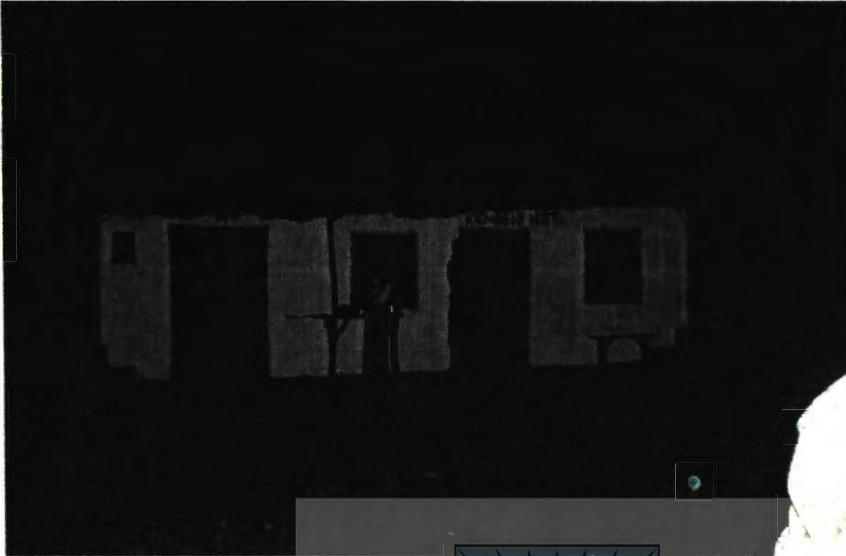
**Plate 5-3: Homestead in Mrima-Bwiti**

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Abuya, 2009

**Plate 5-4: A resettler's house in Kibwage**



Abuya, 2009



**Plate 5-5: Nightlife in Shimba Hills**

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Abuya, 2009

**Plate 5-6: A homestead in Kikoneni**



Abuya, 2009

**Plate 5-7: A residential house in Ukunda Town**

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The researcher was fortunate in that he had been to Kenya several times before. As a member of the teaching staff in one of the five national Universities in Kenya, he was for a long time charged with the responsibility of co-ordinating 3<sup>rd</sup> and 4<sup>th</sup> year students' field trips in his department. This offered him the chance to organise academic trips around the country; the Coast Province was a popular destination as it offers good ground for much sociological study as it is characterised by high incidences of poverty, squatting, crime, drugs and other social ills. What is intriguing about the Coast Province is that despite having been the first region in the country to have come into contact with foreign influence (which began with the Arabs, then the Portuguese, and later the Europeans), it is the second poorest region in Kenya (the first being the semi-arid Northern-Eastern Province). One would have expected that the foreign contact would have had a positive effect on the living conditions in this area, but this was not the case.

The field trips familiarised the researcher adequately with the Coast Province and this worked to his advantage during the field study. His numerous academic trips to the Coast Province enabled him to establish useful contacts that proved very valuable during the field research. One such contact was the Provincial Commissioner's Office, which is the office charged with

the administration of the entire Province. Being on first names terms with officers in this Office assisted greatly in ‘opening doors’ within the Province.

Another useful contact was the Coast Development Authority, which is the government owned parastatal body charged with initiating development activities in this Province. The researcher was able to obtain useful information and documents relating to his study. The officers in this Office also assisted the researcher to establish other useful contacts. The researcher was also very fortunate to have been in high school (and later as a year mate at the University) with the Mombasa-based lawyer who represented Tiomin in its formative years of operation. The researcher’s introduction to Tiomin through this lawyer smoothed his entry into the firm. The researcher was further fortunate to find that the firm’s Managing Director was a South African national, who upon learning that the researcher was a student in one of the universities in South Africa welcomed him with ‘open arms’.

Another thing that also worked to the researcher’s advantage was the fact that Kiswahili, which is almost like a first language to the locals here, is what is widely spoken in this region. It is in fact more widely spoken here than in any other part of Kenya. Given that the researcher grew up in an urban area and conversed in Kiswahili almost his entire life, and even studied it formally up to high school level, he was comfortable interacting with the locals in this language. Kiswahili is, in any case, the national language of Kenya. This therefore became the medium of communication. To back the researcher was the research permit (see Appendix III) which had been obtained from the Ministry of Science and Technology, which granted him authority to carry out research in the entire Kwale District—this pass certainly made life very easy.

Travelling to Kwale, even for those familiar with the region like the researcher, is always an ‘interesting’ experience. On arrival in the city of Mombasa, which is an island, one now has to make one’s way to either the North or the South (Coast) of this massive Province. While the North Coast is served with a modern bridge (the Nyali bridge), the same cannot be said of the South Coast; one has to board a ferry to cross to the other side. Now, this was, and still is, a very dangerous undertaking—even with the purchase of new ferries in mid-2010. The research took place when the old and poorly maintained ferries were still in use. The danger with these ferries was that they could stall at any time mid-way through the short trip to the other side, be caught by the ocean currents and pulled into the open sea. Indeed, this was a familiar occurrence, one which the researcher had experienced before while conducting the

several departmental study trips earlier mentioned. Navy personnel, who are located in a nearby naval base, are frequently called upon to come to the rescue of stalled ferries drifting in the open ocean. Indeed, visitors would be forgiven for thinking that the navy base was specifically located here to deal with such eventualities!

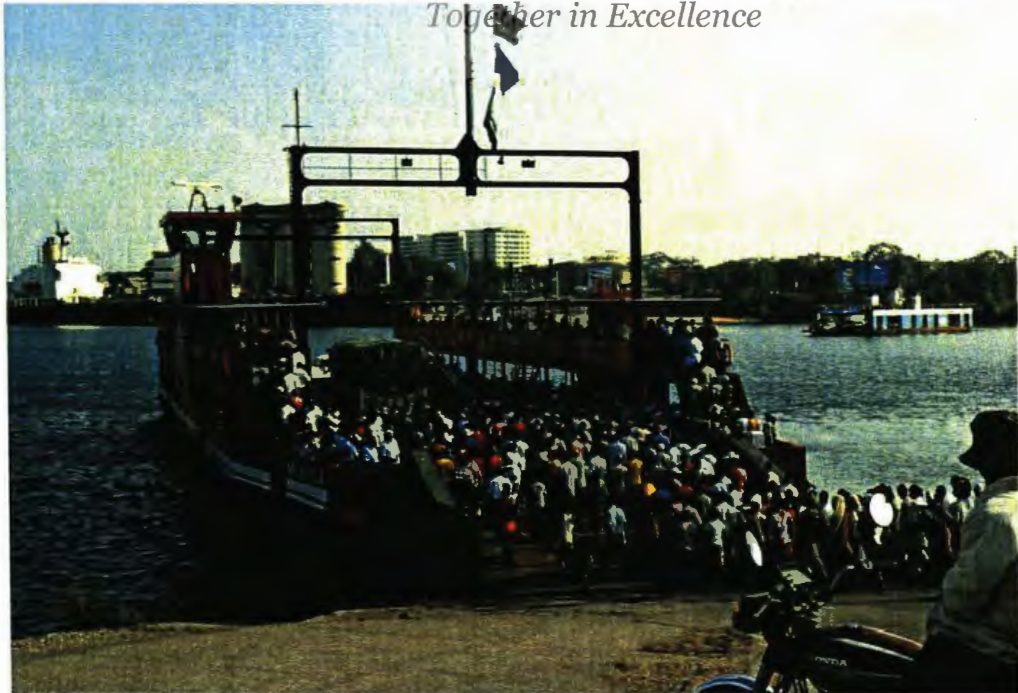
There were also times when a ferry's ramp pivot would jam and thus not open for vehicles to drive out. This would force the ferry driver to turn the ferry around, lower the rear ramp which would then be used by motorists to drive off the ferry in reverse gear! And being in deplorable states of disrepair, the ferries would often break down, leaving only one or two, of the usual three, in operation. This leads to overcrowding on the available ferry (see Plate 5-8), which only increases the danger of it capsizing. Memories of the 27<sup>th</sup> April, 1994 Mtongwe ferry disaster, in which 272 of the estimated 400 people on-board (the legal capacity being 300) drowned in the Indian Ocean after the ferry capsized at sea, are still fresh in the minds of most coastal inhabitants. Because of this history, the researcher always ensured that while on-board the ferry, he sat next to a pile of car tyres which served as 'safety jackets' or 'floating life-savers'. The pressing question was whether he would have been able to use one of these safety gadgets had the ferry capsized, given that the number of passengers more often than not far exceeded the number of the available 'floating life-savers'.

Safety issues while boarding or disembarking from the ferry were also of concern. Stampedes sometimes occur during rush hours, resulting in nasty injuries—or even death. During the field study, the researcher witnessed one such incident which involved a runaway motor vehicle whose brakes had failed while being driven into the ferry, leading to serious injuries to some passengers who were coming on-board the ferry. The researcher was later informed that these were normal occurrences.



Abuya, 2009

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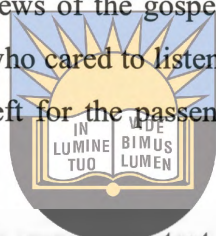


Abuya, 2009

**Plate 5-8: The Likoni ferry crossing**

The researcher had to use these ferries (either MV Harambee, MV Kilindini or MV Nyayo—all purchased second hand in 1990, or MV Mvita or MV Pwani—purchased in 1969 and 1974 respectively<sup>24</sup>) at least three times a week for the first three weeks of his stay, during the initial period of research while he was still based in Mombasa city and had to travel to the South coast. At one time the Minister of Transport and Communication, under whose docket the Kenya Ferry Service operates, was quoted as saying that the mechanics maintaining the ferries ought to be congratulated for keeping afloat the ferries whose life span was long overdue. Such sentiments only served to put more fear into the passengers.

It was quite traumatic, even for the locals, to put one's life on the line each time one boarded these ferries. It was even more traumatic when a doomsday preacher (who commonly boarded these ferries to spread the good news of the gospel) on board the ferry would yell above the churn of the engine to all those who cared to listen that this time the ferry was sure to capsize, and that the only alternative left for the passengers was to repent of their sins before it was too late.



Indeed, the deplorable states of these ferries were a constant concern. On one instance, when the crowd was complaining about the poor condition of the ferries, one local resident remarked that the government was not going to purchase new ferries until some people were “sacrificed at sea”.

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As if the above was not enough, the daunting travel experience does not end when one disembarks from the ferry. One now has to contend with the *matatus* (the local name for the 12-seater public transport taxi vans), whose drivers drive at breakneck speed. More often than not, the researcher resorted to closing his eyes when the drivers engaged in a “chase”, which entailed racing against his colleague(s) to “see” who would make it first to the point of destination. Needless to say, there are many fatal accidents on this road every year. The researcher was glad when he finally relocated to Kwale.

### 5.3 Research techniques/methods

The methods that one adopts largely depend on the nature of the study. The present study set out to unearth the meanings that the Kwale community attached to ‘nature’ and cultural artefacts by highlighting the meanings that they append to it. The study also aimed at

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<sup>24</sup> Two new ferries, MVs Kwale and Likoni, have since been bought to alleviate the situation.

uncovering the participants' reaction towards the various compensational practices as practiced in the titanium mining industry in Kenya. This therefore called for a qualitative type of study. Qualitative methodology refers to research that produces descriptive data about people's spoken and observable behaviour. Qualitative methodology draws from the phenomenological perspective which views human behaviour as a product of how they define their world. This perspective is tied to a broad spectrum of theoretical frameworks, chief among them being symbolic interactionism, which places importance on the social meanings people attach to the world around them, and ethnomethodology, which is tasked with examining the way people apply abstract cultural rules and common sense understanding in concrete situations to make actions appear routine, explicable and unambiguous (Taylor and Bogdan, 1984). A study that aims at understanding elements of symbolism, meanings or understanding that require consideration of participants' own perception and subjective apprehensions—such as the present one—therefore calls for a qualitative research as suggested by Berg (2001). In view of this, therefore, a qualitative approach was adopted for this study.



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Qualitative studies have several positive attributes. To begin with, qualitative studies seek to examine the quality of a phenomenon rather than the quantity of the phenomenon. Secondly, in qualitative study we do:

not just look at the actions of human beings...but we also try to find out how they represent their feelings and thoughts in these actions. In qualitative research, we wish to give as clear and detailed an account of actions and representations of actions...as possible, so that we can gain a better understanding of our world. (Berg, 2001:3)

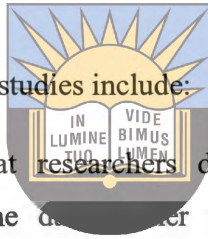
Hence qualitative research is descriptive and interpretive, with the focus being not solely on validation of information, but rather on accurately interpreting data through the various research methods adopted.

Hennings (2004) provides a distinction between the qualitative paradigm and the quantitative paradigm. She states that quantitative studies focus on controlling the components in the actions and representations of the participants—in other words, the variables are controlled

and the study is guided with an acute focus on how the variables are related. The research subjects are therefore usually not free to express data beyond the predetermined instruments.

On the other hand, in a qualitative study, the 'variables' are usually not controlled because it is exactly this freedom and natural development of action and representation that one wishes to capture. In other words, qualitative research is naturalistic in its approach, in that the studies are carried out in their natural setting. We therefore:

want to understand, and to also explain in argument, by using evidence from data and from literature, what the phenomenon or phenomena that we are studying are all about. We do not want to place this understanding within the boundaries of an instrument that we design beforehand because this will limit the data to those very boundaries. (Hennings, 2004:4)



Further additional advantages of qualitative studies include:

- i. That it is inductive, meaning that researchers develop concepts, insights and understanding from patterns in the data rather than collecting data to assess preconceived models, hypotheses or theories;
- ii. In qualitative research, people, settings and groups are not reduced to variables, but are viewed as a whole. In other words people are studied in the context of their past and the situation in which they find themselves;
- iii. Qualitative research is naturalistic, meaning researchers "blend into the woodwork" to gain understanding of their subjects in a natural and unobtrusive manner;
- iv. It attempts to understand people from their own frame of reference;
- v. A qualitative researcher suspends his own beliefs, perspectives or predispositions; and
- vi. Takes all perspectives to be valuable;
- vii. Qualitative methods are humanistic. In other words, when we study people we don't reduce them to statistics, but rather we get to know them personally and experience what they experience in their daily life;
- viii. Qualitative researchers emphasize validity in their research;
- ix. For the qualitative researcher, all settings and people are worthy of study; and,
- x. Qualitative research is a craft.

(Taylor and Bogdan, 1984:5-8).

Though Taylor and Bogdan mention that validity is crucial, emphasis should also be on trustworthiness of the data collected, as the objective is to have credible and trustworthy results, qualities that qualitative studies strive to achieve. Qualitative studies thus aim for depth rather than “quantity of understanding”. With the use of smaller sample sizes and appropriate research techniques, this deeper understanding can be achieved. This is the premise from which the various methods outlined below were selected. Table 5.3 provides the suite of methods and shows how each addresses each applicable research question (for appropriate selection of methods, each study question was broken down into applicable parts, viz, research question (1) into two, and research question (2) into two):

**Table 5.2: Research Questions – Research Methods matrix**

RESEARCH QUESTIONS	METHOD(S) ADOPTED
<p>1 (a) What meanings do residents of the study community attach to environmental features (land and specific trees) and to cultural artefacts (graves and houses)</p>	<p>i) In-depth interviews: These were undertaken to collect data on everyday narratives in the study community about the meanings attached to environment/‘nature’ and cultural artefacts.</p> <p>ii) Focus Group Discussion: These were conducted so as to uncover everyday narratives in the community on the meanings attached to the environment/‘nature’ and cultural artefacts.</p> <p>iii) Visual Sociology : Photographs depicting the various environmental features and cultural artefacts were taken so as to provide context to the idiographic narratives studied.</p> <p>iv) Ethnography: This method was used to enable the researcher to immerse himself in the community and gain an ‘insiders’ view of the issues under study.</p> <p>v) Ethno-ecology: This method was used to identify the uses to which the community puts its immediate environment and cultural artefacts to, and through these uses, identify the meanings attached to them.</p>
<p>1 (b) And what impact does social displacement associated with titanium mining have on such meanings?</p>	<p>i) In-depth interviews: These were carried out to uncover everyday narratives in the study community on how titanium mining-induced social displacement has affected such meanings.</p> <p>ii) Focus Group Discussion: These were conducted so as to uncover, through group interaction, how titanium mining-induced social displacement has affected these meanings.</p> <p>iii) Ethnography: This method was used to enable the researcher to immerse himself in the community and gain an ‘insiders’ view of the issues under study.</p> <p>v) Ethno-ecology: This method was used to relate the impact of social displacement to the meanings the community has bestowed to the environment/ ‘nature’ and cultural artefacts studied.</p>
<p>2 (a) What are the dominant community-targeted compensational practices in the Kenyan titanium mining industry?</p>	<p>i) Key informant interviews: Interviews were carried out with relevant officials in Tiomin (K) Ltd., and in the Ministry of Environment and Natural Resources to obtain expert information/opinion on the existing compensational practices in the Kenyan titanium mining industry.</p>
<p>2 (b) How do such (compensational practices) practices intersect with local ethno-ecological narratives in the study communities? In short, how do local idiographic narratives about the natural environment and cultural artefacts shape grassroots sentiments about titanium-induced social displacement and the broader issue of corporate- and state-community relations? In other words, what are the communities’ response to the</p>	<p>i) In-depth interviews: These were carried out so as to collect data on communities’ response to the compensational practices in the Kenyan mining industry vis-à-vis the meanings that the communities have attached to the items targeted for compensation, and further identify how this has affected corporate- and state-community relations.</p> <p>ii) Focus Group Discussion: These were conducted to uncover, through group interaction, communities’ response to the compensational practices in the Kenyan mining industry vis-à-vis the meanings that the communities have attached to the items targeted for compensation, and further identify how does this has affected corporate- and state-community relations.</p> <p>iii) Key informant interviews: Interviews were carried out with relevant officials in Tiomin</p>

compensational practices in the Kenyan mining industry vis-à-vis the meanings that the communities have attached to the items targeted for compensation, and how does this affect corporate- and state-community relations?

(K) Ltd., and in the Ministry of Environment and Natural Resources to obtain comments on issues raised by the residents on this.

iii) Visual Sociology: Photographs depicting the various features causing disaffection were taken so as contextualise the idiographic narratives picked up.

iv) Ethnography: This method was used to enable the researcher to immerse himself in the community and gain an 'insiders' view of the issues under study.

v) Ethno-ecology: This method was used to relate communities' response to the compensational practices in the Kenyan titanium mining industry vis-à-vis the meanings that the communities have attached to the items targeted for compensation, and to further identify how this has affected corporate- and state-community relations

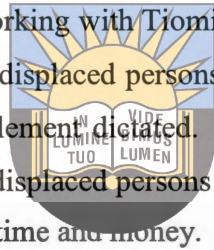
A deeper discussion on the selected research methods now follows.

### 5.3.1 Individual in-depth interview

According to Taylor and Bogdan (1984), in-depth interviewing involves repeated face-to-face encounters between the researcher and informants directed towards understanding the informants' perspectives on their lives, experiences, or situations as expressed in their own words. This implies that interviews are held on a face-to-face basis and that there is repeated interaction between the researcher and the participant(s). It also implies that the purpose of the interview is to understand the participant's perspective. Because of repeated contacts and the extended length of time spent with a participant, it is assumed that the rapport between the two will be enhanced and that the corresponding understanding and rapport between the two will lead to in-depth and accurate information. The present study aimed at understanding the construction of nature from the perspective of the Kwale residents, and hence this technique was appropriate for capturing just that. As the name of the technique suggests, through this method, the research was able to obtain the in-depth meanings that the community attach to the various aspects of 'nature' and cultural artefacts.

Secondly, the study sought to examine how these constructions have been impacted upon by titanium mining-related social displacement; in-depth interviews enabled the capture of these sentiments. This method therefore enabled the capture of the lived experiences of the residents following displacement. In-depth interviews also enabled the researcher to identify the discourses within the community as they relate to the various compensational practices pursued by the government/company and how these intersected with the grass-root narratives of the displaced residents.

According to Kumar (2005), in-depth interview has several challenges (problems), the first being that it is time-consuming and expensive. This is more so when the participants are scattered over a wide geographical area as was the case with Kwale. After the displacement, members of this community were scattered all over the District with some spilling over into other neighbouring Districts. The researcher therefore had to travel over large distances, often over rugged terrain, to reach the intended participants. This was made more challenging as the displaced persons were 'moving targets', in that while they have already relocated to some other place, some would sneak back to their condemned land to illegally tend to their farms, or simply to go and admire their now possessed land; they were therefore not so readily available for interview. To overcome this, the researcher had to engage a local person as an assistant who assisted in establishing contact and arranging interviews in advance. The community liaison officer working with Tiomin was also of great assistance in this regard. He happened to be one of the displaced persons, but was now in the employ of Tiomin, as international practice on Resettlement dictated. We were able to obtain mobile telephone contact numbers for some of the displaced persons and through these, we were able to schedule interviews. This saved us both time and money.



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The second disadvantage (problem) with this method is that at times the quality of data depends upon the quality of the interaction, which may affect the quality of the information contained. Since the interaction is face to face and each interview is unique, the responses obtained may vary significantly. Entry into the community was therefore important and since the researcher used various avenues as explained earlier to gain access, reasonable rapport was established. Since ethnography was integrated as one of the research methods, and this entailed an extended stay in the study community, the researcher was able to interact continuously with the interviewees and created closer rapport. Since the interaction was continuous, the researcher was also able to counter-check and verify the information provided.

There are other problems also associated with in-depth interviews. For instance, respondents may hide, or provide information which she/he thinks is more favourable or one which would advance his/her own agenda. An interviewee may also hide or blur crucial information. In other words, whatever information the interviewer records, is what the interviewee has opted to volunteer. At times respondents may fail to clearly understand the question asked and may present incorrect answers. The responsibility therefore falls on the researcher to gain the confidence of the respondent so that the respondent can be as truthful as possible and thus

provide concise information. The researcher also has the duty to go through the huge pile of data, and pick the information relevant to his research, and then analyse and make sense of the data that he/she gathered. These problems may also surface when carrying out key informant interviews.

Observations were also used to confirm information received, and through triangulation of techniques (such as focus group discussion, in-depth interviews, key informant interview and ethnography), and being of relevant research experience, the reality was in the end discerned. The foregoing also addressed the next disadvantage mentioned by Kumar, that is, that the quality of data depends on the quality of the researcher. This researcher's several years of teaching and research experience proved valuable in this case. Kumar also mentions that quality of data may also vary when many interviewers are used. Fortunately, this did not apply in this case because the researcher conducted all the interviews himself over the six months field research period.

Kumar finally lists researcher bias and interviewer bias (especially where the interviewer is paid or volunteers his services), which may lead to biased interpretation of participants' responses. To eliminate this bias, the researcher refrained from asking leading questions that may have elicited determined responses. Secondly, the researcher maintained objectivity as much as possible and removed himself from the question being asked. Since the researcher carried out the interviews himself, he was the only one who had to address the question of interviewer bias with regard to interpreting participant's responses. This he addressed by electronically recording all the interviews (as well as all the FGDs) conducted and by individually transcribing the interviews himself to ensure capture of the verbatim statements made, and also to capture the meaning and the context within which the statements were made.

In-depth interviews were conducted using a discussion guide (this is sometimes also referred to as a semi-structured interview), which enabled the interviews to elicit data on perspectives of salience to respondents rather than the researcher dictating the direction of the encounter. The guide only listed discussion topics then allowed for the interview to flow naturally (see Appendix VI for copy of the guide). This form of interview allowed the participants to explain themselves at length and provide in-depth perspectives on the questions asked. This type of interview also allowed the researcher to ask further probing questions which allowed for further detailed accounts to be derived.

The discussion guide was pre-tested in the field when the researcher carried out a pilot study in Kwale in July 2009 (the actual research took place in August to December of 2009. An earlier reconnaissance study had been carried out in January of the same year). This reconnaissance and pilot study accorded the researcher the opportunity to test, revise and come up with a discussion guide that covered the areas of concern, and which also elicited the data required and the order likely to facilitate a progression that was comfortable for both interviewee and interviewer as recommended by Barbour (2007). A discussion guide is therefore flexible, and further, it allows a researcher to capitalise on new insights and include these in the discussion topics. The discussing guide was revised as necessary as the field research took place.

A total of 73 in-depth interviews were conducted, and copious detailed notes were taken, to capture data on the social construction of “nature” and cultural artefacts and the impact of titanium related social displacement on the meanings attached to “nature” and cultural artefacts. Audio-tape recording was also done to ensure capture of accurate data. To elicit ethno-ecological narratives in the displaced community with regard to the compensational practices, another 49 in-depth interviews were carried out among household heads to whom compensation was paid. A discussion guide was used to guide these discussions.

In total, 122 interviews were conducted. The respondents consisted of both male and female respondents, ranging from ages 17 years to 82 years. Most were (subsistence) farmers, while a few were businessmen and businesswomen. A few were salaried workers employed by the government or private organisations. Most of the heads of households interviewed were male, this being a patrilineal society. Female household heads were mainly widows.

A combination of snowball and ‘convenience’ sampling methods were used to pick participants because the residents were ‘moving targets’ as explained earlier. Most of the interviews were carried out under any one of the many coconut or mango trees that dotted the area. One thing about the people residing at the Coast is their fame for conversation. It is said, sometimes derogatorily, that they spend most of their time talking, literally. As if to lend credence to this ‘fame’, those identified for interview were always very ready to sit down with the researcher under a coconut tree and intensely discuss the matter at hand. They were in no particular hurry, for in much of this part of rural Kenya, there is usually not much to do after one has tended to his farm in the wee hours of the morning (before the scorching

sun rises). Sitting under either a mango or a palm tree provided relieve from the sun and an opportunity for the residents to vent their emotions.

### 5.3.2 Key informant interview

To examine the dominant community-targeted compensational practices in Kenya's mining industry, key informants at Tiomin Resources and at the Ministry of Environment and Natural Resources (the Ministry that was charged with the relocation and compensation process) were interviewed to obtain the relevant information. The lawyer who acted for Tiomin during its formative years of operation and who is versed in the law that relates to mining was also interviewed. A discussion guide (see Appendix VI) was developed and used for these discussions. Those interviewed at Tiomin Resources included senior members of the management and those with the most relevant portfolios vi-a-vis the subject matter of this research. The government officials interviewed included officers in the District's Mines, and Lands Office. In all, seven key informants (four company official, and three government officials) were interviewed.

The researcher had unfettered access to Tiomin documents and to its library and received unqualified assistance from staff. In fact, the company's management were insistent that under the EITI (a document that he printed and made available to the researcher), transparency was paramount, and that in keeping with this spirit, the company had nothing to hide. The researcher was therefore free to look at documents/files and was able to obtain much of the information that he required in relation to the issue of compensation (there were three volumes of a file titled "Kwale Titanium project compensation programme"), and several other files containing matters related to the compensation process. Copies of the Environmental and Social Action Plan, the Host site Socio-economic Study, the Resettlement Action Plan and many of others were made available to the researcher on request.

The company provided the researcher with reading space during the time he spent there. This facilitation made him sufficiently acquainted with the compensation matters that were pursued by the company/government and adequately prepared for the ensuing key informant in-depth interviews that he had with both the affected community members and officers of Tiomin and the government. Since he was there for relatively long period, the researcher was able to seek "rebuttals" on issues raised in the field or raised in the offices (where company/ministry interviews took place) with either party. He was therefore able to learn the sentiments expressed by both parties.

On occasion, the researcher was allowed to tag along with company officers when they went out for field work activities. It is necessary to point out in the brief period that I moved around with the company officials, care was taken not to cause an impression that I was working a research on behalf of the company. As explained earlier, when the researcher was asked who he was representing, the researcher clearly explained the reason for his visit and produced documentary evidence to support his claims. Through this assistance, the researcher was able to reach some of the more dispersed displaced members and carry out interviews. The company officers would let the researcher conduct his interviews without any interference and would not even be on site during such interviews. By agreement, they would pick the researcher up when they were done with their own field work and were on their way back to their offices. On one such occasion, the researcher actually accompanied a senior member of the management to the official opening of a school built by the company under the CSR programme.



Here, the researcher was able to interact with the locals and obtain their views regarding Tiomin's CSR activities. This was actually marred by the four hour late arrival of the area Member of Parliament who happened to be the chief guest, and who was ostensibly held up at another function. Since the day activities could not go on in his absence, the researcher was able to use the intervening time to interview the residents. However, no interview with the Member of Parliament after the function was possible as he had to 'dash' to yet another function immediately after the official opening of the school. The researcher was unable to catch up with him thereafter and had to settle for the immediate former Member of Parliament of the area, who incidentally happened to be one of those affected by the displacement programme.

The advantage with key informant interviews is that they allow a researcher to obtain a deep understanding of the subject under discussion. They also maximise time as these informants are able to quickly fill one in on the history and present nature of the matter at hand. However, to avoid being carried away by these informants, who may provide responses to advance their agenda, the researcher counter-checked the information provided by comparing them with secondary data and/or through triangulation (which involved verifying the information provided through the use of other methods such as individual in-depth interview, ethnography and focus group discussion).

### 5.3.3 Focus Group Discussion (FGD)

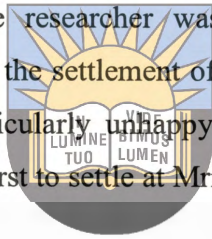
Focus Group Discussion (FGD) was the third method that was adopted for the study. This is a useful tool that one can adopt to capture sentiments from participants. FGDs allow the researcher to question/interview several individuals systematically and simultaneously. FGDs normally comprise between 9–12 individuals homogeneous to what is under study, plus a moderator who leads the discussions. Some recommend no more than seven participants—see Berg [1989], while others such as King and Horrocks [2009] recommend 6–10 participants). The determining factor, however, is usually the type, scope and nature of the study. Babbie (2007:309) lists the following five advantages of an FGD: (i) It is a socially oriented research method capturing real-life data in a social environment; (ii) It is flexible; (iii) It has high face validity; (iv) It has speedy results; and (v) It is a low-cost method.

Babbie adds that group dynamics often bring out aspects of a topic that would otherwise not have been anticipated by the researcher and would not have emerged during interviews with individuals. King and Horrocks (2009) add that FGDs highlight respondents' attitudes and frame of understanding; encourage great variety of communication from participants; help to identify group norms; provide insight into groups' social processes; and can open discussion about difficult/embarrassing subjects, enable the researcher to explore differences between group participants, use conflict to clarify participants' standpoints, explore arguments and identify factors that influence individuals change of mind.

FGDs are also important for collecting data in settings and situations where a one-shot collection is necessary (Berg, 1989). In other words, when it is necessary to capture perceptions about a certain social happening at a point in time, then an FGD provides this avenue. Another important aspect of FGDs which distinguishes them from individual interviewing is their ability to observe interactions over a discussion topic. A researcher can observe session participants' interaction and how they share specific attitudes and experiences as issues are explored (Berg, 1998). Berg adds that:

Focus group interviews...lead to spontaneous responses from session participants. Hearing how one responds to another provides insights without interrupting underlying normative group assumptions. Meanings and answers arising during focus group interviews are socially constructed rather than individually created. Situations such as focus group interviews provide access to both actual and existentially meaningful or relevant interactional experiences. (Berg, 1998:105)

FGDs are also recommended for research whose intent is to “study group norms, group meanings and group processes” (Barbour, 2007:133), items which are at the core of the present study. FGDs were therefore appropriate for this study, as it aimed at revealing shared social constructions/meanings. Such group dynamics were observed in the FGDs conducted in this study. One cannot agree more with Babbie (2007) when he states that FGD group dynamics often brings out aspects of a topic that would otherwise not have been anticipated by the researcher and would not have emerged from interviews with individuals. One case in point is worth mentioning here. During an FGD at the host site at Mrima-Bwiti, which included participants drawn from members from the host community and members from the settled community (those displaced), the researcher was able to observe the intense disapproval of the host members regarding the settlement of those displaced by the titanium project at Mrima-Bwiti. They were particularly unhappy that the displaced were being favoured over them and yet they were the first to settle at Mrima-Bwiti (see Chapter Eight for elaboration on this).



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The spontaneous responses that Berg made reference to above were clearly evident here. Indeed the FGD discussion became so intense, almost a shouting match, that the moderator had to intervene and cool tempers. In other FGD settings, the moderator observed participants nodding in agreement to certain meanings of “nature” and cultural artefacts, and then making more additions and contributions, further clarifying the matter. Participants would also share experiences on life during and after the displacement. In one instance they marvelled at how life had ‘changed’, such that during the period they were transported by the government to identify their plots at the host site, most were so ‘broke’ (having already ‘finished’ the compensation money) that none could afford to buy another a cup of tea.

Another advantage of FGDs is that they tend to make subjects’ responses more observable when compared to responses offered in survey questionnaires. This was clearly observable in the situation in Mrima-Bwiti as narrated above. However, FGDs also have disadvantages (problems), some of which Babbie (2007:309) identifies as follows: (i) FGDs afford the researcher less control than individual interviews; (ii) FGD data is difficult to analyse; (iii) Moderators require special skills; (iv) Differences between groups can be troublesome; (v) FGDs are difficult to organise; and (vi) The discussion must be conducted in a conducive environment.

To overcome these difficulties, the researcher assumed control of the FGDs at all times by taking the lead over discussions while ensuring that freedom for discussion was still maintained. The researcher also ensured that he cooled down tempers whenever they threatened to boil over, given the emotive nature of the research. Having had prior experience with FGDs, the researcher was comfortable in taking charge of the FGDs at Kwale. For ease of analysis, all the FGD discussions were tape-recorded, reviewed, and transcribed. The researcher and his research assistant both took detailed notes during the interviews. Most of the FGDs took place under coconut trees (the setting preferred by participants), and at a time and place convenient to the participants, and were relatively easy to organise as most of the participants were looking for an opportunity to “talk”.

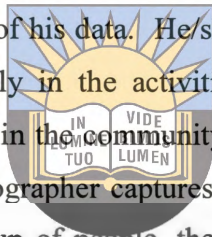
A total of eight FGDs, two each at Mwaluvanga (in Kubo Division—they generally call this area Shimba Hills) and Kikoneni Locations (one to discern social construction of nature and the other for compensatory issues); one general FGD discussion at Mvumoni Location, two at Ukunda Location (one for compensation matters and another targeting the youth), and one at the host site, Mrima-Bwiti in Msambweni Location, Msambweni Division. The FGDs comprised between 9–12 participants (with one exception for the FGD held in Ukunda with the youth which had 13 participants—by Section 8.2.6) and the researcher acted as the moderator. Participants were of mixed gender, notably because the Muslim culture (the population in Kwale is predominantly Muslim) prohibits women from talking to strangers; hence it was more convenient to have mixed groups.

The FGD session at Shimba Hills was unique in that it was conducted among persons yet to be relocated. The study aimed at assessing how this group was affected by the impending dislocation. One of the two sessions at Ukunda, which is a booming tourist urban centre, targeted the youth. This was scheduled at the urban centre because the youth could only easily be accessed in this urban setting, as most had migrated here to stake their claim in the tourism trade (which is the major source of income in Coast Province). A session with the youth was scheduled to assess whether a different shade of responses would emerge with regard to displacement. Other ‘ordinary’ sessions were held at Kikokeni and Mvumoni as most resettlers could be found here. The FGD session at Mrima-Bwiti was conducted to assess the sentiments of the host community regarding the displacement. All the FGD sessions were recorded, with accompanying complimentary notes taken by the researcher and his research assistant, transcribed and analysed by the researcher. A discussion guide was

used for the FGDs (see Appendix VI). Plates 5-3 to 5-7 in this chapter provide a glimpse of what these research sites look like.

### 5.3.4 Ethnography

This method entails a researcher spending sufficient “everyday” time in the setting under study where the participants carry out their daily tasks and have daily conversations in order to be able to eventually come out with “thick descriptions” (Barbour, 2007:92). In ethnographic study, the ethnographer is the “researcher instrument” (Hoepfl, 1997:49), as it is he/she who tries to capture the way of life of the studied group. Capturing the way of life involves getting to know the people and their practices as these occur in everyday action (Hennings, 2004). One observes the group as if one is one of them. The ethnographer jots down his observations and this forms part of his data. He/she joins the setting as a stranger who appears to be participating marginally in the activities but who remains a relative outsider. He/she immerses himself/herself in the community to understand their way of life by observing their everyday life. An ethnographer captures the group’s everyday practices, the rituals and practices that bind the group of people, the signs, the symbols they use to present and represent them (Hennings, 2004).



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Indeed, Berg (2001:133-136) describes ethnography as the practice that places researchers in the midst of whatever it is they are studying, and from this vantage point, they examine various phenomena as perceived by participants and represent these observations as accounts. Berg labels ethnography as the art of “subjective soaking”, a process which involves the researcher immersing him/herself into the culture he/she is studying. Ethnography therefore refers to a:

research process and products in which, to a greater or lesser degree, an investigator (a) attempts to provide generic propositional answers to questions about social life and organisation; (b) strives to pursue such an attempt in a spirit of unfettered or naturalistic inquiry; (c) utilises data based on deep familiarity with a social setting or situation that is gained by personal participation or an approximation of it; (d) develops the generic propositional analysis over the course of doing research; (e) strives to present data and analyses that are true; (f) seeks to provide data/or analyses that are new; and (g) presents an analysis that is developed in the sense of being conceptually elaborated, descriptively detailed, and concept-data interpenetrated. (Lofland 1996, as cited in Berg, 2001:132)

Given that this is an ethno-ecological study, where ethno-ecology is defined as “an interdisciplinary study of how nature is perceived by humans through a screen of beliefs and knowledge, and how humans, through their symbolic meanings and representations, use and/or manage landscapes and natural resources” (Barrera-Bassols and Toledo, 2005:11), one can best achieve this knowledge by integrating ethnography in the research. Employment of ethnography enables one to grasp the *k-c-p* (kosmos-corpus-praxis) complex that is ethno-ecology (refer to Section 4.2 for a detailed discussion on this concept).

To reiterate Sangkhamanee’s (2007:9-11) definition, ethno-ecology primarily focuses on the ideas, perceptions and classifications of the environmental relationships of members of a particular community or culture, and offers a scientific technique for revealing the cognitive aspects of human-environment relationships while at the same time taking into account behaviour that connects people’s ideas to the environment in which they survive. Sangkhamanee adds that ethno-ecology offers an *emic* view of the environment from within, as opposed to the *etic* view from outside, which is of key concern. Both ethno-ecology and ethnography therefore share the common goal of attaining an ‘emic’ understanding of society, which involves ‘immersion’ into the group one is studying. Ethnography as a method thus played a key role in the present study. *Together in Excellence*

The researcher’s ethnographic study commenced when he disembarked from the dreaded ferry for the ‘last’ time while on his way to Kwale to begin his extended stay at the mining site and outlying areas. After driving at breakneck speed for some 45 minutes in one of the *matatus*, we arrived at Ukunda, a small vibrant town in a Location bearing the same name. The researcher spent the next three weeks at the offices of Tiomin gathering secondary data, while at the same time conducting the first series of interviews with key informants from Tiomin. As explained earlier, the researcher occasionally accompanied Tiomin officers on their field trip excursions and used these occasions to conduct individual in-depth interviews. When his time at Tiomin offices came to an end, the researcher boarded a *boda boda* (motorcycles used by locals for rural travel) to Shimba Hills (Kinondo and Mivumoni Locations). Tiomin intends to construct a dam here by harnessing Mukurumudzi River, whose waters will be used for mining and for domestic purposes.

The community found here were living in suspense, awaiting displacement, and frustrated by the delay in disbursement of compensation money following the suspension of mining activities by Tiomin. This site was chosen as the first research site because these people were

easily accessible as they were still living on their farms. The researcher rented a room at the market-centre from where he conducted his research for the next eight weeks before relocating to Kikoneni Location in Msambweni Division to conduct the next series of interviews and FGDs. As mentioned earlier, only 13% of the population in Kwale County have access to electricity, and here at Shimba Hills, save for a few shops at the market, most homes are without electricity—see Plate 5-5 which portrays Shimba Hills at night. Residents therefore retired to bed very early as most could not afford to buy paraffin to light lamps (indeed, most did not even possess lamps). The researcher's pressure lamp therefore became a novelty, and this assisted him immensely in conducting further interviews, as he was able to sit up late into the night with local residents, some of whom came to 'enjoy' the light.

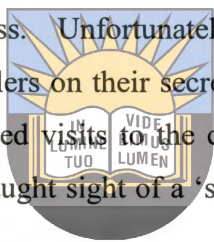
Having established contact and rapport with those awaiting displacement, the researcher proceeded to participate in their daily activities and observe how they conducted their lives. Since a moratorium had been placed on construction of new structures, or tending to long-term crops, most residents were caught up in a waiting game, with little to do other than to while away their time waiting for the disbursement of the compensation money<sup>25</sup>. The researcher therefore spent the early morning hours with them tending to their little *shambas* (gardens), and then they were 'free' for the rest of the day.

This therefore gave the researcher ample time to engage them in individual in-depth interviews. We even had occasion to visit the site of the intended dam but were warned to be careful while crossing the river as it was infested with crocodiles. Indeed, three of the participants whom the researcher interviewed here had lost some members of their family to these reptiles. The norm when drawing water from this river (this being the main water source), was for one person to stand guard and pelt approaching crocodiles with stones, while the other filled his/her water bucket(s). It was suicidal to fetch water on one's own. Those who dared to do so, if lucky enough to have survived the encounter, walked about with missing limbs, which had been chewed off by these reptiles. The researcher avoided this river, and other swampy places, as much as possible.

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<sup>25</sup> According to the agreed terms, one would only vacate one's home once the compensation money had been paid. 50% of the compensation was paid upon accepting the terms of relocation and the balance would be paid upon vacation of one's condemned land. One signed a document indicating acceptance of the compensation terms which included the provision that payment would be in two instalments: the first instalment (which was half the money due) upon acceptance of the terms, and the second instalment (the balance) once the land had been vacated. Also included in these conditions was a moratorium on burials and construction of new structures.

Most of the early evening was spent at the market place, listening to the locals talk as they imbibed their favourite drink, *mnazi* (local palm wine drink). At the neighbouring Locations of Kikoneni and Mvumoni, where extensive field work of eight and three weeks respectively was carried out, the situation was no different. Since their acreage of land had also shrunk (as resettlers could only afford smaller acreages upon displacement), they similarly only had smaller *shamba* to tend to, and they cultivated these in the very early hours of the morning. Thereafter, they spent most of their time sitting under coconut trees swapping stories—or they would sneak to their former farms to harvest fruit from trees heavy with ripe coconuts, mangoes or oranges. In fact one of the appeals by those displaced was that they be allowed to continue harvesting ‘their’ fruits during the period that the project has stalled, an appeal which the company rejected, afraid that the residents might squat on their land and evicting them would again entail an entirely new process. Unfortunately, the researcher never had an opportunity to accompany one of the resettlers on their secret trips to their condemned land. And when the researcher made unannounced visits to the condemned land, the trespassing resettlers would vanish immediately they caught sight of a ‘stranger’, so this course of action was soon abandoned.

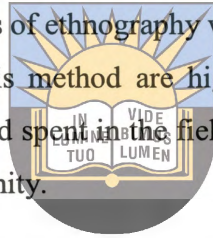


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Since the locals were ‘free’ after tending to their *shambas* in the early hours of the morning, the researcher equally had plenty of time to carry out individual in-depth interviews. However, in the evening hours the pressure lamp would draw the locals and further interviews would be conducted. Their only disappointment was that the researcher took hesitant sips of their popular *mnazi*. At both of these places (Kikoneni and Mvumoni), a house from one of the locals was rented and paid for on a weekly basis.

Mrima-Bwiti was the next stop of the ethnographic study. The set-up here was similar to that of Shimba Hills. Again, a room was rented at the shopping centre and each morning field interviews would be conducted. Several in-depth interviews with members of the host community were held and the researcher was able to get a feel for the community’s sentiments towards the resettlement of Tiomin titanium mining victims on ‘their’ land. The researcher was able to interview two of the only four family members who managed to resettle here. One week at Mrima-Bwiti was enough to gather the necessary information. Resettlement at Mrima-Bwiti was a failure as out of the over 400 displaced households, only four households settled here. The reason for this failure is discussed in Chapter Eight.

The last stop was at Ukunda (refer to Plate 5-7 for a glimpse of this study site), which has a relatively urban setting. At this site, two weeks was spent carrying out research among those who had relocated to this urban centre. Most of the time was spent at “Tiomin estate” (the unofficial name given to one residential area, so called for the reason that those who received compensation money chose to buy land and construct houses here). It should be noted that the various sites settled on were all located in the same district and were not too spaced out to cause concern that one was moving over to an entirely different setting all together. The researcher was still in the same district, and the sites were only a few kilometres from one another. Many a time the researcher did meet his previous respondents in the field while carrying out other interviews. The basic principles that the researcher observed was observation, listening, reflection and identifying constructed meanings; however, it would be an exaggeration to claim that all the theories of ethnography were applied in the course of this work. Some empirical limitations with this method are highlighted in section 5.6. of the thesis. Nonetheless, the ethnographic period spent in the field provided the researcher with a fairly clear perspective of the study community.



Ethnography also has the added problem that a researcher may empathise with his (research) subjects to the extent that he loses objectivity in the study. A researcher therefore needs to be focused and must always remember that although he/she has been ‘accepted’ into the community, he/she will always remain an outsider.

A recurrent question throughout the interviews was the need for the researcher to “identify” himself. It appeared that the displaced persons were wary of strangers, and especially government functionaries, given their shaky experience. The researcher quickly learnt that they were not interested in knowing his name or his institutional affiliation but rather they were interested in knowing whose side of the ‘divide’ he was on. This clearly demonstrated that the hostilities and mistrust between the community and the government/company were far from over. One resident bluntly accosted the researcher with the following questions:

Tell us who you are. And do not just tell me your name as that will not help us. I want to know on whose side you are on—are you on our side or are you with Tiomin and the government? We hear that Tiomin is pulling out of the project. We also hear that the Chinese came to assess the project and they left. Now we hear that the Israelites are coming to take over the project. So tell me, are you with the oppressors or with the Christians? We have to be very clear about this. I am asking because I don’t want to talk to you today, then tomorrow people find me dangling near that bridge presumably having committed suicide!

The researcher assured the respondent, and others like him, that he was not on anyone's side, but that the main aim of the study was to fulfil the objectives of his academic research, which he outlined to them. It was clearly spelt out to the respondents that the research findings might or might not assist them, but that it was possible that it might in future assist other displaced persons in Kenya or elsewhere in the world should the recommendations ever be acted upon. The researcher explained to the residents that previous research findings for Kiambere dam project and Sondu Miriu hydroelectric project had helped redefine displacement in Kenya. It was the researcher's hope that his research would meet with similar success. This explanation seemingly satisfied the displaced residents as interviews thereafter went on unhindered.

This ethnographic experience enabled the researcher gain the 'emic' view that Sangkhamanee described.



### 5.3.5 Visual sociology

Visual sociology is fast becoming widely adopted method in social science research. Researchers are using this methodology in greater numbers as it lends insight into what is important to the participants and how they view themselves and others. As Bogdan and Biklen (1992:104) explain, a good photograph "can isolate and freeze relationships or behaviors in a way that cannot be recreated verbally" hence photographs are useful in collecting, presenting and illustrating findings. Pictures can take the place of words or at least convey something that words cannot. Pictures accompanying texts can provide features of description and abstract generalisation which cannot be sufficiently portrayed by written text. Bogdan and Biklen (ibid.) further add that photography is now closely aligned with qualitative data and that they provide striking descriptive data which is useful in the collection of data alongside other methods. For this study, visual sociology as a technique was specifically used to depict the environmental features under discussion and/or to provide context to the idiographic narratives encountered. The photographs used in this study were not manipulated in any way: they are presented as they were taken, and are left to speak for themselves.

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### 5.3.6 Ethno-ecology

Ethno-ecology has already been described in Chapter Four as a theory, but mention was also made that it would also be used as a methodology. As a methodology, much of what was discussed in Chapter Four describing it as a theory is similar to the way it was used as a methodology, hence to avoid repetition, readers are asked to refer to Chapter Four for an understanding of the subject matter of ethno-ecology. In summary, the theoretical framework of ethno-ecology provides a methodology and a scientific technique for revealing the cognitive aspects of human-environment relationship but at the same time it takes into account behaviour that connects people's ideas to the environment in which they are found (Sangkhamenee (2007:9-11). Ethno-ecology will thus be used to gain an understanding of the meanings that the Kwale community bestow on the identified representation of "nature" and cultural artefacts. Residents were asked to indicate, through these various uses, the meanings that they attached to the various representations. The positive thing about this methodology is that it enables the researcher to obtain an 'emic' view of community understanding, which also relates it quite well with geography.

The potential problem with an ethno-ecological research is that one has to rely on the word of the researchers subjects, given that the researcher would most likely be an outsider. The problems associated with individual in-depth interviews, and key informant interviews are therefore likely to crop up. Of necessity therefore is the adoption of several methods to enable triangulation and counter-checking the multiple data/information gathered. This concern therefore necessitated the adoption of multiple research methods elaborated upon in this study.

### 5.4. Sample size

The issue of sample size in qualitative studies is not as straightforward as it is with quantitative studies where statistical methods exist for determining appropriate sample sizes from known populations. Patton (2003) acknowledges that no formula exists to determine qualitative sample size. Strauss and Corbin (1998:212) state that an appropriate sample size for qualitative studies is reached at the point where 'theoretical saturation' occurs, which occurs when: (a) no new or relevant data seem to emerge regarding a category; (b) the category is well developed in terms of its property and dimensions demonstrating variation;

and (c) the relationships among categories are well established. In other words, the researcher continues expanding the sample size until data collection reveals no new data; this is what Patton (2003:5) terms sampling to the point of “redundancy”.

Marshall (1996) states that an appropriate sample size for qualitative studies is one that adequately answers the research question, where in cases of simple questions or very detailed studies, this may be in single figures, while in complex questions larger samples may be necessary. Hoepfl (1997) adds that there are few strict guidelines for when to stop data collection in qualitative research, but suggests that exhaustion of resources, emergence of regularities, and overextension—going beyond the boundaries of research (objectives)—are some guiding points.

While acknowledging that there are no closely defined rules regarding qualitative sample sizes, Tuckett (2004:47-61) argues that sampling in qualitative research usually relies on smaller numbers with the aim of achieving depth and detail. Tuckett adds that when seeking richness of data about a particular phenomenon, the sample is derived purposefully rather than randomly (readers will note that purposive sampling was the main sampling method adopted). Tuckett supports Patton and Strauss and Corbin's views on collecting data until one achieves data saturation (“redundancy”), which he states occurs when, by moving back and forth through collected data, researchers observe that no new information of significance is being obtained from the on-going thematic development and theorising<sup>26</sup>. For the present research, the theoretical saturation or point of redundancy was attained with 71 in-depth interviews in relation to the first and second objectives (examining social construction of nature and the impact of titanium mining-related social displacement), while 47 interviews<sup>27</sup> marked this point with regard to the third and fourth objectives (which focused on assessing government/company compensatory practices and how these intersected with grassroots sentiments—this involved interviewing household heads to whom compensation was paid). As already elaborated elsewhere, snowball and convenience sampling (purposive sampling) were used to select participants. Purposive sampling seeks information-rich cases which can be studied in depth (Hoepfl, 1997).

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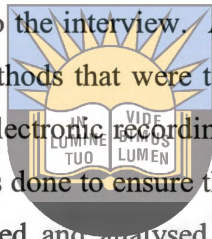
<sup>26</sup> Nature and sensitivity, among other issues, also guide sample size in qualitative studies. In his analysis of 50 research articles with qualitative research, Thomson (2004) noted that the average sample size for all 50 articles was 31 participants, and that the size varied from 5-93; with one having 350, 17 using 20-30, 17 using 10-19, 11 using over 30, while 5 used under 10.

<sup>27</sup> Note that 6 FGDs with between 9-12 participants each were also conducted.

The data collected was first transcribed and then organised into themes which were then subjected to content analysis. Presentation of results was done through verbatim and interpretive reporting.

### **5.5 Trustworthiness of research data**

As mentioned earlier, a pilot study was conducted in January 2009, to get a feel of the research issues and a feel of the research site and to begin the process of networking while the researcher familiarised himself with the study community. Another short visit was made in June 2009 to pre-test the main research instrument with questions that were eventually asked during the actual data collection process. This was to ensure that all aspects of the research were covered and to also ensure that the topics of discussion were organised in a neat manner that would allow some flow to the interview. All these attempts were made to mitigate against any weaknesses of the methods that were to be used for this study. In the field work phase, detailed field notes and electronic recording of interviews and focus group discussions were also undertaken. This was done to ensure that accurate data were collected; data which were later transcribed, organised and analysed. The triangulation of research techniques ensured cross-checking of collected data and verification of the same. Corroborating evidence was thus obtained through triangulation.



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To further reinforce reliability of data, post-field checking of interview transcripts with respondents (also referred to as member checking) was also carried out. Findings were run by the respondents to ensure accuracy of data and interpretations. Constant peer consultation with the researcher's thesis supervisor and with scholars in Kenya was also conducted in order to further enhance the validity and reliability of the research data.

### **5.6 Delimitations and limitations of the study**

The present study had certain limitations which will now be addressed. To begin with, the study would have benefited for a longer period of ethnographic study which would have allowed further capture of the community's way of life than the five and a half months spent in the field. But due to limitation of time (as the PhD field research could only allow the covered period of time) and also due to limited finances, it was not possible to extend the period of stay beyond the five and a half months. Another limitation was that due to the same short period, the researcher had to select a few items of "nature" and cultural artefacts that he

deemed important for discussion in this study. Therefore only houses/structures, graves, land, and selected plant items were chosen to represent features of “nature”. Inclusion of more features of “nature” and cultural artefacts would have certainly enriched the results.

Since this was a titanium mining-related social displacement, its applicability to other types of social displacement, such as urban development or infrastructural development, may be limited. The study was conducted among a certain group/community, whose culture and traditions may be different from other social groups displaced elsewhere, making wider applicability of the results not easy. That said, the present study can be applied in related circumstances, or even for comparison purposes. However, on the issues covered, and the context in which the study was carried out, the data collected are reliable and scientifically sound, and thus the findings can be useful for theory development and policy formulation.



### 5.7 Ethical statement

Research focusing on displaced people bears ethical burdens that touch on privacy, secrecy and confidentiality. An ethnographic study on displaced persons enables one to gain intimate knowledge of research subjects and this could pose a risk of undue exposure. The researcher was conscious of these risks and took steps to protect and uphold individual and community rights to voluntary participation in interviews, privacy, confidentiality and respect for other cultures. The researcher therefore respected all ethical rules that guide informed social science research, such as, respect of informants voluntary participation, respondents’ informed consent, confidentiality and privacy. The research fully informed the informants about the nature of his research and objectives of his study. The researcher provided no false assurance to the study community regarding the implementation of his findings. The researcher further avoided any action that might cause harm to informants, communities or corporate interests. Articles emanating from the research findings will be made available to all through publication in recognised journals.

Before commencing the field studies, the researcher sought and obtained permission from the national governmental body charged with scrutinising the relevance and ethical considerations of the study (and obtaining ethical guarantee from the researcher) before award of a research permit (see Appendix III). The researcher, to observe protocol and courtesy, obtained verbal approval from local administration (which was not necessary as the

relevant government department had already authorised the exercise—however, such a gesture not only confirms one’s good intention, but also facilitates the data collection exercise). For the same reason, the researcher obtained approval from the study communities (through their local elders) and individual research participants. Authority was also obtained from the dominant extractive company (Tiomin (K) Ltd.) to interview its staff and inspect its corporate social responsibility activities.



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## CHAPTER SIX

### THE KWALE COMMUNITY: “HISTORICAL INJUSTICES” AND THE LAND QUESTION IN KENYA’S COAST PROVINCE

#### 6.1 Introduction

In some instances, the description of the study community would normally be found in the Methods chapter. However, this would not permit a detailed account of the study community in instances where the problem under investigation is closely linked with the make-up of the community. The aim of this chapter is to provide the reader with a deeper understanding of the Kwale community. As mentioned in Chapter Four, ethno-ecology studies rely on a community’s history to trace how meanings to “nature” and even cultural artefacts are shaped. Among the objectives of this thesis was to assess how titanium mining has the potential to disturb congenial relations among the community, and as such, this chapter sets the stage for readers to assess the relations that existed among members within this community before the discovery of titanium. This chapter therefore provides a more detailed description of the study community, one which will also assist in the analysis of the empirical findings in Chapter Eight. This Chapter allows readers to see how the nine communities that make up the Mijikenda came to be one, and then see how titanium mining is now threatening this long relationship. Titanium mining further threatens the long relationship that the Mijikenda has established with the Kamba community, a relationship that spans many decades.

This chapter also examines what in Kenya is commonly referred to as “historical injustices”, one which describes how communities in Kenya were dispossessed of their land during and after colonialism, with focus on the Kenyan Coastal region. The intention of this section is to provide readers with a stable grounding for understanding the complexity of land issues in Kenya. This discussion will enable readers to better grasp the social dynamics that relate to the social construction of nature, and to offer a better understanding of why the community in Kwale could possibly feel aggrieved in instances of social displacement. It will further help demonstrate why compensation may fall short of meeting community expectations.

#### 6.2 The Kwale Community: the ties that bind

The first settlers on the Coast of Kenya, who remain the majority group in this region (and this includes Kwale District), were the Mijikenda. The Mijikenda *per se* are not an ethnic

group—this term is “an analytical concept used to define a cultural group that is inclusive of nine independent political groups” (Spear, 1978:5). These nine groups closely share a complex of cultural traits and origin. The term ‘Mijikenda’ therefore consists of the Northern Mijikenda (the Kauma, Giriama, Chonyi, Jibana, Kambe and Ribe), the Southern Mijikenda (the Digo) and the Central Mijikenda (the Rabai and Duruma). The Mijikenda language belongs to the Sabaki-group of the North-eastern Bantu, otherwise referred to as the Savanna Bantu (Spear, 2000—see Figure 6.1).

The history of the Mijikenda people is associated with the recurring incident of land dispossessions in this region—first by the Arabs, then by the Galla, and later by the British. Spear’s 1978 book ‘The Kaya Complex: A history of the Mijikenda peoples of the Kenya Coast to 1900’ provides good reading on this.

In summary, Spear argues that the Mijikenda people are believed to have originally migrated from Singwaya (in some text it is also referred to as Shungwaya—the two terms will be used interchangeably) in the Southern Somali hinterland at the turn of the 17<sup>th</sup> century. The District profile report calls this cradle of migration (Singwaya) a ‘legendary place’ because although the place is mentioned in Dutch and English maps of the 15<sup>th</sup> century, archaeologists are yet to find its exact location (Were, 1987). The Mijikenda share Singwaya origins with other cultural groups such as the Pokomo, the Swahili and the Taita, who migrated southward with them (Spear, 1978). Once in present day Kenya, the Mijikenda traded heavily with the Kamba, Waata, Chagga, Galla and Swahili, some of whom like the Kamba, later settled on Mijikenda land and traded and/or intermarried with the Mijikenda. The Swahili called the Singwaya people the ‘Kashur’ (the Pokomo and Waata of present day Kenya still refer to them by this term), and recall that they were first found along the coast near a place called Brava (somewhere between present day Kismayu and Mogadishu in Somalia).

It is from Brava that these various groups which later formed themselves into the Mijikenda were dispersed by the Arabs who were fast settling along the coast. These various groups were forced to move southwards to Juba River valley, where some remained, while others continued with their migration southwards into Singwaya. Those who remained at Juba valley were the first to encounter the militant and migrating Galla who attacked and dispersed them. The Galla, on their migratory path southwards, later attacked the other Kashur group that had settled at Singwaya and continued to do so along the coast in their migratory path

until they finally settled in Pate and Malindi, in present day Kilifi County, Kenyan Coastal Province.

After the Galla attack, the first to migrate from Singwaya to Kenya were the Digo, who then became recognised as the senior group among the Mijikenda. The Ribe, the Giriama, the Chonyi and the Jibana, in that order, were next to migrate. At this time, the Kauma (who later became a distinct group) were part of the Ribe group. The Rabai and Duruma, who later joined the Mijikenda group, claimed different origins from Singwaya, with the Rabai claiming they came from Rombo, while the Duruma boast of heterogeneous origins. Despite this, the Rabai and the Duruma have adopted the Mijikenda culture and identify with Singwaya as their place of origin.

Whether it is legend or historical evidence, these groups point out that they migrated from present day Somalia while the Ribe migrated from Rombo. Both missionary Krapf and Burton in their writings indicated Singwaya as the original settlement of these groups (Spear, 1978:23-24). Linguistic evidence also supports the common origin thesis, as they all belong to the Northeast Coastal Bantu group of languages (Ipui, 1987; Spear, 1977).

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As mentioned earlier, the Digo were the first to encounter the Galla invasion, and reeling from this impact, moved southwards until they reached the Shimba Hills (in present day Kubo Division). Here they built *kaya* Digo, in Kwale (at times simply referred to as *kaya* Kwale). Now, *kayas* are of immense significance to the Mijikenda, and so deserve a little more discussion. To begin with, the name Mijikenda (the name that the nine cultural groups adopted once they settled in present day Kenya) means the nine *kayas*, thus indicating that *kaya* were of significant value to these people. The Mijikenda were first known as the 'Kashur' while they were in Singwaya. But when they settled in present day Kenya, they were called the 'Nyika' (literally meaning 'bush' men) by the Swahili people. They dropped this pejorative name and adopted Mijikenda, which is a descriptive term that identifies the nine groups who have attachment to Singwaya and the traditions of the *kaya* (Spear, 1978).

*Kayas* were settlements initially constructed as a response against Galla attacks and were built in dense forested areas, preferably on hill-tops for better defence. However, they later became symbols of identity for the community. Mutoro (1987a) describes these *kayas* as shrines, having a ritual symbol, the *vingo*. These *kayas* are to date revered by the Mijikenda. Only members of particular *kayas* or those who are members by association through other *kayas* would know the sites of these *kayas*, as they were the only ones allowed to visit them.

Many of these *kayas* also served as burial places of the founding fathers of the various *kayas*. While in the field, the researcher intended to visit one of these *kayas*, but when it was explained to him the many rituals and the inordinate length of time it would involve to qualify him as a 'Mijikenda' fit enough to visit the *kaya*, he dropped the idea as his time in the field could not accommodate this lengthy period running well over a year (there are of course other *kayas* that are tourist sites that one can visit, but the researcher wanted to visit an 'active' *kaya*).

Today, these cultural artefacts, the *kayas*, continue to serve as burial places for *kaya* elders, *kaya* dwellers and other prominent persons. Their graves are marked with a grave post called *kigango*. It is important to note that though in present times most of the *kayas* that had been established have been lost (colonial governments cleared dense forest in attempts to pacify the Coastal people, or simply through conversion to other land use systems), attempts have been made by the Kenyan government to preserve at least *kaya* Digo and *kaya* Duruma (Mutoro, 1987a:14). It is in Kwale where the oldest *kaya* exists, the *kaya* Digo, constructed by the Digo who were the first Mijikenda group to come into present day Kenya. To have a credible *kaya*, one had to have a protective magic called *fungo*. The first *kayas* had *fungos* carried from Singwaya. A *fungo* is described as a potent medicine, which had been prepared in a special way in Singwaya. This *fungo* was buried in the middle of the *kaya*, to protect the settlement and establish firm "roots" in the new place.

Thus the *kayas* became an important cultural and identifying symbol. *Kayas* were constructed deep in the forest so that stronger medicine that could not be stored in the house could be hidden in these forests. Hence without a forest, a *kaya* cannot exist (Spear, 1978). This therefore marks the Mijikenda's first close connection with "nature". Readers will also note that in Chapter Eight when discussing the ethno-ecology of land, the respondents described land as the place where one keeps/hides his medicine.

Many of these *kayas* were, however, abandoned as a result of population increase occasioned by favourable environmental conditions that favoured agricultural growth and animal husbandry. Mutoro (1987a:12-13) also attributes abandonment of these *makayas* (alternative plural term for *kayas*) to indiscipline among the youth who had grown wealthy as a result of the flourishing trade. The Digo *kayas* were the first to be abandoned in the 1830-40s followed by the Rabai *kaya* in the 1840-50s, the Duruma *kaya* in the 1850-60s, and the Giriama *kaya* by 1845. *Kaya* Chonyi was abandoned by 1866, *kaya* Ribe in 1846, *kaya*

Kambe and *kaya* Kauma in 1866 (Spear, 1978). As Ringa (2010) reports, a total of 50 *kayas* have been identified in the Coast province in present day Kenya, of which 41 are presently protected by law under the National Museum's Act, while the rest are safeguarded by the Kenya Forest Service as part of the forest protection programme. Unesco, in 2008, recognised the following *kayas* as World Heritage sites: *kaya* Fungo, *kaya* Kambe, *kaya* Ribe and *kaya* Jibana (all four in Kaloleni), and *kaya* Kauma in Kilifi, together with *kaya* Duruma, *kaya* Gandini and *kaya* Digo, all in Kwale<sup>28</sup>. Not listed were *kaya* Chonyi in Kilifi, *kaya* Mudzi in Kaloleni and *kaya* Kinondo in Kwale for the reason that their authentic form had been ruined by deforestation, sand harvesting and development, a fate that threatens the other *kayas* hence the need for government intervention (Ringo, 2010). Despite this intervention, large tracts of forest where the *kayas* are situated continue to be invaded. The latest invasion is that occasioned by the mining of titanium. However, these *kayas* remain revered places in Mijikenda culture.



In today's Kenya, *kaya* elders play an important role in determining the course of many matters in the Coastal region. For instance, it is noted that without the blessings of the *kaya* elders one may never 'see' the inside of Parliament, meaning one may not successfully vie for a political post. It is not unusual during election periods to witness on television presidential candidates lining up to be blessed by these elders. During the period that the Tiomin project had stalled (as financiers had pulled out of the project citing protracted legal tussles with the locals), it was said that *kaya* elders had earlier strolled around the area and that they had cursed the land and the project, vowing that until the Digo, as the original settlers and thus rightful owners of the land, were compensated, the project would never take off (this is elaborated in Chapter Eight).

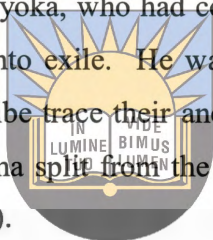
Let us now go back to the migration story. As mentioned, the Digo were the first to settle in Kenya and established *kaya* Kwale. Soon afterwards, some left this *kaya*, carrying with them a *finjo*, and established *kaya* Kinondo. Today, the Digo are found in as far south as the Coastal strip of Tanzania (northern Tanzania) as a result of this subsequent expansion (Gomm, 1972).

According to oral tradition, the second group to migrate from Singwaya were the Ribe-Kauma, Giriama, Chonyi and the Jibana. They were accompanied by the Taita and the Pokomo, who in the end however, did not become part of the Mijikenda. These three groups

<sup>28</sup> See [http://www.whc.unesco.org/en/list1213/multiple=1&unique\\_number=1589](http://www.whc.unesco.org/en/list1213/multiple=1&unique_number=1589) – accessed 20/1/2012

of migrants travelled together up to Tana River, where the Pokomo settled. The rest crossed the Galana River to Mt. Mwangea, but were again attacked by the migrating Galla and forced to flee. The Taita broke away, migrated and settled in what is today known as the Taita Hills. The Giriama, with the Galla hot on their heels, migrated through Kinanarani and eventually settled in a forest refuge in Murikwa. After beating off the Galla attack with the help of the local Laa hunters, the Giriama built *kaya* Giriama in this forest (Spear, 1978).

The Ribe-Kauma, Chonyi and Jibana travelled up to Kwa Demu where they split. The Chonyi wandered around for a while till they settled in *kaya* Chonyi. The Jibana say they travelled straight to present day Jibana where they built their *kaya*. The Ribe left Kwa Demu under the leadership of Mwadzombo Chitiro and travelled to present day Ribe where they found a *kaya* already built by Mwamaya Nyoka, who had come from *kaya* Digo. However, Nyoka was toppled by Chitiro, and sent into exile. He was to return much later and was allowed to stay in the *kaya*. Today, the Ribe trace their ancestry to these two men. It was after the victory over Nyoka that the Kauma split from the Ribe and established a separate identity at present day Kauma (Spear, 1978).



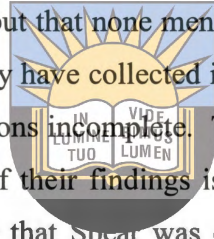
The Rabai and Duruma do not trace their origins from Singwaya. The Rabai are said to have migrated to present day Rabai from Rombo. They became part of the *kaya* complex because they were defeated, dispersed and then were assimilated by the Mijikenda, and later became an important cog in their trade with the Swahili. In conformity with Mijikenda traditions, they built *kayas* and slowly adopted their culture. It is argued that they adopted the Singwaya origin in their folklore to establish association and kinship with the Mijikenda (Spear, 1978). The Duruma do not claim a single origin, as they are an amalgamation of three different groups who came together in the Duruma area. The Digo were the first to settle here and built *kaya* Duruma. They were then joined by refugee slaves fleeing from Mombasa, but originally from Mozambique, whom they accommodated and assimilated. The third group were Kamba immigrants who settled in Duruma and were similarly assimilated. Here we see that some Kamba actually became Mijikenda through being Duruma. The settlement of the Duruma marked the last of the Mijikenda migration. To form a formidable group, these nine *kayas* came together to form the Mijikenda group.

Another Singwaya legend, however, claims that the father of all the Mijikenda was Muyeye, who had two wives, Mbodze and Matseze. Mbodze had two sons, Digo and Ribe, while the second wife bore three sons, Giriama, Chonyi and Jibana. According to the legend, initiation

activities today follow this order of seniority, and this relation is cited in everyday conversation, thus:

the Giriama say they are the younger brothers of Ribe and defer to them in certain rituals. The Chonyi and Jabana say they are brothers and often cooperate in war and ritual. The Kauma, who split off from the Ribe...[claim]...that they are the sons of Ribe. (Spear, 1978:17)

The Singwaya origin has been challenged by Helm (2004), Pouwels (2001), Allen *et al.* (1983) and Morton (1977). Morton (1977) argues against the Mijikenda origins, basing his argument on oral traditions recorded by missionaries such as Krapf, Rebman and Burton, who indicated that most of the Mijikenda groups had earlier indicated their origin as being in Mt. Mangea or Mt. Kilimanjaro or others, but that none mentioned Shungwaya. However, it is possible that being missionaries, they may have collected incomplete data as their grasp of the local language was limited and translations incomplete. Their methods of data collection are also not indicated hence the veracity of their findings is doubtful. However, Morton's research was carried out at the same time that Spear was conducting his research, and in Spear's book "the Kaya complex", he makes mention of these connections (to Mt. Mangea and Mt. Kilimanjaro), as being stage three of the Mijikenda general migration pattern.



Through some four rules that they claim ought to guide historical studies, Allen *et al.* (1983: 456-457) argue that the Singwaya origins are riddled with problems, one being that oral traditions of other groups associated with Singwaya contradict one another to the extent that one is unable to place them with the Mijikenda at Singwaya. He argues that of the archival materials collected by Morton (1977)—reviewed above—not a single pre-1895 document suggested that the Singwaya origin was known to the Mijikenda.

Allen *et al.* also criticised Spear for relying too much on oral tradition as a source of historical evidence, at the expense of other written documents that may have supported his cause. He also accuses Spear of dismissing oral traditions of other groups that did not favour the Singwaya tradition, and thus he accused Spear of selective bias. Allen further criticised Spear for ignoring oral traditions and linguistic evidence that placed the Segeju in Singwaya, and that which related the Bajuni and the Segeju with the Rendile (a Cushitic group), contrary

to Spear's assertion that the Segeju were never in Singwaya<sup>29</sup> and that the Bajuni were a product of the Mijikenda migration.

Allen *et al.* also caution about the dangers of accepting myths in their entirety as they were at times used to fulfil certain social needs (i.e. claim relations), which may change from time to time. He was also wary of the true existence of Singwaya. As a postscript in their article, Allen *et al.* mention that Mutoro of the archaeological section of the History Department of the University of Nairobi had collected crucial preliminary evidence that suggested that the *kayas* at the Kenyan Coast had been occupied much earlier than the migration from Singwaya that Spear talked of. However, in a publication later in 1987, Mutoro maintained the Singwaya tradition. It is also worth noting that another renowned Kenyan historian, William Ochieng' (1989), also supports the Singwaya traditions.

Pouwels (2001) equally questions the Shungwaya origin and asserts that the version presented by Spear, although appealing and simple and easy to follow by non-specialists, lacks concrete documentary evidence to support the Shungwaya tradition. He argues that the fact that the nine groups come from the Savanna Bantu group is not enough concrete evidence of a common origin. He also maintains that existing archaeological evidence that Spear provided in his 2000 article "Early Swahili History Reconsidered", which related to Kwale pottery, was insufficient to describe early resettlement pattern at the Coast.

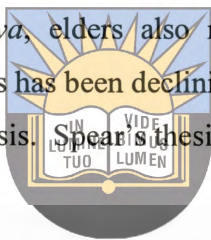
The question that crosses one's mind is why, if their origins are indeed different, do the nine groups to date continue to lay claim to Shungwaya in their oral tradition. Spear (2000) argues that the Shungwaya tradition makes sense linguistically, but admits that archaeological and documentary evidence still need to be collected to support the tradition. Spear (*ibid.*:287) argues that "this lack of congruence between archaeological data and the traditions has led many to dismiss the Shungwaya traditions as inventions, but that fails to take account of the linguistic data and possibly fails to appreciate the deeper meanings of the tradition". And indeed, it is this deeper meaning that we are interested in—one that makes these people consider themselves as one.

Helm (2004) contests the lineal origin and migration of the Mijikenda as articulated by Spear, suggesting that since there was certain archaeological evidence found along the coast of

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<sup>29</sup> Spear however corrected this in his later writings, and in fact accused Allen of not acknowledging that he has continuously revised his own interpretation of the history of the Coast wherever necessary (see Allen *et al.* 1983:484).

Tanzania that questions the veracity of Spear's thesis, a possibility exists that there might be another version to the Mijikenda migratory patterns. While acknowledging that Spear's Singwaya traditions have been supported by other scholars, he argues that there was no archaeological evidence to support the purported migration patterns. Helm contends that the fact that the location of Singwaya itself has also not been located was enough to question its authenticity, leading him to suggest that Singwaya was "never a single settlement or town. Rather it seems to have been a region made up of several settlement localities, the extent of which must have incorporated a multiplicity of ethno-linguistic communities who were both socially and economically interconnected" (ibid.:67). Helm suggests that the Mijikenda could possibly have had several origins and/or migratory patterns, and that the idea of nine *kayas* was used to legitimise the political unity among the nine groups. He also asserts that "by reinforcing the historical role of *kaya*, elders also reinforced their own claims to historical power" (ibid.:73), which he claims has been declining. Unfortunately, like Pouwels before him, he offers no alternative hypothesis. Spear's thesis therefore still remains the most viable.



In response to the criticisms of Allen *et al.* Spear (see Spear's response appended to Allen *et al.*, 1983) questions Allen *et al.*'s methodological historical analysis, charging that he (Allen) dismisses vital sources of history such as oral tradition, and historical ethnography, and as such he would leave his own work, 'the *kaya* complex', to stand on its own merit (see also Spear, 1977 in which he describes the traditional and linguistic evidence that he used to come up with his thesis regarding the Singwaya origin). It appears that the arguments advanced by Allen and Helm follow in the 'binary' tradition in which there must be an opposite to something. However, both researchers failed to offer this opposite view and therefore their criticisms do not offer much alternative.

What is evident, however, is that whereas there may be concerns about the whereabouts of Singwaya, and other concerns about the Mijikenda migration given the existence of some 'conflicting' archaeological evidence, no satisfactory alternative hypothesis has been suggested, at least not by the three critics reviewed. What is evident is that the nine cultural groups that form the Mijikenda are united in their belief about their common ancestry, be it from fact or myth. Their construction of their 'oneness' is evident in their *kaya* tradition, and this belief in their 'oneness' is therefore what matters. Indeed while in the field the researcher asked his Mijikenda respondents why they felt that they were one and the answer was an unequivocal "because we all came from Shungwaya and built *kayas*".

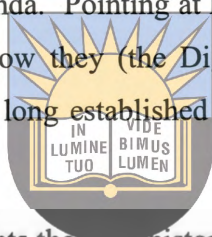
Apart from the dominant groups of the Digo and the Duruma (who are part of the Mijikenda group as has just been described), the other indigenous inhabitants, though much smaller in population, are the Segeju and the Kamba. The Segeju also trace their origins to Singwaya. In the second half of the 17<sup>th</sup> century, the Segeju were among the Singwaya group attacked by the Galla, and they fled in three different directions. One group fled to Lamu Islands, where they intermarried with the local people and gave rise to the Bajun (at times referred to as the Bajuni) and Tikuu people. The second group fled to Mwangea Hills in Coastal Kenya, while the third fled all the way to Northern Tanzania (Spear, 1978). The Segeju who settled in Kenya never built a *kaya* but lived in scattered homesteads (Mutoro, 1987b); this would probably account for the reason that they were left out of the *kaya* complex.

The other group found in Kwale are the Kamba, who form about an eighth of the population. The Akamba (or Kamba) are not 'indigenous' to the area. Their presence in the Kenyan Coast can be traced back to their involvement in the long distance trade that characterised the 18<sup>th</sup> and 19<sup>th</sup> centuries. The Akamba were long distance traders, trading from the interior hinterland of Kitui (located some 80 km east of the coast) to the coast of Kenya where they traded with the Mijikenda who acted as middlemen to the Akamba on one side, and to the Swahili and Arabs of the coast on the other (Mutoro, 1987b). Spear (1978) states that as they did elsewhere where they traded, the Kamba who came to the coast established settlements the coast as early as 1836. Many such settlements were around *kaya* Giriama, as the Giriama were their major trading partners. Here they settled among their blood-brothers in Jimba and Kawala, situated west of Rabai and in parts of Duruma. We have already seen how the Kambas who settled in Duruma became part of the Mijikenda.

In the earlier years of the 19<sup>th</sup> century, the Mijikenda played a big part in the East Africa slave trade, where they accepted slaves in exchange for cattle and used these slaves for agricultural labour. They also sold slaves to the Galla in exchange for cattle. These cattle were then bartered for ivory from the Kamba. Many Kamba men, who had by then established trading posts at the coast, on realising that their women were increasingly getting married to the Duruma men also married into the Mijikenda matrilineal system (Spear, 1978). These were the Kamba who became part of the Mijikenda. From their trading posts in Mariakani, the other Kambas spread to occupy present day Puma, Ndavaya, Kilambole and Mwangulu/Mwebeni in present day Kwale District. The Akamba population was further fortified when an estimated 52,000 were settled in Shimba Hills under one of the several resettlement schemes pursued by the government at the Coast which aimed at providing land

to landless Kenyans whose land had been lost during the colonial era (Mutoro, 1987a). Some beneficiaries of this resettlement programme, or their children, are now victims of the titanium mining-related displacement.

The above historical sketch is important as it establishes the long association that the people of Kwale have had with their present environment, and among themselves. It also demonstrates that the various people living in Kwale have very close relations, relations that the titanium project now threatens to pull apart. This is particularly important because when people are displaced, they have to settle in other areas where they became 'strangers'. Indeed there was such an instance where while in the course of the researcher's field studies, a Duruma man bitterly complained that he was now being referred to as a 'stranger' by the resident Digo, while they were both Mijikenda. Pointing at his Kamba friend with whom he had been displaced, he wondered aloud how they (the Digo) referred to him. This was despite the realisation that the Kamba had long established relations with the Mijikenda as reviewed above.



The outlined migration pattern also highlights the long historical relationship that the Kamba have had with the Mijikenda, which the present crisis threatens to break. Readers will recall the reference earlier made to Mijikenda *kaya* elders who were said to have cursed the titanium project which was counteracted by the Kamba medicine men who set out to undo the curse. In some instances while in the field, the researcher received comments from the Mijikenda expressing the view that the Kamba were more willing to vacate the land than they (the Mijikenda) were because they were not the original owners of the land, and therefore bore little responsibility over it; a charge that was disputed by the Kamba, who countered by narrating their long historical attachment to the land. In fact, many pointed to the graves of their grandfathers on the land as a sign of their commitment to the land. One resident said that if asked to go back to Ukambani (their 'ancestral' land), he would not know where to begin from. They were categorical that Kwale was their ancestral land! But where did the Kamba originally come from?

There are three contesting theories on this. The first suggests that the Kamba also migrated from Singwaya at the same time that the Mijikenda and other groups were dispersing from this area (Munro, 1967; Allen *et al.*, 1983). This suggestion is based on the oral traditions of the Meru, who are culturally close to the Kambas, and who support the Singwaya origin, and from whom evidence of their existence in Singwaya have been found. The other evidence

cited is that it is generally agreed that at least one of the Kamba group, the Mumoni, migrated from Giriama country at the coast, crossing the Athi River to settle in present day Ukambani (Hobley, 1971; Zeleza, 1995). What this shows is that the Kamba are in one way or another related to the Mijikenda, or that attempts at establishing relations have been made, especially by citing the Singwaya origin.

The second theory advanced is that, as members of the Niger-Congo Bantu family, the Kamba probably migrated from the Congo basin during the general migration from this area by this Central Bantu group (Mwakikagile, 2010). The most favoured theory as supported by Munro (1967), Hobley (1971) and Mwakikagile (2010) is that they migrated from Northern Tanzania (probably having migrated from the Congo basin?) around or south of Mt. Kilimanjaro. Mwakikagile pinpoints the migration site to be modern day Western Tanzania, around the area occupied by the Nyamwezi. He also points out that other scholars argue that the Kamba are a product of many ethnic groups who intermarried and ended up creating a new ethnic group, and it is this group that migrated from Tanzania. Whatever the case may be, it is generally agreed that they migrated from Giriama in the late 16<sup>th</sup> century, and first settled in Chyulu Hills, but due to drought, moved to Kibwezi and later to Mbooni Hills<sup>30</sup> where they found dense forest and large herds of buffalo to sustain them (Zeleza, 1995).

Population expansion later forced them to migrate to Kitui and later still to spill over to neighbouring Machakos District. It is from here, and as a further response to famine and drought, that they engaged in long distance trade and eventually found their way to and settled at the Coastal region of Kenya. Through this trade, they established strong friendships with the Mijikenda, which was reinforced through blood brotherhood and marriage. From the Mijikenda migration tradition, it should also be noted that the Kamba were one of the three groups that formed the Duruma sub-tribe of the Mijikenda. There is no doubt therefore that the Kamba and the Mijikenda have had close relations for a long time. The other group found here, although in very small numbers, are the Shirazi, who also claim their origin to Shungwaya (Spear, 2000). However, they do not form part of the Mijikenda.

A brief mention of the modern history of the Kwale community would be appropriate at this juncture. The establishment of the *kayas* and their abandonment marked the first and second stage of the history of these people. The third stage is marked by the arrival of Christian missionaries and representatives of the Imperial British East African Company, while the

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<sup>30</sup> Steinhart (2000:336) refers to Mbooni Hills as the original homeland of the Akamba.

final stage marks the beginning of colonial rule in Kenya (Mutoro, 1987a). We have already examined the first two stages. Mutoro (1987a:13) argues that the Arabs and the Swahili, though being the first outside influence to penetrate the Mijikenda region, had little impact on the Mijikenda institutions. Neither did the next group, the European Christian missionaries, who arrived in 1846, and who the Mijikenda viewed as racist land-grabbers and profiteers and with whom they therefore generally avoided contact. In fact, Ng'weno (1997) asserts that many of the Mijikenda converted to Islam as a protest against these missionaries (and later as a protest against the British colonialists).

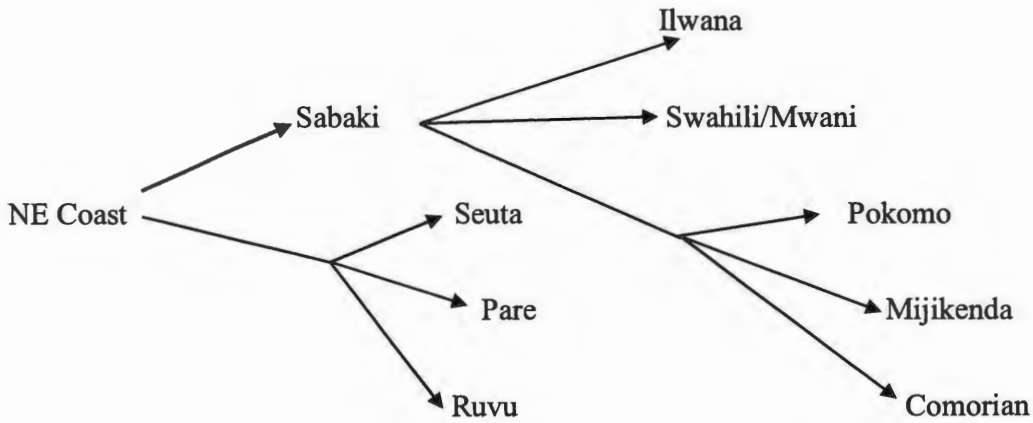
The British East African Company similarly had little impact on the Mijikenda institutions as their only interest was to establish the port of Mombasa to receive trading caravans from the hinterland. In 1895, the British government declared the Coast a British Colony and Protectorate, but since by now the Mijikenda economy had considerably dwindled, it did not attract British interest (Mutoro, 1987a:13). Mutoro and Ng'weno thus appear to suggest that the Kwale community's social way of life seems not to have undergone rapid social change in the face of the visit from Arab, Swahili, and European missionaries. This would thus have a bearing on the way they related with the environment, for the reason that their culture appears to have not undergone rapid or ~~rapid~~ social change.

### **6.3 The social organisation of the Mijikenda and the Kamba communities**

The two dominant groups in the proposed mining area are the Mijikenda (comprising mostly the Digo and the Duruma) and the Kamba (Coastal and Environmental Services, 2005a), and as such, this study will present the social organisation of these dominant groups. This will act as a pointer to the make-up of the socio-cultural profile that one would expect to find in Kwale.

#### **6.3.1 The Mijikenda**

The Mijikenda belong to the Sabaki sub-group of the Northeast Coast Bantu language group, otherwise also referred to as the Savanna Bantu, as illustrated in Figure 6.1. The Mijikenda are closely related to the Pokomo, who also claim Singwaya origins, and to the Swahili, with whom they share many cultural idioms, including the Swahili language which today has almost been adopted as the alternative language to the various nine *kaya* languages. The Mijikenda are composed of patrilineal and matrilineal clans. The Mijikenda patrilineal clans and subclans are illustrated in Table 6.1.



**Figure 6.1: North East Coast(NE)/Savanna Bantu Language Group** (Source: Spear, 2000:271)



<b>TABLE 6.1: MIJIKENDA PATRILINEAL CLANS AND SUB-CLANS</b>						
<b>MIJIKENDA GROUPS</b>	<i>Together in Excellence</i> <b>CLANS AND SUB-CLANS</b>					
<b>GIRIAMA</b>	<b><u>Kiza</u></b> <i>Fondo</i> <i>Iha</i> <i>Wale</i> <i>Hindzano</i>	<b><u>Milalani</u></b> <i>Kombe</i> <i>Ngari</i> <i>Kiringi</i> <i>Dundu</i> <i>Ndundi</i>	<b><u>Milulu</u></b> <i>Mboro</i> <i>Mbogo</i> <i>Shungu</i>	<b><u>Parwa</u></b> <i>Nguma</i> <i>Gondo</i> <i>Kiwe</i>	<b><u>Maganioni</u></b> <i>Ngowa</i> <i>Ziro</i> <i>Ngore</i> <i>Kiti</i>	<b><u>Kidzini</u></b> <i>Mkweha</i> <i>Baya Mwaro</i> <i>Baya Gunga</i> <i>Mweni</i> <i>Toya</i> <i>Nzaro</i> <i>Mkare</i>
<b>CHONYI</b>	<b><u>Mongwe</u></b> <i>Chakwe</i> <i>Buta</i> <i>Mwari</i> <i>Komola</i>	<b><u>Dzakaa</u></b> <i>Kiti</i> <i>Toya</i> <i>Rome</i> <i>Titi</i>	<b><u>Borani</u></b> <i>Gambo</i> <i>Chidziga</i> <i>Ngata</i> <i>Rumba</i>	<b><u>Remere</u></b> <i>Kombe</i> <i>Dzuya</i> <i>Komola</i>		
<b>JIBANA</b>	<b><u>Mongwe</u></b> <i>Gongo</i> <i>Rumba</i> <i>Kaha</i> <i>Ndaza</i> <i>Mkare</i>	<b><u>Dzakaa</u></b> <i>Yura</i> <i>Ngujo</i> <i>Mwinga</i> <i>Tija</i>	<b><u>Remere</u></b> <i>Gunga</i> <i>Chigomeni</i> <i>Rumbi</i> <i>Hanjari</i> <i>Madindi</i>	<b><u>Vumbi</u></b> <i>Gongo</i>		
<b>KAUMA</b>	<b><u>Mongwe</u></b> <i>Ngua</i> <i>Maya</i> <i>Nyoka</i> <i>Koba</i>	<b><u>Dzakaa</u></b> <i>Rome</i> <i>Makogo</i> <i>Mbura</i>	<b><u>Dzunza</u></b> <i>Kere</i> <i>Raju</i> <i>Chizango</i> <i>Kaiwe</i>	<b><u>Mvitsa</u></b> <i>Ngala</i> <i>Fondo</i> <i>Chipa</i> <i>Kubo</i>	<b><u>Ndarare</u></b> <i>Jefwa Tune</i> <i>Fondo</i> <i>Ndezi</i> <i>Kakuru</i>	

			<i>Abwede</i>	<i>Dzala</i>			
KAMBE	<b><u>Mongwe</u></b> <i>Mumba</i> <i>Matsuma</i> <i>Taka</i> <i>Lenga</i> <i>Chondo</i>	<b><u>Dzaka</u></b> <i>Lenga</i> <i>Dzua</i>	<b><u>Dzunza</u></b> <i>Rua</i> <i>Dena</i> <i>Banza</i> <i>Chitsere</i> <i>Toya</i>	<b><u>Kwareni</u></b> <i>Mumba</i> <i>Nguzo</i> <i>Chea</i> <i>Kuriwa</i> <i>Ng'ombe</i>	<b><u>Kalonzo</u></b> <i>Ringa</i> <i>Rome</i> <i>Mturi</i> <i>Mjaza</i> <i>Tere</i>		
RIBE	<b><u>Dzombo</u></b> <i>Kivatsi</i> <i>Kizango</i> <i>Kere</i> <i>Dzombo</i>	<b><u>Mbura</u></b> <i>Mbura</i> <i>Ngiri</i>	<b><u>Vidima</u></b> <i>Vidima</i> <i>Maya</i> <i>Vako</i>	<b><u>Mvitsa</u></b> <i>Mriri</i> <i>Mvitsa</i>			
RABAI	<b><u>Mwezi</u></b> <i>Joha-</i> <i>Dzuya</i> <i>Mumba</i> <i>Tsui</i> <i>Moni</i>	<b><u>Gambani</u></b> <i>Mtukuyu</i> <i>Wesa</i> <i>Daha</i> <i>Mganga</i>	<b><u>Yombo</u></b> <i>Mruu</i> <i>Tiga</i> <i>Munga</i> <i>Kariaka</i>	<b><u>Mvitsa</u></b> <i>Goma</i> <i>Tuttu</i> <i>Kavyo</i>			
DURUMA	<b><u>Mwezi</u></b> <i>Dzime</i> <i>Kai</i> <i>Yawa</i> <i>Kinkodza</i> <i>Mundu</i> <i>Tsangari</i> <i>Vande</i>	<b><u>Mrima</u></b> <i>Nyota</i> <i>Laire</i> <i>Mkala</i> <i>Beja</i> <i>Chenda</i> <i>Lukuta</i> <i>Chanda</i>					



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Source: Spear (1978:52-53)

A quick look at the clan and sub-clan names shows that some clans (such as Mongwe, Remere, Mvitsa, Dzunza and Dzakaa) and some sub-clans (such as Toya, Lenga, Fondo, Kiti and Mumba) are shared among the various Mijikenda groups, signifying the closeness of these various groups. The same is observed of the matrilineal clans listed in Table 6.2, where various subclans such as Kuva, Tsongo, Kulo, Mbua, Virizi, Chombo are shared among the Raba and Duruma and Digo, signifying their closeness (note that the clan name slightly changes when it comes to the Digo, e.g. Chombo in Duruma and Kombo in Digo; Tsongo in Duruma and Tsyongo in Digo; Virizi in Duruma and Vurize in Digo).

Being the largest group among the Mijikenda, and due to its matrilineal nature, the Digo has the largest number of clans but with no sub-clans. It was this tendency that made the Kamba initially hesitant to marry into these clans as this meant that one had to now live in his father-in-law's compound; but in the end, they did marry into these clans. This could be due to their

adaptive nature. As Oliver (1965) argues, the Kamba culture allows for much flexibility among its members. Apart from a council of elders, known as the *nzama*, which resolved domestic cases, the Kamba had no leaders. Their culture provided generous allowance for personal freedom (Steinhart, 2000; Oliver, 1965). Gomm (1972) and Parkin (1989), however, argue that the Mijikenda traditional matrilineal marriages are slowly phasing out due to social changes such as conversion to Islam (which favours patrilineal societies).

Among the Mijikenda in general, the homestead is the main co-operative social group. The head of the household held all the land and allocated its use and determined its inheritance, which was through the sons (Spear, 1978). Clan importance was based on its role during the migration from Singwaya, and hence Digo clans occupy the highest hierarchy. The Rabai and the Duruma (whose history denies a Singwaya origin) practised a unilineal system, while the Digo's is purely matrilineal. Mijikenda culture allows for polygynous marriages. A good number of the Mijikenda have taken up Islam, a result of close contact with the Arabs and as a resistance to European colonialism and evangelism (Ng'weno, 1997:64-68). And again Islam was attractive because it accommodated patrilineal and patrilineal social organisation.

Among the Mijikenda, the Digo warmly welcomed Islam and many are now converts (Ng'weno, 1997). Ng'weno argues that this conversion complicated the system of land inheritance among the Digo, since Islam advocated for a patrilineal system which contradicted Digo's matrilineal system. Many converts were caught at the crossroads on whether to adhere to tradition or follow Islamic teachings. As a result, land squabbles over inheritance became common, culminating in the famous 1927 *Ganyuma vs. Mohamed* case. The matter before the court was whether the estate of a deceased member of a Digo tribe, who was a Muslim, descends in accordance with Digo traditions/culture (matrilineal) or in accordance with Mohommedan law (patrilineal)—the Supreme Court of Kenya resolved that Islamic law applied; this case is used in varying instances to decide such cases. This case continues to elicit varying views to date (Ng'weno, 1997:74).

But even with conversion to Islam, the Mijikenda love their traditional cultures and revere their traditional religion which they blend with either Islam or Christianity. The Mijikenda believe in many gods and some families still keep idols to be worshipped in the house while they continue to attend the mosques and churches. Offering of sacrifices to ancestors whenever there is misfortune is a common occurrence. Accidents and disasters are often explained using the supernatural, and it is believed that angry ancestors and gods can cause

limitless havoc in society. It is also believed that ancestors at times feel lonely and cold, and in such cases, they visit their kin and folk through dreams and visions. Whenever an ancestor appears, he has to be appeased (Amuka, 1987:22).

<b>MIJIKENDA GROUPS</b>	<b>CLANS</b>
<b>RABAI</b>	Kuva Tsonga Kulo Mbua Umbetsa Meiwe Pagala Mele Mehutu Mehau Nyani
<b>DURUMA</b>	Kuva Tsongo Kulo Mbua Tsongo Ngamba Nyari Dzivana Virizi Dia Mwaka Kabu Kumbi Mapingu Ngome Nguvu Chombo Mahija Mahija Mbodze Goro Nikabu Mika Mbito Dzame Mtongoro
<b>DIGO</b>	Kinyavu Nyiro Ngului Tsyongo Ngomba Nyari Dzivana Ngomi Birini Koni Kunduchi Mangaru Banja Kalanywa Lela Kombo Mbugu Njemi Gemani Saburi Goa Goso Mwanwepere Tseruka Tsemba Utsyi Mtware Kuriya Tsyanzi Lago Rufu Kuva Bikanji Tsyuaka Gongo Nzeza Manji Kamola Dadu Tsyui Bwende Tewe Boza Letsa Ljeja Mele Tsyombo Tsyenyi Langwi Aswirani Vurize Dzirive Dabara Mwamtyome Hanyu Mbele Vuno Nzira

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Source: Spear (1978:52-53)

A system of cross-cousinage and sub-clan endogamy ensures that intermarriages do not occur. The community operates through a system of age-sets, where men of senior age-sets (*rika*) exercise the main political and religious roles and provide leadership. The council of *kaya* elders is the most revered and exercises a great deal of authority. Initiation, through circumcision, was done in order of their migration from Singwaya, hence the Digo are usually the first. A *rika* is an age-set encompassing two generations (after approximately 50 years interval), with sub-*rikas* of four years interval. The Mijikenda has four secret societies, the *habasi*, *kinyenze* (these two are open to any Mijikenda who can afford the fees), the *gohu* (open to the wealthy) and *vaya* (whose membership was heavily restricted, powerful in religious, esoteric and many socio-political matters). Members of these associations are generally buried in the *kayas* upon their death (Spear, 1978).

The Mijikenda practise mixed farming, keeping cattle and growing crops such as maize, sorgum, finger millet, cassava, sweet potatoes, beans and so on. They also carry out pot-making, iron smelting, salt collecting and making of handicraft (Mutoro, 1987c).

### 6.3.2 The Kamba

The Kamba belong to the North Eastern Central Bantu language group, which they share with the Kikuyu, Meru, Embu, Mbeere, Chuka, Mwimbi, and Tharaka among others. As mentioned earlier, the Kamba culture allowed for much personal freedom and because of this, they easily adapt to their physical and social environment (see Oliver, 1965:423, who terms their culture ‘elastic’). This ‘elastic’ culture facilitated their successful resettlement at the Kenyan Coast. Most of the Kamba settled in Ulu when they first migrated into present day Kitui. The original clans and sub-clans are illustrated in Table 6.3.

It is notable that many of the elderly displaced Kamba at Kwale could still trace their lineage to these original clans. The Kamba, unlike the Digo of the Mijikenda, are patrilineal. They practice polygamy, where the man can marry many wives, and in cases where the wife cannot bear children, the wife then is permitted to marry wives who then bear her “ghost children” through her husband. For all intents and purposes, these children are considered as her own children. The Kamba practise mixed agriculture, and are also renowned for bee-keeping and hunting.

**Table 6.3: Kamba original clans and sub-clans**

ORIGINAL CLANS	BRANCHES	SUBCLANS
Mu-tui	1. Mwa-ithangwa 2. Mu-sii 3. Mu-mui	} 1. Mu-kitondo, Mu-moini, mumoni
Mwi-thanga	1. Mu-eombi 2. Mwi-vai	NONE
Mu-nzaoni	1. Mu-ini 2. Mu-wanzio	NONE
Mu-mutei	1. Mw-iwani	NONE
Mu-muti	1. Mu-munda	NONE

Mu-kimei	1. Mu-kua	NONE
Mu-moi	NONE	NONE
Mu-mwei	1. Mu-muin 2. Mu-kitemei	NONE

Source: Hobley (1971:4)

As mentioned early, the Kamba are also renowned in Kenya for their black magic, which is reputed to rival only that of the Digo in Kenya, with whom they share close ties dating back several decades. In fact in one of the District profile reports (GoK, 1987:3) that the researcher read, is the fear of witchcraft was cited as one of the notable problems in the region. There is general fear of witchcraft, which is said to deter development. In fact when one visits the towns of Kwale, Ukunda, Msambweni or Mrimi-Bwiti, it is common to see signboards pinned on trees claiming cures for all manner of ailments, from HIV/AIDS, to madness, to find a spouse, to tame rogue husbands, to cure diabetes, to find lost persons, to provide love potions, to resolve relationship disputes etc. (see Plate 6-1) such signage, nailed on trees, are common in Kwale).



Abuya, 2009

**Plates 6-1: Common signage in Kwale (entitled “medicine man”, promising assistance in finding lost relatives, administration of love potions, offer of charms to settle marital problems, among others)**



Abuya, 2009

**Plates 6-2: Common signage in Kwale (promising assistance in relationship problems, fertility problems, career problems, provision of good luck charms, guard home against witchcraft, and finding lost relatives)**



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The Kwale community is now rapidly changing. Because of the tourism trade, many youngsters are dropping out of school and finding refuge in the urban centres such as Ukunda in the South Coast or in Kikambala area in the North Coast. They engage in the tourism trade as beach-boys or beach-girls (who provide company to ‘single’ tourists). Many beach boys/girls, and indeed one of my respondents was one, have been ‘successful’ in this trade such that they now own and run middle-size businesses such as small lodging hotels or shops, while others have had the ‘good’ fortune to travel to Europe with their suitors.

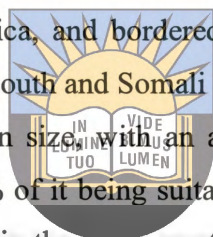
Such ‘success’ stories have only encouraged many more youngsters to abandon the village life and plunge themselves into the tourist trade. In fact, the current area Member of Parliament (at the time the field research was undertaken) was a former beach boy and many youngsters cited him as a role model. Others, on the other hand, have either resorted to prostitution or have been recruited into the illegal drugs trade that is very prevalent in the region. As a result of this, HIV/AIDS has continued to fester.

This was the socio-cultural setting in which the researcher found himself in Kwale when he arrived for his field research. He met a group of people, challenged by social problems such

as HIV/AIDS, prostitution and drugs among others; a people closely connected through history and marriage, but whose relations were now threatened by the Titanium project on allegations that the ‘settlers’ were more ready to give up their land than the original owners of the land; a people fear witchcraft; a people who are poor and living almost in abject poverty; a people lacking in basic necessities such as water, electricity and roads; a people literally hanging on to life, with land offering the most stable and at times the only source of livelihood for most families. The next section explores the “land question” in this region and acts as a prelude to Chapter Seven which examines the compensation practices in the titanium mining industry.

#### 6.4 The “Land Question” in Coast Province

Kenya, situated in the eastern part of Africa, and bordered by Sudan and Ethiopia to the north, Uganda in the west, Tanzania in the south and Somali and the Indian Ocean in the east, is described as being as large as France in size, with an area of around 582,600 km<sup>2</sup>, or 225,000 square miles, with only about 14% of it being suitable for agriculture and intensive grazing. Its high potential areas are found in the south-western corner of the country and at the Coastal Province (Lonsdale, 1989). The Coastal land question can be best understood in the context of the entire land question in Kenya.



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To better understand the land question in Kenya, one has to divide it into two eras: the colonial era and the post-colonial era. These eras will be examined in Sections 6.4.1 and 6.4.2 respectively. Some scholars, such as Yahya and Swazuri (2007) however, go further back and trace the land question to the 8<sup>th</sup> and 9<sup>th</sup> centuries with the arrival of the Persians and Omani Arabs who arrived at the Kenyan coast for purposes other than just to trade, such as to spread Islam and to settle), and in the event, annexed some land.

The next to arrive were the Portuguese who annexed and added this region as a colony to their growing empire. They were, however, overthrown by the Omanis in the 19<sup>th</sup> century, but by then, they had “destroyed or dismantled many of the Swahili principalities and city states which they had found on arrival” (Yahya and Swazuri, 2007:8). In other words, they had to some extent disrupted the social and political organisation of the Coastal people, and this included the land tenure system, which had previously been communal in nature, but the tendency towards private ownership had begun to show. In 1886, the British arrived at the Kenyan Coast with the intention of conquering and ruling these territories. The following section considers the arrival of the British.

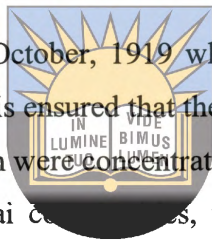
### 6.4.1 The colonial era

Kilson (1955:109) suggests that the “Kenya land question” can be traced to 1886 when the British took control of Kenya. Towards this end, the British granted the Imperial British East Africa Company a Royal Charter in 1888 with authority to stake territorial claims. This company then proceeded to takeover ‘unoccupied’ land and allocated such land to European settlers. But on 1<sup>st</sup> July, 1895, the British declared Kenya a protectorate and effectively brought it under its control (Ogot, 1974:255). Ogot argues that the decision to declare the protectorate, covering the area between Mombasa and the Rift Valley, had more to do with the intent to secure the back yard of the trading island of Zanzibar than the desire to colonise this region.

Having acquired the Protectorate, the British enacted regulations in 1897 to guide land alienation to settlers, but with a safeguard to protect land occupied by Africans. But with the increasing number of white settlers, and to facilitate land alienation to the migrating settlers, the East African Order in Council of 1902 was enacted which granted the Commissioner (the British colonial government representative in Kenya) full authority over land alienation except for those under ‘effective occupation’ by Africans (Kilson, 1955:111). Kilson argues that the inadequacy of the term ‘effective occupation’ led to the alienation of large chunks of African land to settlers. In 1905, the East African Protectorate, as Kenya was then known, was transferred to the Colonial Office from the British Foreign Office, placed under the charge of a Governor, and with this change, the white settlers hoped they would now be able to acquire land more easily in this new colony (Zezeza, 1989). They were not to be disappointed.

The Crown Lands Ordinance of 1915 sealed the fate of Africans as it nullified Africans’ legal rights to land for it held that the British government was the owner of all land not held under title, whether occupied or not (Kilson, 1955). This consolidated all land in Kenya under the authority of the Governor who could alienate it at will. As Ogot (1974:260) argues, this Ordinance facilitated the arrival of immigrants from Britain, Australia, and New Zealand into Kenya, ready to transform it into another Australia; and later immigrants from the Transvaal, eager to turn Kenya into another South Africa. Even more interesting were suggestions around 1921 urging that Kenya be turned into another India, by having it administered by the British through Indian rule in much the same manner as South Africa was being administered under the Dutchmen. The British Colonial Office, however, rejected these proposals.

With increasing immigration, land alienation to settlers continued and the introduction of the soldier settlement scheme by Governor Major-General Sir Edward Northey (of the Northey Circular fame—to be shortly reviewed), a veteran of the 1914–18 war, intensified this settlement. However, the gazetting of African reserves in 1926 temporarily stemmed this alienation. But since the Secretary of State could still grant local governments authority to alienate such land, land encroachment by the British on land belonging to the Maasai, Kikuyu, Kamba, Kavirondos (people living around Lake Victoria) and the Nandi people continued. The first lands to be alienated were what later came to be known as the White Highlands, which was land lying north-east of Nairobi, and which was gazetted in 1939. The effect of this alienation was the dispersal of thousands of Kikuyu throughout Kenya as they sought for alternative sources of livelihood (Kilson, 1955:117-127).



Then came the Northey Circular of 23<sup>rd</sup> October, 1919 whose intention was to ‘induce’<sup>31</sup> African labour to serve on white farms. This ensured that the displaced found refuge in white farms spread all over Kenya, many of which were concentrated in the Rift Valley and situated on land taken from the Nandi and Maasai communities, while others were consigned to African reserves (Kilson, 1955). Zeleza (1989:35-69) argues that in the early years of the colonial rule, the Maasai lost more than a third of their vast land to the British. In 1904, the Maasai were moved out of large tracts of the Rift Valley and onto the Laikipia plateau. Later in 1911, they were moved out of the Laikipia settlement and herded into the semi-arid land far south of the Uganda Railway. The Masaai were further weakened through restriction of their movement by the 1917 cattle restriction that separated their stock from that of the settlers. The pastoralist Nandi and the Kipsigis also lost their best pastures in the Rift Valley to European settlers and were forced to adopt agriculture as a way of life.

After the conquest, a policy of separate development was adopted by the colonial office, which exacerbated the land question, as more and more land was alienated for white settlement with Africans squeezed into unproductive areas. This led to revolts by Africans culminating in the Mau Mau rebellion and the declaration of the state of emergency in 1952 (Ogot, 1974). Among the major grievances aired by the Africans was the unequal division of land between the Europeans and the Africans.

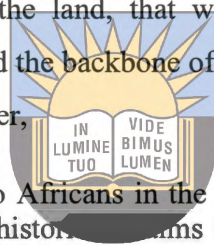
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<sup>31</sup> In reality Africans were forced to work. Forced labour for Africans was officially declared during the period of the 2<sup>nd</sup> world war (Ogot, 1974).

Francis and Williams (1993) observe that in order to solve this land question, the British chose to avoid it—they did this by introducing the Swynnerton Plan in 1954 which involved increasing African commodity production through the loosening of restrictions on African cultivation of high-value commodities such as coffee, tea, pyrethrum and dairy products and through introduction of credit facilities and titling, but without distribution or accumulation of land by Africans. But this did little to assuage land agitation by Africans. The colonialists then came up with another strategy: land resettlement.

This involved the intact transfer of a large proportion of European mixed farms to African owners and the division of the remainder in settlement schemes, as a means of reducing land conflict. Some of the land was divided into smaller holdings in order to satisfy land demands by land-hungry Kenyans. The bulk of the land, that which was considered crucial in advancement of agriculture, then considered the backbone of the economy, was to be retained (see also Haberson, 1971:239-249). However,

lands transferred from Europeans to Africans in the former white highlands, were not based on the conflicting historical claims of communities to have occupied the land, cultivated it, or used it for grazing in the past. (Francis and Williams, 1993:391)



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The above disregard to historical land claims did little to stem the agitation for land restitution, and Kenya attained its independence on 12<sup>th</sup> December, 1963 with this baggage on its shoulders. With independence, many land-hungry Kenyans looked forward to the return of their land; but they were soon to be disappointed, as will be discussed in Section 6.4.2.

Kanyinga (2000) summarizes the period between the colonial conquest and attainment of independence as the period within which the colonial power imposed three distinct and interrelated processes that shaped the Kenyan land question. He observes that the first process, from which others follow, involved the alienation and acquisition of land as a prelude to the establishment of a colonial state. The second was the imposition of English law and acclamation of title and property rights in the alienated areas, while the third was the land tenure reform in the Native Reserves under the Swynnerton Plan, which he says completed the land question.

The “land question” at the Coast of Kenya followed more or less the same pattern as that experienced in the hinterland during the colonial period. Kanyinga (2000) contends, however, that the “land question” at the Coast has a distinct history from that upcountry, as its problems have roots in the pre-colonial era, and as such, he advises that the “land question” in Kenya’s Coastal region should be considered more carefully. Kanyinga argues that the “land question” at the Coast region has its roots on the arrival of Arabs at the Coast, particularly the Yarubi, Busaidy and the Mazrui, a view supported by Yahya and Swazuri (2007). Kanyinga argues that the Arabs and the Swahili settled on the coast of Kenya engaged in and consolidated the slave trade and hence acquired immense influence and took control of land along the coast.

As indicated earlier, it was with the interest of protecting Zanzibar, an island off the coast of Northern Tanzania, that the Coastal region of Kenya was declared a British Protectorate. This Protectorate was to be administered from Zanzibar and the first administrator was Resident Hardinge, who took over from the Imperial British East African company in 1895 (Ogot, 1974). His first major task was to establish British rule over the Protectorate. He was soon to discover that this was not an easy task. First he had to deal with the Mazrui<sup>32</sup> rebellion, who with support from the Gijetta, had successfully attacked Freretown and Malindi town (two small settlement towns along the south coast). With reinforcements from India, Hardinge was able to defeat the rebels. But before he could catch his breath, the Ogaden Somalis in Jubaland revolted, and despite repeated defeats, they fought the British forces continuously till it (Jubaland) was ceded to Italy in 1925. It was after the Mazrui defeat that Hardinge turned his sights to the hinterland. To facilitate the conquest, he constructed the Uganda railway line which was completed in 1901. With this means of communication, Hardinge was able to defeat the Kikuyu, the Maasai and the Nandi in quick succession, and he thereafter alienated their land for white settlement. As we shall see, this had a direct impact on land (re)distribution in Kenya after attainment of independence, an exercise which adversely affected the Coastal Province of Kenya.

Back at the coast, Kanyinga (1998) contends that the “land question” on the coast was formed in tandem with the consolidation of both the slave trade and the Sultan rule at the coast. Having been among the first to conquer and occupy the coast (before being overthrown by the Portuguese whom they later overthrew), the Arabs, through the Sultan of Oman, had

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<sup>32</sup> Very early Arabic settlers in the Kenyan coast.

already created a presence at the coast by the time the British appeared on the scene. The British therefore felt a particular need to pacify the Arabs if they were to be able to effectively take control of the coast, especially since the Germans were also making their presence felt down south in Tanzania. The British (and ironically the Germans as well in competition) awarded the Sultan sovereign rights over a ten mile strip along the coast which came to be known as 'mwambao'. This provision allowed the Sultan's subjects to own private property (for which read 'land') at the coast to the exclusion of the indigenous, mainly Mijikenda, people.

Further, the British promulgated legislation in 1908, the Lands Titles Ordinance, which allowed the colonial office to control land alienation and land grants, which mostly benefited the white settlers and the Swahili, but not the indigenous Mijikenda group. Kanyinga (2000) argues that this legislation had the adverse effect of increasing landlessness and squatting at the Coast and hence contributed to the deepening of the land problem at the Coast. Next, the British created reserves where the local Mijikenda people were 'caged' in. But in the run-up to granting of independence, the Sultan was able to negotiate with the British for retention of the ten mile coastal strip, a treatise to which Kenyatta<sup>33</sup> conceded, and which was included in the independence constitution. This treaty effectively made squatters of the Mijikenda, and turned them into tenants of the Arabs and the Swahili, on the very land which their ancestors once owned, and in which many were now buried.

Yahya and Swazuri (2007:8) argue that:

although the British spent a shorter time as rulers than their Arab predecessors, their legacy had the greatest impact on several aspects, one of which is land ownership. Their lasting impressions on legislation on all aspects of land ownership and distribution are now the rules practiced not only in the Coastal areas but also in the entire country.

#### 6.4.2 The post-colonial era

Many Kenyans anticipated that with independence, large tracks of land would be turned over to land-hungry Kenyans. This was evidenced by the remark made by Bildad Kaggia, a renowned independence fighter, on 5<sup>th</sup> September, 1963:

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<sup>33</sup>Jomo Kenyatta was the leader of the delegation that travelled to the UK for independence negotiation. He was later to become the first president of Kenya, ruling from 1963 to 1978 when he died in office.

Everyone in this country is very well aware of the landhunger that has existed among Africans as a result of the robbery of their land by the British colonial imperialists. The logical method to solve the problem posed by this robbery would have been to nationalise all big estates owned by Europeans and make them either farms, so as to alleviate unemployment, or hand them to cooperatives formed by landless Africans. (Ochieng', 1989:207)

The above statement reflects the disappointment with which independence failed to result in land restitution. The negotiated independence constitution protected private property and the Kenyatta government was intent on maintaining this—hence much land continued to remain in the hands of a few individuals, mainly white settlers. Although the British government provided finance to allow the government to purchase land from willing settlers, through which the government continued to pursue the resettlement scheme (Haberson, 1971), it soon became apparent that the land transfers and resettlement schemes were only benefitting a few.

In the same way that the colonialists distributed land to garner support, so did Kenyatta, who “used former settler land as patronage to solidify his support and build alliances” (Klopp, 1999:16). Although Kenyatta made available more land in 1970 under the resettlement scheme, Haberson (1971:240-250) saw this merely as a cosmetic attempt by the government to reduce the number of land-hungry Africans as most were settled on unproductive land.

Patronage land distribution continued under the reign of President Moi, who took over from Kenyatta in 1978. As had happened during Kenyatta’s time, chunks of land in the Rift Valley were distributed by the Moi government. As Kanyinga (2000) argues, Moi pilfered state corporations to reward and maintain his political support base; this was in spite of the economic downturn that was being experienced. Having exhausted this source, he turned his sights on land, at the Rift valley and at the coast, for distribution to his supporters, in acts Kanyinga calls “grants from above”. For instance, a 279 square kilometre of good fertile land previously owned by British settlers, but which was previously owned by the Nandi community, was bought by a government body, the East African Tanning Extract Company (EATEC), for redistribution to land- hungry Kenyans. But as Kanyinga (1998:13) had earlier argued, the envisaged land reform programme did little to solve the problem of high levels of landlessness as “very little [of this] land was turned over to land hungry peasants.” The locals were informed that they had to purchase the land from the government at current

market value, which of course, they could not afford. Thus Moi and his cronies (mainly of Turgen and Kikuyu origin) purchased the available land through land buying companies.

The Nandi community therefore continued to find themselves squatting on their ancestral land, which had been previously owned by the white settlers and was now owned by Kikuyus and Turgens<sup>34</sup>. Similar schemes were at play in neighbouring Trans Nzoia District in the Rift Valley, where other parcels of formerly white-owned land were sold to government bodies (such as the Agricultural Development Corporation and the Nyayo Tea Zone) which, to the exclusion of the local people, were later sold to highly connected individuals in Moi's government.

Back at the Coastal region, the situation was no different. As already observed, the Sultan of Oman was granted the 90 mile Coastal strip which gained protection under the independence constitution. To stem potential conflict between the Coastal landless on one hand, and upcountry settlers and Arab-Swahili landowners on the other, settlement schemes were established by the Kenyan government. However, it soon turned out that these schemes (like the Magarini and Shimba Hills resettlement schemes) were not specifically set up to address the concerns of the landless Coast people, but were also to accommodate and largely benefit settlers from upcountry (Kanyinga, 1998). Another notable case was the distribution of the Mazrui land. In 1931, the colonial authority had registered 2,716 hectares of land in Kilifi for the benefit of the Mazrui family (these were very early settlers at the Coast and were descendants of the Great Omani Dynasty) and to protect this land, the colonial administration passed the Mazrui Lands Ordinance, which later became the Mazrui Lands Act.

But with independence, in 1989 the Kenyan government repealed this Act, and without compensating the Trust beneficiaries, redistributed the land. Again, only the upcountry settlers known as "Wabara" benefited from this distribution. The post-colonial state worsened the problem by giving grants of land to politicians even in areas already occupied by indigenous Mijikenda groups (Kanyinga, 1998). These acts of land alienation by the white colonialists, and later by black elites, were what became known as "historical injustices". This resulted in increased landlessness of the Mijikenda, a situation that has persisted to date, as Section 6.4.4 below demonstrates.

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<sup>34</sup> The Turgens are part of the larger Kalenjin subtribe of the Highland Nilotes. Although referred to as a single ethnic entity, Kalenjin is a loose collection of several Nilotic groups with their distinct tradition and lifestyle, but all speaking different dialects of the same language. They amassed considerable political power during the leadership of president Moi (1978-2002) (<http://www.blogcatalog.com/blogs/tribes-in-kenya.html>—accessed 7/6/ 2008).

### 6.4.3 Current land problems in Coast Province

The Kenyan government, in its National Land Policy document of 2007 (GoK, 2007) recognises the existence of the “Land Question in Kenya”, and acknowledges that land practices pursued by the colonial government, whose objective was to entrench a dominant settler economy, played a key role in its emergence. The government notes that this problem is particularly troublesome at the Coast Province. The government also attributes this problem to the existence of two sets of seemingly contradictory laws, the customary laws and the statutory laws, most of which are carried over from the colonial era. But what the report does not explain is why the government has, in the last 47 years or so since gaining independence, made little attempt to amend or repeal these offending laws. The present land policy, adopted by the Kenya cabinet in 2007, promises to correct historical injustices that led to indigenous people losing their land. How and when these will be tackled, remains a matter of conjecture, though some little administrative progress has begun. What then is the magnitude of the land problem at the Kenya Coast?



To begin with, Yahya and Swazuri (2007:12) point out that what is interesting at the Coast Province is that the majority of the officially landless people actually live on their ancestral land passed to them by their tribal kinsmen, but that unknown to them, and much to their surprise when they find out, these lands are legally government lands or trust lands, or land in the private hands of “absentee landlords”<sup>35</sup>. The government’s Ministry of Lands’ document entitled “Current status of land in the Coast” provides useful insights into this problem.

To grasp the magnitude of the problem, it reports that about 70,790 families are now settled in settlement schemes all over the Coast (GoK, 2009); most of which, as noted earlier, are believed not to have benefited the indigenous people. It further reports that in line with one of the recommendations in the Kenya National Land Policy document, over 128,900 squatters were identified as follows: Mombasa—51,621, Kwale—24,551, Lamu—3160, Kilifi—26,124, Tana River—1,427 and Malindi—22,017.

It also observed that the problem of Absentee Landlords was a matter of great concern. It is reported that absentee landlords own over 77,753.02 hectares of land, broken down as

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<sup>35</sup> These are owners of land at the Coast, but who do not reside on their land and have little or no improvements on the land since they acquired it. Many of these landlords are persons living in the mainland (derogatorily referred to by the Coastal people as “wabara”—people from the hinterland), and who occasionally appear on the scene to remind the squatters that they are the legal land owners. A number of these owners do not even know the actual site of their plots, having simply acquired the land parcels through political patronage.

follows: Mombasa District—3,301 hectares, Malindi District—234.17 hectares, Kwale District—75,982.4 hectares, Kilifi District—1235.85 hectares, Tana River and Lamu District— unspecified. Absentee Landlords have been accused of retaining land which they have no use for, while indigenous people who are landless continue to squat on these lands.

During the field work, the researcher learnt from the Ministry of Lands that the government was in the process of compiling a list of absentee landlords, with the aim of either asking them to turn over whole or parts of these lands to squatters on their farms, or ensuring that they put the land to productive use. GoK (2009) informs that of the adjudicated lands registered between 1974 and 2002, over 14,000 titles in Kwale remain uncollected. Fieldwork investigation found that the reason for the non-collection of titles was generally because the locals were unable to afford the fee required to enable effective possession of the title deed.

On the other hand, the report mentions that some land was allocated to squatters in the 1990s but this was nullified in 2007 and the whole process is being re-done. The report further notes that the Tumbe Settlement Scheme in Kwale is currently a matter of court, as the locals allege that beneficiaries of this squatter settlement scheme were mainly from outside the region. Meanwhile in Gazi Swahili village Settlement Scheme, it is reported that the Mazrui family was considering relinquishing some of the family land to settle locals. In neighbouring Kilifi/Malindi County, a white settler family was allotted land for agricultural purposes, and with time, were allocated more land because of their success—this dispossessed many indigenous people of their ancestral land. At the time of the field work, it was reported that the settler was willing to let go of some of his land to settle locals.

Another problematic matter in Kwale lies in Msambweni Division, where an unknown number of squatters (some being former employees of the defunct Ramisi Sugar Company that previously owned the land, and others being part of those displaced by the new Kwale International Sugar Company) were occupying part of the 15,000 acres of land formerly belonging to the Ramisi Sugar Company. The government had recommended the settlement of squatters on the land they currently occupy, while the new sugar company would be compensated with land in phase II of the project in Kinondo Division. Tiomin would also be compensated for land lost in this settlement project. Another 980 squatters were identified in the villages of Gonjora, Dzibwage, Kibwage, Fingirika, Nguluku, Maumba, Vumba and Mwakoyo, who had been there before the defunct Ramisi Sugar begun operations.

It is noted that Tiomin was allocated much of the land in Nguluku and Maumba and those displaced were to be resettled in Mrima-Bwiti area in Msambweni Location. It was recommended that those squatters already at Mrima-Bwiti be settled on the land parcels that they currently occupied and Kwale International Sugar Company be compensated. What was surprising was that the land in Msambweni was allocated to both the Ministry of Agriculture (for the Kwale International Sugar Company sugar cane growing project) and to the Ministry of Environment and Natural Resources (for the Tiomin project for Titanium mining)—talk of the left hand not knowing what the right hand is doing!

It was reported that a similar pattern of squatters and resettlement schemes was at play in Lamu District, Faza Island (Lamu East), Kikombe Tele (in Malindi), Ngomeni (Magarani) in Kilifi District (squatters found in Kikambala, Bahari, Chonyi and Vitengeni), in Malindi District (in Jimbe, Chembe, Kibabamshe, in Taita District (Maungu, Wananchi and Jipe), and in Watiki (Likoni, where 50 squatters invaded private land). The Kenyan government prides itself on successfully settling 1,642 squatters in Mwembe Legeza (in Mombasa), 2,000 squatter households in Bububu (Likoni), 39 families in Kilimanjaro (Mombasa), and 67 squatter families in Majaoni (Kilifi) (GOK, 2009). But since the exact number of squatters at the Coastal region is unknown, the success of these resettlement schemes cannot be quantified.

What is evident, though, is that there are hundreds of landless people in this region, and this has come about due to historical injustices and the failure of successive independent governments to correct the situation, mostly attributed to poor governance. The Titanium project is set to only deepen matters.

## 6.5 Conclusion

This chapter tells the history of the Kenyan Coast people which is punctuated with instances of land dispossession: being driven out of Brava by the Swahili, then dispersed from Singwaya by the Galla, before temporarily finding refuge in the forest and building protective enclaves known as *kayas* along the Kenyan Coast. The new group, now known as the Mijikenda, formed alliances among themselves, traded and made further alliances (trade and kinship ties) with other communities, especially the Kamba. But it was not long before the Persians, the Portuguese and the Arabs visited them at the Coast, conquered and took possession of Mijikenda land. Further dispossession came with the arrival of the Europeans. The post-colonial era saw no let-up to this dispossession, where it was now the turn of the black elites in power to grab land.

Economic developmental programmes (specifically mining) has now opened a new phase of land dispossession, although now, compensation is offered as a way to ameliorate the effects of social displacement. The next chapter looks at the mining industry in Kenya and reviews the compensational framework in the titanium mining industry.



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## CHAPTER SEVEN

### INSTITUTIONAL CONTEXT OF MINING IN KENYA

#### 7.1 Introduction

The aim of this chapter is two-fold: first, it provides a background to the mining industry in Kenya by examining its performance and current standing in the world market. This will demonstrate the (declining) status of the mining industry in Kenya, and then show why the Kenyan government is eager to resuscitate this industry through the mining of titanium. Second, this chapter highlights the compensational framework and practices within the titanium mining industry in Kenya. In so doing, this will answer one of the research questions that seeks insight into the dominant community-targeted compensational practices in the Kenyan titanium mining industry. While this forms part of the field results and would normally be expected to come in Chapter Eight, it is felt that its presentation is better suited in this chapter, because this chapter extensively discusses matters directly touching on the mining industry in Kenya, and therefore its inclusion here makes this chapter complete. This then lays the ground for analysing how these practices intersect with local ethno-ecological narratives in the study community in Chapter Eight.



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#### 7.2 Kenya's mining industry

Kenya has an embryonic mining industry (Davies and Osano, 2005). Indeed, of the 70 important minerals listed by the British Geological Survey (BGS), Kenya is only listed in six of these (see Brown *et al.*, 2010), which demonstrates the country's current minimal contribution to the world's mining industry. All the same, its potential is promising given that not much survey work (due to lack of adequate funding as argued by GoK, 2000:28) has been carried out to determine the country's full mineral capacity. Trace amounts of numerous minerals have been discovered, but full exploration of these minerals is yet to be undertaken due to lack of adequate financial resources, and in cases where mineral have been found (gypsum, for instances), the remoteness of their locations have prevented full exploitation (Bu bois and Walsh, 2007; GoK, 2002:28). Davies and Osano (2005:87-88) indicate that Kenya's geological formation, consisting of the Archean-Palaeoproterozoic terrain, the Neoproterozoic Kisii Group, the Mozambique Belt and the Upper Palaeozoic to the Mesozoic Karoo sediments, as well as younger rocks such as the Tertiary and Quaternary sediments,

offers much promise to Kenya's mineral potential (refer to the geological map—Figure 7.1). The authors point out that these rock formations have the potential for the mining of gold, copper, silver, soapstone, iron ore, ruby, blue sapphire, beryl, amethyst, garnets, tourmaline, fluorite, marbles, minerals used in the construction industry, diatomite, trona and gypsum.

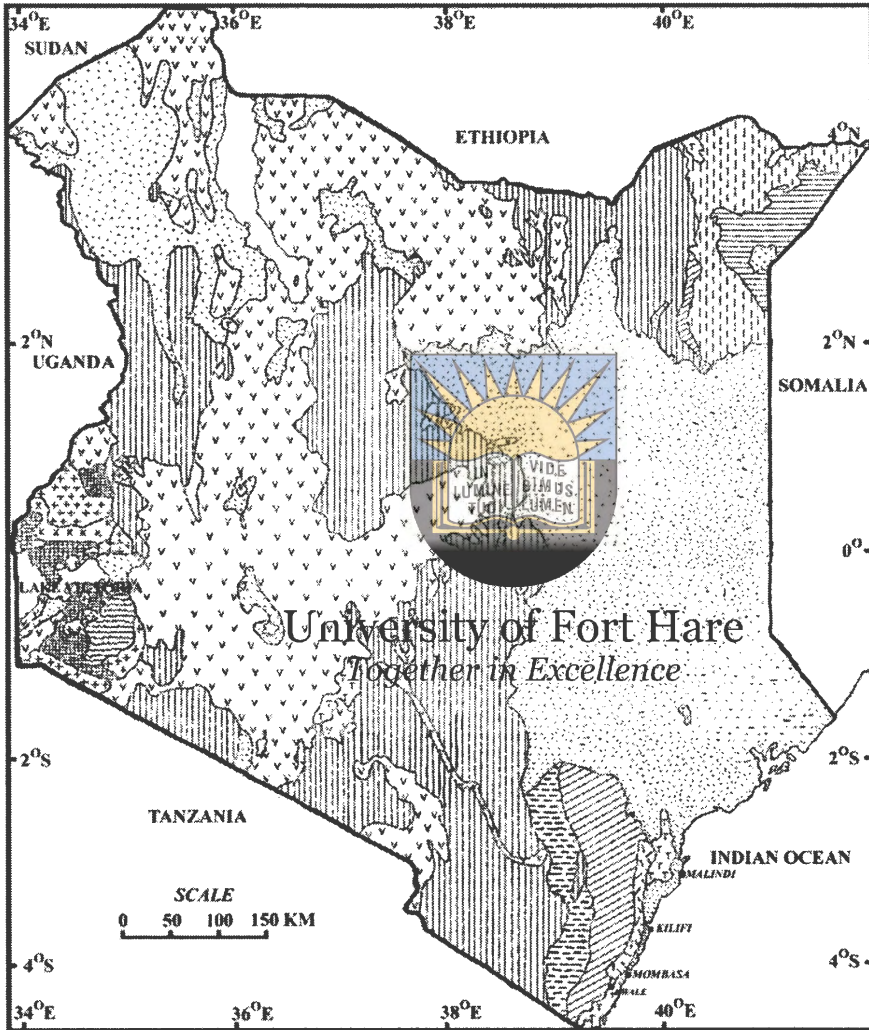
At the moment, mineral commodities contribute only 1% to Kenya's Gross Domestic Product (GDP) (Mining Communication, 2007; KNBS, 2009) and represent only 3% of the country's total export earnings (KIPRA, 2009). It is estimated that in 2008, only 6,600 people were employed in the mining industry (KNBS, 2009), which accounted for only 0.5% of the total population in formal employment. This demonstrates the insignificant role that mining plays in formal employment. Agriculture, which overtook tourism, continues to contribute the most, providing 25% of Kenya's GDP, with export of flowers, fruits and vegetables (in that order) dominating the exports mainly to Europe (Mining Communication, 2007).

Kenya's economic growth in the 1980s and 1990s was very poor, a period that KIPRA (2009:xiii) describes as "two decades of erratic growth and economic stagnation". It was only after 2003 that the country recorded a modest growth from 2.9% (in 2003) to 4.9% in 2005, 5.8% in 2005, 6.1% in 2006 and 7.1% in 2007 (KIPRA, 2009; Mining Communication, 2007). Given this economic downturn, there were no resources available to carry out full exploration of minerals. It was envisaged that the upward trend would continue and that 2008 would see an upward trend of 7.6% growth. This was not to be. The post-election violence of 2008 affected this growth and the economic growth slumped to 1.5% in 2008 (KIPRA, 2009). KIPRA estimates that for the next few years, Kenya's economic growth would be between 1.5%–1.9% which is, to say the least, a very gloomy forecast.

The mineral industry has led to fast-paced development for most industrialised countries. At present, the Kenyan mining industry is dominated by the production of non-metallic minerals such as soda ash, fluorspar, diatomite, gypsum, vermiculite, natural carbon dioxide, kaolin, barites, a variety of gemstones, limestone and lime products, including construction materials. In the case of metallic minerals, some quantities of gold are being produced, as well as lead and iron ore (Mining Communication, 2007; Davies and Osano, 2005).

Potential for petroleum deposits are said to exist, but its investigation is still only at prospecting stage among oil-bearing Palaeozoic–Mesozoic sedimentary rocks in the Turukana basin in Northern Kenya (Davies and Osano, 2005:88). Let us now examine the minerals that

are presently being mined in Kenya, and assess their performance in the world market. Data from BGS (Brown *et al.*, 2010) will be used to assess Kenya's mineral production.



**GEOLOGY EXPLANATION**

	QUATERNARY SEDIMENTS		KISII (BUKOBAN)	] LATE PROTEROZOIC
	CENOZOIC VOLCANICS		MOZAMBIQUE	
	TERTIARY SEDIMENTS		KAVIRONDIAN	] ARCHEAN
	JURASSIC		NYANZIAN	
	CRETACEOUS		GRANITES	
	TRIASSIC		OTHER INTRUSIVES	
	CARBONIFEROUS (PERMIAN)			

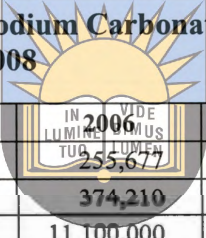
**Figure 7.1: The Geology of Kenya and Mineral potential** (Source: Davies and Osano,

2005:89)

### 7.2.1 Soda ash mining

Soda ash is currently produced from the naturally occurring mineral trona at Lake Magadi in the Great Rift Valley (see Appendix IV—map of Kenya, which will assist readers to identify mentioned sites in this and other chapters), and is produced by the Magadi Soda Co Ltd, the bulk of which is exported (Mining Communications, 2007). Crude salt is also obtained from the trona. Readers will note that as analysed in Chapter Three, soda ash mining was the first anti-commons act carried out in Kenya’s mining industry, in which the Maasai pastoralists were displaced to make way for the mining of soda ash. Let us examine Kenya’s current standing in the mining of soda ash. Table 7.1 provides this insight.

**Table 7.1: World production (in Mt) of Sodium Carbonate (soda ash) in selected countries for the years 2004–2008**



Country	2004	2005	2006	2007	2008
Botswana	263,354	279,085	255,677	279,625	263,566
Kenya	353,835	360,161	374,210	386,578	502,846
USA	11,000,000	11,000,000	11,100,000	11,100,000	11,200,000

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Source: Brown *et al.* (2010:91)

Table 7.1 demonstrates that Kenya’s sodium carbonate production has been generally stagnant. When compared with other countries such as the USA, its contribution is quite minimal<sup>36</sup>. It nevertheless continues to be Kenya’s major mineral production (KIPRA, 2009) generating Ksh4,223m in 2008 (KNBS, 2009).

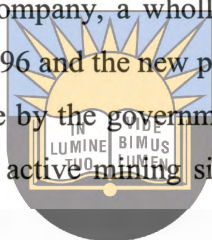
### 7.2.2 Fluorspar mining

Fluorspar mining is the second largest and second oldest mining activity in Kenya, after soda ash. Fluorspar is mined east of the town of Eldoret, in the Rift Valley. The Kenya Fluorspar Co. Ltd is the company licensed to carry out this mining activity, in which they produce acid grade fluorspar, a great proportion of which is exported. Acid grade fluorspar is used in the production of hydrofluoric acid, silica, carbonates, sulphides, aerosol, blowing agents for

<sup>36</sup> In all the tables illustrated in this section, the highest producer in respect to the concerned mineral, a successful African producer (other than Kenya, that is), and other successful producers from other regions have been selected for comparison purposes. For a full list of producers for each element please refer to Brown *et al.* (2010) available at: <[http://nora.nerc.ac.uk/9503/1/WMP\\_2004\\_2008\\_for\\_web.pdf](http://nora.nerc.ac.uk/9503/1/WMP_2004_2008_for_web.pdf)> – accessed 15<sup>th</sup> February, 2011.

foam in fire extinguishers, refrigerant agents in vehicle air conditioning, and as a strong evaporating cleaning agent among others, with the US, Japan and Europe being the major consumers (Brown *et al.*, 2010).

The fluorite deposits, which are specifically located in Kimwarer, Choff and Kamnaon in the Rift Valley, are said to have been first discovered in 1967 by a prospector searching for semi-precious stones, who initially mistook the purple fluorite for gemstone<sup>37</sup>. After the discovery, a hand mining operation was started and donkeys were initially used to ferry the product. In 1971, the Fluorspar Company of Kenya was established to exploit the deposits on a large scale. In 1985, the government condemned the land and compensated landowners, an exercise that was completed in 1986. In 1989 the company went under receivership, and its assets were bought by Kenya Fluorspar Company, a wholly government owned company. This company was however privatised in 1996 and the new privately owned company (Kenya Fluorspar Co. Ltd) awarded a 20 year lease by the government to continue with the mining activity. The company currently has nine active mining sites, Kimwarer being the oldest, having been in operation for over 35 years.



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BGS data shows that in 1983, Kenya produced 2% of the world's total output of fluorspar, with Mexico producing the most at 16%. Others were Brazil (1%), US (2%), UK (4%), China 11% and South Africa (7%) among others. But by 2003, Kenya was listed among "others" who were collectively producing 14% of the world's total; this act of lumping Kenya among "others" demonstrates Kenya's dwindling fortune in this industry. China is currently listed as the highest producer contributing 53% of the world's total. Other major producers include South Africa (SA) at 5%, Mexico at 17%, Russia 4%, Mongolia 4%, and Spain 3%. It can be seen from these figures that there was rapid growth of Chinese fluorspar production from 11% in 1983 to 53% in 2003. Current world fluorspar production of selected countries is provided in Table 7.2 which demonstrates that Kenya's world production declined in the years 2004–2007 before picking up in 2008. Kenya's production in 2008 stood at 2.1% of the world's total, while the largest producer, China, continued to dominate at 53%. This demonstrates that Kenya's contribution to the fluorspar industry, as observed in the soda ash industry, is equally minimal.

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<sup>37</sup> See Kenya Fluorspar Co Ltd website - <<http://kenyafluorspar.com>>

**Table 7.2: World Production (in Mt) of Fluorspar in selected countries for the years 2004-2008**

Country	2004	2005	2006	2007	2008
Russia	226,400	245,500	*210,000	*180,000	*269,000
UK	50,080	56,417	49,676	44,936	36,801
Kenya	117,986	109,594	132,030	85,115	130,100
S. Africa	264,900	265,600	270,000	*295,000	295,000
Brazil	57,772	66,512	63,604	65,526	63,573
China	2,500,000	2,700,000	3,000,000	3,200,000	3,250,000
Mongolia	354,900	367,500	377,000	376,800	*387,900
World Total	5,000,000	5,300,000	5,700,000	5,800,000	6,100,000

Source: Brown *et al.* (2010:37)

\*estimates

### 7.2.3 Diatomite mining



Diatomite is produced at Gilgil within the Rift Valley (the most exploited being the Kariandusi deposit), for domestic and export purposes. It was discovered in 1956 and continues to be exploited at Olorgesailie archaeological site situated some 50 miles from Nairobi. Diatomite is used as a filtering agent in the clarification of sugar, fruit juices, soft drinks and oils, in heat and sound insulation in the form of bricks, loose powder or lagging compounds. It is also used in paints, as a dusting agent to prevent caking of fertilizers, as a filler in light-weight concrete, rubber goods, plastics, soap, paper and insecticides, and in the drying of fabrics (Bu bois and Walsh, 2007). World production for the years 2004–2008 is provided below:

**Table 7.3: World Production (in Mt) of Diatomite in selected countries for the years 2004–2008**

Country	2004	2005	2006	2007	2008
Denmark	188,000	209,000	196,000	201,000	210,000
Algeria	2,665	1,814	1,800	1,902	1,677
Kenya	330	243	185	201	72
USA	620,000	653,000	799,000	687,000	653,000
Argentina	8,180	34,045	38,543	49,604	*50,000
China	370,000	400,000	*420,000	*420,000	*440,000
World Total	1,767,000	1,843,000	2,020,000	1,902,000	1,962,000

Source: Brown *et al.* (2010:35)

\*estimates

Table 7.3 indicates that Kenya's production of Diatomite has been in decline from a 'high' of 330Mt in 2004 to a low of 72Mt in 2008. Its contribution to this industry is also relatively small, as it contributed only 0.004% of the world's total in 2008.

#### 7.2.4 Gold mining

There are conflicting reports as to when gold was first discovered in Kenya. Some reports have it that it was first discovered in 1892 in Kisii, in the Western Province of Kenya. Other reports indicate that it was first discovered in 1893 at the Coast region but at that time it did not raise much interest. Other reports have it that it was first discovered in 1904 around Lake Victoria, but not in significant enough deposits to warrant exploitation at that time (Bu bois and Walsh, 2007). In 1909, the colonial government conducted a geological study in western Kenya which revealed widespread occurrences of gold in streams and rivers, but the study failed to identify a specific location and thus concluded that the gold originated from low-grade disseminations and hence not worth exploitation.

Between 1922 and 1923, there was a minor gold rush in the southeast of Kisii, which eventually led to the discovery of several promising reefs. Further prospecting in this area led to the discovery of the Kakamega goldfield in 1931. In 1922, the colonial government commissioned Sir Albert Kitson to carry out a geological survey of the Nyanza Province and he recommended the division of the province into mining areas, some suitable for large scale mining while others were earmarked for small artisanal mining. From 1932 onwards, intensive prospecting continued on the gold-bearing Nyanzian and Kavirondian rocks. By 1939, there were 53 operating mills in the region. However, the onset of World War II upset the mining industry due to shortages of skilled manpower and machinery, leading to a sharp decline in productivity culminating in the closing down of the largest producing mine in 1952.

Gold is today known to occur in a number of places in the gold-bearing greenstone rocks of the Nyanzian Craton in Western Kenya (Bu bois and Walsh, 2007). Areas with alluvial gold are presently exploited by local miners using traditional panning methods (Mining Communications, 2007).

Minor occurrences, as Bu bois and Walsh (2007) report, are also known to occur elsewhere in Kenya such as alluvial deposits along Marun River in Cherangani Hills north of the town of

Kitale, in West Pokot along the River Suam and in River Kateruk in Karasuk. Isolated grains of gold have been found on rivers draining the southwestern slopes of Kaimasuk Hills. In Kitui, traces of gold have been found in the Ikoo River, while in Machakos, grains have been found at the ford over the Keite River.

Gold is also reported in Loldaika Hills north of Nanyuki and near Lokitaung in northern Turukana. Some grains have also been noted in manganese ore from Mrima Hill, in Kwale (the study area of this thesis). Bu bois and Walsh (2007) observe that the future of gold in Kenya is clearly a subject of great interest and of importance to the economy of the country, noting that the known goldfields of western Kenya offer the most “attractive prospect” of spurring this industry. Their observations appear to become to be realised in 2011 as the British firm Goldplat Plc, through its local subsidiary Kilimapesa Gold, was awarded a mining lease after striking viable deposits of gold at the Lolgorian area of Trans Mara District, which it is said would “catapult” Kenya into the league of gold producing nations. The company reports that the deposits are estimated at between 40,000 ounces and 60,000 ounces, which would enable extraction of 4,000 ounces every year for the next 10 to 15 years. Several other mining companies, such as Linear Metal Corp, Red Rock Resources, Aviva Mining, Abba Mining, Afri-All Company and Mid Mgori Company, are said to be actively prospecting for gold in Kenya (Njirani, 2011).

Kenya’s participation in the gold mining industry between 2004 and 2008 is illustrated in Table 7.4:

**Table 7.4: World Production (in Kg) of Gold in selected countries for the years 2004–2008**

Country	2004	2005	2006	2007	2008
Russia	169,297	163,186	159,340	156,912	172,600
Ghana	63,139	66,852	72,323	83,558	80,503
Kenya	330	243	185	201	72
South Africa	337,223	294,803	272,128	252,345	212,744
USA	257,905	255,757	251,853	238,136	234,600
China	212,350	255,00	247,500	275,000	285,000
World Total	2,410,000	2,500,000	2,370,000	2,350,000	2,290,000

Source: Brown *et al.* (2010:41-42)

Table 7.4 illustrates that Kenya's gold production for the years 2004 to 2008 was way below that of other major producers such as South Africa, China and USA and that Kenya's gold industry has been in decline as its export production fell from 330kg in 2004 to only 72kg in 2008. Kenya's contribution to the gold industry in 2008 stood at only 0.003% of the world's total. It remains to be seen whether the recent discovery of gold deposits in Trans Mara will change the country's fortunes in this lucrative sector.

### 7.2.5 Gypsum mining

Gypsum is mined in the Tana River in the Coastal Belt of Kenya and in Turukana in North Western Kenya. Gypsum is supplied to cement firms for local consumption and some is exported to Uganda. It is used in cement production, in fertilisers, and as filler for various materials such as paper, paint and plastics. Gypsum is also found in Tula Valley, in Garissa, Northeastern Kenya, at Roka some 23 miles south-west of Malindi, at Gongoni some 12 miles north-east of Malindi, and in Eastern Kenya at Wak. It is also found in Wajir and Lodwar in north-eastern Kenya, in Kericho in Machakos District, and in Mombasa, and Ngong Hills.

Kenya is reputed to have the largest deposit of gypsum in the world (Mining Communications, 2007). The drawback in the mining of gypsum is that the majority of its deposits are found in very remote regions of Kenya, making transportation to the capital city of Nairobi quite an expensive undertaking (Bu bois and Walsh, 2007). The remoteness of the deposits may explain why it is not extensively exploited.

Table 7.5 illustrates that despite having the largest deposits of gypsum in the world, Kenya still trails behind other world producers such as US, Egypt, Brazil and China: it only contributes 0.01% of the gypsum world total as per the 2008 findings. This perhaps illustrates the difficult position in which developing countries find themselves, for despite having abundant mineral deposits, some are unable to effectively exploit these resources due to lack of adequate financing capital.

**Table 7.5: World Production (in Mt) of Gypsum in selected countries for the years 2004–2008**

Country	2004	2005	2006	2007	2008
USA	17,200,000	21,100,000	21,100,000	17,900,000	*12,700,000
Egypt	7,634,000	3,290,000	*3,300,107	3,085,000	2,400,000
Kenya	*8,900	*9,100	*9,100	*9,600	*9,600
Russia	2,076,800	*2,200,000	*2,200,000	*2,300,000	*2,400,000
Brazil	1,474,911	1,582,248	1,711,671	1,923,119	*2,000,000
China	29,520,000	32,000,000	35,000,000	*37,000,000	*35,000,000
World Total	146,000,000	143,100,000	149,200,000	151,400,000	140,400,000

Source: Brown *et al.* (2010:44-45)

\*estimates



## 7.2.6 Lead mining

Lead is mined along the Kenyan Coastal Belt. Produced from galena, it is smelted together with scrap lead to manufacture lead batteries (Mining Commission, 2007). Table 7.6 illustrates Kenya's performance in the lead industry.

Kenya's contribution to the world lead industry is also quite minimal, standing at only 0.01% of the 2008 world total. KNBS (2009) states that Kenya exported iron and steel worth only Ksh824m in 2008. China is observably the highest producer of lead according to the statistics provided by British Geological Survey. Kenya's performance is not rosy, and given that these are estimated figures, the figures could even be lower than is recorded here.

**Table 7.6: World Production (in Mt) of Lead in selected countries for the years 2004–2008**

Country	2004	2005	2006	2007	2008
Germany	413,500	417,700	379,000	405,070	415,100
UK	245,938	304,350	318,703	263,391	283,000
Kenya	*1,000	*1,000	*1,000	*1,000	*1,000
S. Africa	64,000	65,300	67,000	59,000	62,000
USA	1,262,000	1,293,000	1,297,000	1,303,000	1,280,500
China	1,934,500	2,391,400	2,714,900	2,788,300	3,206,400
World Total	7,000,000	7,700,000	8,100,000	8,200,000	9,400,000

Source: Brown *et al.* (2010:62-63)

\*estimates

### 7.2.7 Other minerals

This group includes vermiculite, limestone and its products, natural carbon dioxide and gemstones which ostensibly do not command a lot of interest in the world market having been omitted from the BGS list. Vermiculite (sodium fluoride) is used as an insulator for heat and sound, in lightweight building construction materials, and as a filler for plastics and rubber goods. It is also used in wallpaper, printing and packing materials, among others. It is produced at Lodosoit in the Rift Valley, and is also found in Kinyiki Hill in the Mtito-Andei-Tsavo area and in Kapoponi Hill in South Kitui, with smaller, often uneconomic, deposits in Makongo, Kaptumet, Sagala and Mathe Hill (Mining Communications, 2007; Bu bois and Walsh, 2007). In year 2000, 124 tonnes of vermiculite valued at Ksh1.3m were produced (MoENR, 2000:25). However, the report notes that export earnings for this product fell from Ksh14.2m, to Ksh2.5m, to Ksh1.6m, to Ksh1.3m in the years 1997, 1998, 1999, and 2000 respectively. This follows the now familiar pattern of an industry in decline.

Limestone and its products, which are used in the manufacture of cement and other industrial products, are mined by three major companies, the Athi River, Bamburi, and East Africa Portland Companies, who produce over 2.3 metric tonnes (Mt) of cement to meet local and export needs. Limestone marbles and dolomites occur widely in the country and a large tonnage of the commodity exists. Along the Coastal Belt, Bamburi Portland Cement Co Ltd exploits kunkar and crystalline limestone. The export value for cement fell from Ksh36.4m, to 11.1m, to 20.7m, to 4.9m for the years 1997, 1998, 1999 and 2000 respectively, reflecting the general decline in Kenya's economy during the mentioned years (MoENR, 2000).

Natural carbon dioxide is also exploited in a number of places within the Rift Valley system and is marketed by Caracid Ltd. for industrial purposes.

Gemstones occur in many varieties, and include ruby, tsavorite, sapphire, and various types of garnet, peridot, tourmaline and aquamarine. The export value for ruby is said to have fallen from Ksh2.2B to 1.4B, to 1.5B to 9.1m for the years 1997–2000, while available figures show that the export value of garnets was 1.1m in 1997 but declined to Ksh240,000 in 2000. Sappires, however, recorded an increase in export values from Ksh5.4m to Ksh11.3m, to Ksh11.1m to Ksh30m for the period 1997–2000 (Mining Communication, 2007).

Rich iron ore deposits are said to have been discovered in 2011 by Wanjala Mining Company in Kishushe Location of Taita Taveta County at the Kenya Coast (Nyassy, 2011). Its

extraction is, however, currently steeped in controversy over land ownership and compensation. Table 7.7 below provides additional statistics on Kenya's mineral production for the period 2000-2006<sup>38</sup>:

**Table 7.7: Kenya mineral production (2000–2006)**

MINERAL	UNIT	2000	2001	2002	2003	2004	2005	2006
Soda ash	Mt	238,190	297,780	304,110	352,560	355,110 <sup>c</sup>	360,161	374,210
Fluorspar*	Mt	100,102	118,850	84,015	80,201	117,986	97,608 <sup>b</sup>	132,030
Crushed refined soda	Mt	382,556	207,647	474,014	576,146	600,209	640,291	662,939
Salt (from Magadi)	Mt	16,359	5,664	18,848	21,199	26,607	26,595	35,024
Carbon dioxide gas	Mt	7,744	5,645	5,662	4,614	6,757	8,723	9,359
Diatomite*	Mt	448	441	1,333	353	330	233 <sup>d</sup>	185
Gemstones	Kg	5,916	5,887	3,063	2,313	4,758	5,420	5,044
Gold*	Kg	1,243	1,545	1,477	1,543	567 <sup>e</sup>	616 <sup>e</sup>	432 <sup>e</sup>

Source: Mining Communications (2007:9)

\* Export figures

<sup>b</sup> Differs with figures provided by BGS which stands at 109,594 (see Brown *et al.*, 2010:37)

<sup>c</sup> Differs with figures provided by BGS which stands at 353,835 (see Brown *et al.*, 2010:91)

<sup>d</sup> Differs with figures provided by BGS which stands at 343 (see Brown *et al.*, 2010:35)

<sup>e</sup> Differs with figures provided by BGS which stands at 330, 243 and 185, respectively (see Brown *et al.*, 2010:41-42)

The general picture that can be drawn from the above discussion and from the data presented above is that the mining industry in Kenya is an industry in decline, one that desperately needs something to spark it into action. Let us now examine the prospects of the titanium industry in Kenya which appears to offer much hope for the revival of this industry.

### 7.3 The titanium mining industry

Titanium is said to have been discovered by a British clergyman, William Gregor, in 1791, when he discovered a mysterious substance in the mineral menachanite and he named it menachite. In 1975, a German chemist named Martin Klaproth found the same substance in the mineral rutile and isolated ilmenite from it, and then gave it its modern name, titanium, after the powerful Greek rulers named Titans. But Klaproth was only able to produce

<sup>38</sup> Production data for 2007 and 2008 for some of these minerals have been provided in Tables 7.1–7.6.

titanium dioxide (TiO<sub>2</sub>) and not pure titanium from the ilmenite. It was not until 1825 that a Swedish Chemist, Jöns Jakob Berzelius, accomplished this. In 1930s William Kroll, a metallurgist from Luxembourg, invented the modern kroll process that made large scale production of titanium possible. Thanks to this process, titanium is now less expensive to process. It is prized for its strength, light weight and all round versatility<sup>39</sup>.

Titanium mining is carried out through strip mining, otherwise referred to as surface mining because the ore is found in sand occurring at surface level, which necessitates the displacement of communities. The available titanium ore-bearing surface sand is then purified before further processing. Raw ilmenite or slag ore (see Plate 7-1) is first soaked in sulphuric acid for several hours to free the titanium from the ore. Titanium then dissolves as titanium sulphate while impurities that do not resolve are removed by settling. The hydrated form of titanium dioxide is produced by hydrolysis in alkali at very high temperatures. This is then washed to remove traces of iron. The hydrate paste then undergoes a high temperature calcination stage that yields the solid white product<sup>40</sup>. What is interesting in the case of Kwale is that only the separation of titanium from the sand will be done at Kwale, while the final processing was planned for Canada (potentially denying Kenyans the much needed jobs that comes with it). The separation requires use of large amounts of water, hence the harnessing of the Mukurunduzi River in Kwale. It is expected that the tailings from the separation will degrade the environment and the river.

The Kwale deposits, located some 65 km to the south of the port city of Mombasa, and located 12 km inland from the coast, contains mineral-bearing sand containing economically viable minerals ilmenite, rutile and zircon. Ilmenite and rutile are titanium-bearing minerals, while rutile, of high grade, is premium titanium ore, and together with zircon, these are in demand worldwide (Coastal and Environmental Services, 2005a:6).

Titanium reserves at the coast, in the areas for which Tiomin was granted mining rights, are illustrated in Table 7.8, which illustrates that titanium reserves in Kenya are indeed impressive, accounting for 40% of the world's total. Titanium is apparently in plenty in

<sup>39</sup> Information on titanium obtained from <http://www.science.jrank.org/pages/6851/Titanium-Discovery-naming.html> and <http://www.chemistryexplained.com/elements/T-Z/Titanium.html> – accessed 17<sup>th</sup> January, 2011.

<sup>40</sup> Information on titanium processing obtained from [http://www2.emersonprocess.com/siteadmincenter/PM%20Rosemount%20Analytical%20Documents/Liq\\_ADS\\_3300-13.pdf](http://www2.emersonprocess.com/siteadmincenter/PM%20Rosemount%20Analytical%20Documents/Liq_ADS_3300-13.pdf).

Kwale—a transect walk through Kwale, especially on the two mining dunes, reveals the magnitude of the titanium deposits/reserves.

**Table 7.8: Titanium reserves at the Kenya coast**

<u>District</u>	<u>Location</u>	<u>Reserves in millions of tonnes</u>
Kwale	Nguluku/Maumba	200
Kilifi	Vipingo	500
Kilifi	Sokoke	1,700
Malindi	Sabaki	400
Malindi	Mambrui	700
Malindi	Ras Ngomeni	1,100
Total	Coastal Kenya	4,600

Source: Adapted from Abuodha (2002)



Titanium mineral containing sand literally covers the landscape. The picture in Plate 7-1 was taken when we stopped by the road side (a dirt road) while on our way to Tiomin’s offices in the Central Dune. Titanium-bearing sand can be seen on either side of the road: we were literally driving over titanium-bearing sand.

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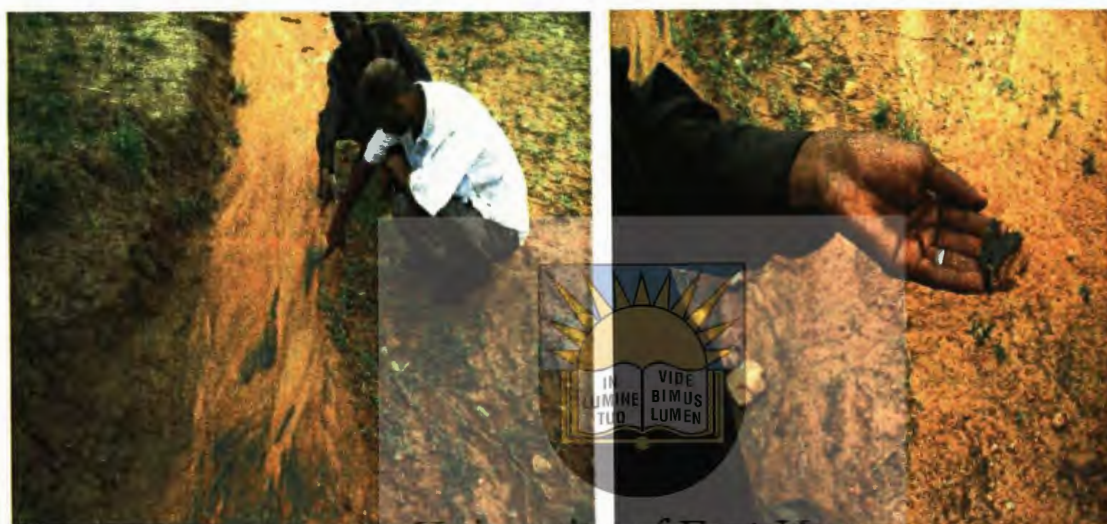
Titanium has several uses. Almost all rutile and ilmenite are processed into non-toxic white titanium dioxide pigment for use in the manufacture of paints, plastics, paper, ink, rubber, textiles, cosmetics, leather and ceramics. It is also used in the manufacture of toothpaste, false teeth, and jewellery such as wedding rings. Because of its protective oxide coating, titanium is also used in the development of artificial hip joints and other surgical implants because it does not rust or react adversely with human tissue or bone.

Titanium is also used in the manufacture of deep-diving submarines because of its ability to resist rusting in seawater for years on end. Flexible eyeglasses are also nowadays increasingly being made from titanium alloys. Titanium dioxide pigment is said to have excellent brightness and high opacity for good hiding power (e.g. in paint for covering undercoats) and has replaced lead carbonate pigments.

Rutile is used to produce light, strong, corrosion-resistant titanium metal for use in motor vehicles, aircraft and spacecraft because it is light and is can withstand high temperatures, stresses and strains caused by friction when air moves through parts at supersonic speeds. It

is also used in desalination plants and in fibreglass and chemicals and as a coating on welding rods.

Ilmenite is used as a fluxing agent in blast furnace feeds and as a sand-blasting abrasive.



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Abuya, 2009

**Plate 7-1: Titanium mineral bearing sand (Top left: sand containing rutile, ilmenite and zircon running by the roadside in Kwale. Top right: unwrought titanium ore collected by the roadside. Below: Tiomin (K) Ltd mining station. In the foreground is a pile of unprocessed titanium bearing sand).**

Zircon is used in foundry sand moulds and zircon sand or powder is used for glazes on pottery and other ceramic surfaces as well as in the production of various refractory metals. Heat-resistant zirconia is used in a fused form to line ladles holding molten steel, in molten metal moulds and as small beads for abrasives. Zircon is the major source of zirconium, a corrosion-resistant metal that is used in nuclear reactors and chemical processing equipment. Research and development continues into the use of zirconium ceramics to improve diesel engines and in the metal extrusion industry where heat resistance and strength are required.

Titanium and its compounds are also important in the manufacture of other chemicals. Titanium chlorides are used as catalysts (accelerators that speed up chemical reactions) in the manufacture of plastic polypropylene and many other organic (carbon-based) chemicals. Titanium can also be used to coat windows so they reflect heat back into the building and save energy<sup>41</sup>. It is evident from this that titanium is indeed a very useful mineral. The current major producers of titanium in the world are illustrated in the Table 7.9.



**Table 7.9: World Production (in Mt) of Titanium in Selected countries for the years 2004–2008**

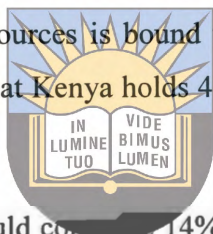
Country	2004	2005	2006	2007	2008
<u>Canada</u>					
Ilmenite	2,100,000	2,100,000	2,400,000	2,500,000	2,600,000
<u>Ukraine</u>					
Ilmenite	*600,000	*600,000	*600,000	*600,000	*600,000
Rutile	*100,000	*100,000	*100,000	*100,000	*100,000
<u>Mozambique</u>					
Ilmenite	.....	.....	.....	140,515	328,875
Rutile	.....	.....	.....	8,782	32,985
<u>South Africa</u>					
Ilmenite	1,730,000	1,904,000	*2,070,000	*2,248,000	*2,176,000
Rutile	*100,000	*130,000	125,200	111,500	132,000
<u>USA</u>					
Ilmenite	*500,000	*500,000	*500,000	*400,000	*400,000
<u>China</u>					
Ilmenite	*840,000	*1,015,000	*1,000,000	*1,100,000	*1,000,000
<u>Brazil</u>					
Ilmenite	133,000	127,142	*130,000	*130,000	*130,000
Rutile	*3,000	2,782	*3,000	3,000	*3,000
<b>World Total</b>					
Ilmenite	10,700,000	11,200,000	12,400,000	13,000,000	12,900,000
Rutile	10,300,000	10,600,000	11,900,000	12,500,000	12,100,000

Source: Brown *et al.* (2010:99)

\*estimates

<sup>41</sup> Uses obtained from [http://www.australianminesatlas.gov.au/education/fact\\_sheets/titanium.jsp#intro](http://www.australianminesatlas.gov.au/education/fact_sheets/titanium.jsp#intro) and from <http://www.explainthatstuff.com/titanium.html> – accessed 17/1/ 2011.

The leading titanium-producing countries at the moment are Canada and South Africa. It is estimated that the Kwale project will produce over 330,000 tonnes of ilmenite, about 37,000 tonnes of zircon and over 77,000 tonnes of high quality rutile annually during the first six years of production, accounting for 6%, 3% and 18% of the world's total production, respectively (Coastal and Environmental Services, 2005b). Although this production will not equal those of high-producing countries such as Canada, South Africa or China, it will nonetheless come close to the annual production of some other mineral-rich countries such as Brazil and USA. Given that the Kwale operations alone (mining at Vipingo, Sokoke, Sabaki, Mamburi and Ras Ngomeni will commence later) will inject an estimated 1% into Kenya's GDP, which is the current combined total of the entire mineral industry, one can understand the eagerness with which the Kenyan government is ready to commence the Kwale project. Full exploitation of the entire titanium resources is bound to place Kenya among the high producers of titanium in the world (given that Kenya holds 40% of the world's reserves—see Abuodha, 2002).



It is estimated that the titanium project would contribute 14% of the world's total, have a life span of more than 14 years at the initial investment and generate a pre-tax cash flow of over US\$40M in the first six years of operation, with Hommin Resources investing an average of US\$150M in the Kwale project (Mining Weekly, 2006). It is envisaged that titanium mining alone will improve Kenya's GDP by close to 3% (Abuodha and Hayombe, 2006), which is currently what the combined mineral production contributes to the economy in terms of export. Given these high returns, what one would want to know is how ready the Kenyan government and the extractive company are in providing "fair" compensation to land owners affected by the project.

#### 7.4 Compensational framework and practices in Kenya's mining industry

Mining activities in Kenya are co-ordinated by the Department of Mines and Geology of the Ministry of Environment and Natural Resources, whose core functions include formulation of mineral policy and legislation, control and direction of exploration and exploitation of mineral resources and the control of commercial explosives used in the mining and construction industries. The Department exercises this authority under the Mining Act (Cap 306) which vests all mineral rights to the government, the Trading in Unwrought Precious Metals Act (Cap 309), the Diamond Industry Protection Act (Cap 310) and the Explosives Act (Cap 115) of the Laws of Kenya (MoENR, 2000:21). However, in order to actually carry

out mining activities in the country, one has to fulfil the requirements of other auxiliary acts. Some of these other important acts (excluding the ones just mentioned) include the Public Health Act (Cap 252), the Physical Planning Act (Cap 286), the Agriculture Act (Cap 318), the Water Act (Cap 372), the Forest Act (Cap 385), the Factories Act (Cap 385), the Factories and Other Places of Work Act (Cap 514), the Environmental and Co-ordination Act, the Land Acquisition Act (Cap 295), and the Electric Power Act No.11 of 1997 (Abuodha and Hayombe, 2006). Matters touching on land and compensation, even when they are for mining purposes, are carried out outside the purview of this Department/Ministry.

#### 7.4.1 Compensational framework in Kenya's mining industry

For now, the thesis will only point out the compensation framework within the Kenyan mining industry: the operationalisation of the various acts in the Kwale case will be discussed in Section 7.3.2. Of note is that there is no one single Act that regulates compensation issues in Kenya, or for that matter, land related issues; to investigate this function, one has to navigate through various Acts. Nonetheless, there are four Acts which bear the greatest responsibility, and these are:

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**(a) The Mining Act (Cap 306)**<sup>42</sup>. Section 4 of this Act makes the government the owner of all minerals to the government, including minerals discovered during the process of prospecting (this is covered in Section 24 (1) (a)). This Act has been in existence since colonial times. Ojiambo (2002:12) points out that this law was enacted by the colonial government to “bequeath all minerals to the Crown for ease of exploitation and repatriation to the parent country”. It is unclear why successive governments, even 48 years after attaining independence, have opted to retain this law in its statutes, and it is only in 2011 that the government contemplated redrafting the Mining Act. It remains to be seen whether this particular provision will be amended.

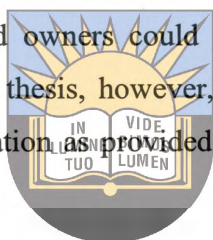
Section 7 (1) (m) of this Act prohibits mining on private land except with the consent of the owner. However, Section 7 (3) provides that where any consent required within the law is unreasonably withheld, or the Minister considers that withholding consent is contrary to the national interest, then the Minister will take steps to compulsorily acquire the land. Indeed, this was the provision that the Kenyan court relied on when it ruled against the land owners in Kwale who had challenged the right of the government to condemn their land. Once the

<sup>42</sup> The various Acts mentioned here are available at <http://www.kenyalaws.org/klr/index.php?id=7>.

Minister invokes this Section, then the land acquisition (and attendant compensation) is pursued under the Land Acquisition Act which is reviewed next. This effectively moves the matter from the docket of the Minister for Environment and Natural Resources to the Minister for Lands.

It is essential to note that Section 77 of the Mining Act provides for compensation in respect to any disturbance during prospecting and/or during the actual mining process. Section 26 (1) provides for fair and reasonable compensation to occupiers and owners of land, crops, buildings and trees that are damaged during the course of prospecting or mining. Should one deem the award unfair, then one is free to seek redress in court under Sections 26 (2), (3) and (5) of the Act which provides for this.

Since mining was yet to commence, land owners could only be paid compensation for damages arising out of prospecting. This thesis, however, does not look at compensation under this respect, but examines compensation as provided for under the Land Acquisition Act.



**(b) The Land Acquisition Act (Cap 150)**, as mentioned earlier in Sections 6 (1) (a) and (b) of this Act give the Minister of Lands the power to compulsorily acquire land for public good (and commercial mining of minerals is considered as one such act of public good). Section 8 of the same Act provides for full and prompt compensation to all persons who hold interest in the land. Sections 9 (3) (a), (b) and (c) give the Commissioner of Lands the power to determine the persons interested in the land, make full inquiry into the value of the land, and determine compensation payable to each of the persons with interest on the land (this implies that it is the Commissioner who has the power to determine compensation rates, and to determine the beneficiaries).

Section 12 (1) allows for grant of land in lieu of award, while Section 16 (1) provides for payment of interest at 6% per annum if compensation is not paid promptly. Section 35 of the same Act provides that an award will not be challenged except if it is in line with Section 75 of the constitution<sup>43</sup>. Section 36 allows the Minister to make the rules for purposes of carrying out the provisions of this Act. These sections, among others, provide the basis for

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<sup>43</sup> I shall refer to the provisions of the old constitution as this was what was in force at the time the compensations were paid out. The new constitution came into effect in August 2010, three years after the compensations were determined. Section 75 of the (old) constitution (which fell under Chapter V—protection of fundamental rights and freedom of the individual freedom)—offers protection from deprivation of poverty.

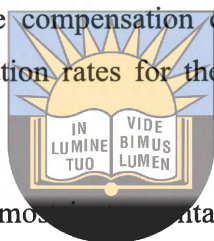
forceful acquisition of land and compensation thereof—it was under this Section that land in Kwale was condemned. It is instrumental to note that nowhere in this Act exists the requirement that “just” compensation should be paid, it only emphasises payment of “full” compensation which must be prompt. The Act provides that those affected will only vacate the land once compensation has been paid.

**(c) The Agriculture Act Cap 318.** Generally, this Act determines compensation rates for crops. Section 7 of the Act gives the Minister for Agriculture the power to fix prices for what is termed ‘scheduled crops’, which are crops recognised to be of economic value. Section 9 provides for ‘agents’ to adhere to the prices fixed by the Ministry. Section 5 of the Act allows the Minister to determine agricultural crops to be specified as ‘scheduled crops’, and these are then considered as ‘essential crops’. Section 11 of the Act empowers the Minister to fix different prices, or different guaranteed minimum prices for different agricultural produce, for produce produced in different areas of Kenya, for different quantities, grades, qualities or varieties of any produce, for different classes or kinds of transactions and for different times of the year. In other words, a basket can be priced differently depending on which part of the country it is grown in and depending on the time of the year it is produced. The price also depends on the nature of the transaction involved (i.e. prices could be different for cases of compensation from cases of famine relief). Section 5 of the Act entitles the Minister to hold an annual review on the agriculture industry on the 15<sup>th</sup> day of every year, during which time determination of which agricultural crops should be specified as ‘scheduled crops’ can be made. In addition, the prices for ‘scheduled crops’ and the kinds of ‘scheduled crops’ which should be declared to be essential crops can also be made at this time. But the Minister has the powers, under Section 10, to review prices at any other time after such review as he may see fit.

Under Sections 12 and 100 (2), the Minister has the powers to add or delete crops from the provided list of ‘scheduled crops’ or ‘special crops’ (these are seasonal crops that are deemed to be of economic value). ‘Scheduled crops’ include wheat, barley, oats, beans (rose coco, canadian wonder, white haricot, mixed, lima), Millet (finger), sorghum (white, red/mixed), rice, sunflowers, and sugar-cane for the production of white sugar among others. Under the special crops declaration ((Declaration of Special Crops—Horticultural Crops Order), crops listed here include seasonal crops such as apples, pears, pawpaws, avocados and tomatoes, among others, and perennial crops such as citrus, mangoes, passion fruit, pineapples and nuts.

Under the Fourth Schedule (Agriculture Declaration of Special Crops (oilseeds/oilcrop) Order, 2001), in respect of compensation for construction works and others (where others include mining) the following crops are listed as special crops: seasonal crops such as maize, cotton, groundnut, simsim, watermelon, avocado, and tomato, among others, and perennial crops such as coconut, passion fruit, cashew nuts among others. As pointed out above, the Minister determines the prices for these crops.

**(d) The Forest Act (Cap 7).** This Act is enforced by the Department of Forestry, located in the Ministry of Environment and Natural Resources. The Department is charged with the rational utilization of forest resources for the socio-economic development of the country. This Department is charged with determination of compensation rates with respect to trees and tree products. Indeed, in the Kwale compensation case, it was the Department of Forestry that came up with the compensation rates for the various indigenous and exotic trees.



The above mentioned four Acts were the most fundamental in providing the compensation framework for the Kwale titanium mining project. But in order to adequately cover the matter of compensation, one also needs to pay close attention to the following Acts that regulate land tenure:

- The Survey Act (Cap 299)—to determine the extent of land being possessed/compensated (this was also used to demarcate the host site for the resettlement of the displaced);
- The Land Adjudication Act (Cap 284) and the Chiefs Authority Act (Cap 128) —to determine land ownership in cases of dispute;
- The Registration of Titles Act (Cap 281), the Land Titles Act (Cap 282) and the Registered Land Act (Cap 300)—these were used to determine land ownership for compensation purposes, both in the condemned land and in land allocated at Mrima-Bwiti;
- The Land Control Act (Cap 302) —for purposes of relocation and compensation, and for determining the body to effect the resettlement and compensation plan;
- The Local Government Act (Cap 265) and the Land Planning Act (Cap 303)—for purposes of planning;

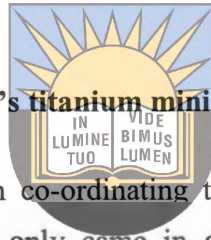
- The Government Lands Act (Cap 280) and the Trust Lands Act (Cap 288)—for purposes of planning and land allocation; and
- The Land (Group Representatives) Act (Cap 287)—that regulates group ownership of land.

For an investor to therefore be engaged in mining in Kenya, the investor has to work with nine Ministries under which the various applicable laws are operational. These are:

- i. Ministry of Environment and Natural Resources (Mining Act, Cap 306; Forest Act, Cap 7; Environment and Co-ordination Act)
- ii. Ministry of Lands (Land Acquisition Act, Cap 295; Survey Act, Cap 299; Land Adjudication Act, Cap 284; Registration of Titles Act, Cap 281; Land Control Act, Cap 302; Trust Land, Cap 288; The Land Group Representative Act, Cap 287; Government Lands Act, Cap 280; Trust Land Act, Cap 288)
- iii. Ministry of Agriculture (Agriculture Act, Cap 318)
- iv. Ministry of Local Government (Local Government Act, Cap 265)
- v. Ministry of Physical Planning (Land Planning Act, Cap 303)
- vi. Ministry of Public Health (Public Health Act, Cap 252)
- vii. Ministry of Water (Water Act, Cap 372)
- viii. Ministry of Labour (Factories Act, Cap 385; Factories Act and Other Places of Work Act, Cap 514)
- ix. Ministry of Energy (Electric Power Act No.11 of 1997).

Interviews with the mining company revealed that it was a daunting task for an investor to fulfill all conditions related to mining in all the mentioned Acts by obtaining the relevant licenses found within these Acts. An investor has to move from one ministry to the other and sometimes back, submitting applications for award of the necessary permits/licenses. For instance, to begin mining, one has to obtain a prospecting, then a mining license from the Ministry of Environment and Natural Resources. The investor then has to apply to the Ministry of Lands for forcefull acquisition of the land. Next, the investor has to acquire licenses to compensate victims from the Ministry of Land, the Ministry of Agriculture (for crops), and so on. The acquisition of these licenses is not always as smooth as one would imagine.

It is frustrating that sometimes these laws do not work in concert. For instance, there are situations when an investor “cannot obtain license A without first obtaining license C, which can only be obtained if one has license B, which in turn can only be obtained if one has license A”, as an official representative of Tiomin said. On other occasions, one may be ready to pay compensation money for graves, but one has to put up with the inordinate delay that goes with acquiring the exhumation license from the Ministry of Public Health. Given that the investor is working in concert with the government in the seemingly joint venture, officials at the company were at a loss as to why the government was unable to put in place a smooth process for the acquisition of all the necessary permits and licenses. The lack of a single law on Mining made the exercise quite trying.



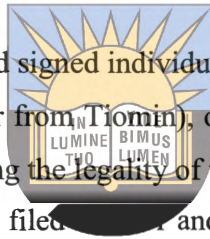
#### 7.4.2 Compensational practices in Kenya's titanium mining industry

The Ministry of Lands was charged with co-ordinating the relocation and compensation programme in Kwale, but this Ministry only came in after initial attempts to reach a compromise between the extractive company and the local residents regarding the compensation rates had apparently broken down. A little clarification on this is necessary.

In the initial stages, the Kenyan government allowed Tiomin (K) Ltd a free hand to determine and pay compensation to land owners as it deemed fit, since Tiomin was going to meet the expenses related to this anyway—this also corroborates Fig's (2008) assertion that extractive industries have traditionally been extremely powerful in relation to fragile state structures in Africa, which sees them being given a free hand to settle matters the way they see fit. Tiomin engaged a local law firm with instructions to enter into individual contractual agreements with land owners. The offer it made to the farmers, which had government approval, was that they would receive a compensational package of about Ksh3,000 (approximately US\$38) per acre per year for lease of their land, with 10% increase per year, plus a relocation benefit of US\$150 plus provision of “compensatory” land (5 acres of farmland and an acre of residential land for each household, at Ramisi, situated in the same District). Structures, trees and crops were also to be compensated for (Mining Weekly, 2006; Allbusiness, 2004).

Upon expiry of the 21-year lease, Tiomin would rehabilitate the land and hand it back to the farmers. The effect of this was that the farmers would not lose their land entirely, they would

simply 'lease' it out to Tiomin; this was despite the fact that the Kenyan government had already condemned the land. While the Mining Act and the Land Acquisition Act together with the Forest and Agriculture Acts provide for compensation for land, structures, and trees/crops, it is unclear under which Act or Section the leasing of land was pursued, leave alone the fact that the same land had already been condemned. In any case, after the strip mining of titanium, there would be little arable land left to hand back to the farmers as this land would have been so degraded beyond resettlement (that is if the environmentalists who were against the mining are to be believed). What this demonstrates is the power that extractive companies have over weak developing states. In certain cases, it seems that they literally take over such 'developmental' programmes as they are 'pampered', since they are 'crucial' investors.



While some farmers did accept the offer and signed individual contractual agreement with the company (and received the initial pay offer from Tiomin), others rejected the offer and took the government/company to court, contesting the legality of the move to deprive them of their land. This was the first law suit which was filed in court and which led to the imposition of a court injunction against the project (Five Star APD). The injunction was later lifted. Tiomin then had a change of heart and resorted to outright purchase of the land and thus do away with the lease provision. At least now the company was adhering to the existing laws. It then contracted a firm of private valuers (Fairlane Valuers) to advise on fair market values for compensation purposes in respect to land, structures, cultural artefacts, perennial plants and agricultural trees.

Fairlane Valuers came up with the following recommendations:

- a) That land be purchased (using economy of scale) at Ksh9,000.00 (approximately US\$114<sup>44</sup>) per acre for the first 20 acres; Ksh6,000.00 (approximately US\$76) per acre for the next 20 acres, and the remaining parcels be purchased at Ksh3,000.00 (approximately US\$38) per acre;
- b) That only land title holders would be compensated;
- c) That a 2.5 % mining royalty would be paid to the Kwale County Council;
- d) That the permanent structures be evaluated at Depreciated Replacement Cost;

<sup>44</sup> In all instances, exchange rates for 2005 (1US\$=Ksh79) obtained from <http://www.centralbank.go.ke/forex/default.aspx> accessed 23<sup>rd</sup> June, 2011. Readers can convert the other compensation rates using this conversion rate.

This recommendation was bound to be resisted by the farmers as they would not understand how land could depreciate with increased acreage (as the principle of the economy of scale dictated). Secondly, the recommendation that only farmers who had titled would be compensated was bound to cause trouble, for as observed in Chapter Six, a large number of residents at the Coast Province were squatters. And again, this was a clear breach of the World Bank policy on resettlement that recognises the payment of compensation to none land title holders. Compensating permanent structures at depreciated replacement cost was a term that the farmers would not understand and therefore would not consent to. It is not that it is the absence of clear laws to determine compensation rates for such developmental projects that causes such problems.

On the other hand, agricultural crops (with advice from the Ministry of Agriculture) were to be compensated as shown in Table 7.10



**Table 7.10: Fairlane's compensation rates for agricultural crops**

<b>Mangoes</b>	
<u>Mature</u>	<u>Young</u>
1 <sup>st</sup> 100 trees @ Ksh1,900.00 per tree	1 <sup>st</sup> 100 trees @ Ksh950.00 per tree
Next 100 trees @ Ksh959.00 per tree	Next 100 trees @ Ksh475.00 per tree
Balance @ Ksh475.00 per tree	Balance @ Ksh237.50 per tree
<b>Coconuts</b>	
<u>Mature</u>	<u>Young</u>
1 <sup>st</sup> 100 trees @ Ksh637.00 per tree	1 <sup>st</sup> 100 trees @ Ksh323.00 per tree
Next 100 trees @ Ksh323.00 per tree	Next 100 trees @ Ksh162.00 per tree
Balance @ Ksh162.00 per tree	Balance @ Ksh81.50 per tree
<b>Cashewnuts</b>	
<u>Mature</u>	<u>Young</u>
1 <sup>st</sup> 100 trees @ Ksh220.00 per tree	1 <sup>st</sup> 100 trees @ Ksh110.00 per tree
Next 100 trees @ Ksh110.00 per tree	Next 100 trees @ Ksh55.00 per tree
Balance @ Ksh55.00 per tree	Balance @ Ksh22.50 per tree
<b>Bixa</b>	
<u>Mature</u>	<u>Young</u>
1 <sup>st</sup> 100 trees @ Ksh44.00 per tree	1 <sup>st</sup> 100 trees @ Ksh22.00 per tree
Next 100 trees @ Ksh22.00 per tree	Next 100 trees @ Ksh11.00 per tree
Balance @ Ksh11.00 per tree	Balance @ Ksh5.50 per tree
<b>Guavas</b>	
<u>Mature</u>	<u>Young</u>
1 <sup>st</sup> 100 trees @ Ksh186.00 per tree	1 <sup>st</sup> 100 trees @ Ksh93.00 per tree
Next 100 trees @ Ksh93.00 per tree	Next 100 trees @ Ksh46.50 per tree
Balance @ Ksh46.50 per tree	Balance @ Ksh23.25 per tree
<b>Citrus</b>	
<u>Mature</u>	<u>Young</u>

1 <sup>st</sup> 100 trees @ Ksh380.00 per tree Next 100 trees @ Ksh180.00 per tree Balance @ Ksh90.0 per tree	1 <sup>st</sup> 100 trees @ Ksh180.00 per tree Next 100 trees @ Ksh90.00 per tree Balance @ Ksh45.00 per tree
<b>Banana clusters</b>	
<u>Mature</u>	<u>Young</u>
1 <sup>st</sup> 50 trees @ Ksh30.00 per cluster Next 50 trees @ Ksh15.00 per cluster Balance @ Ksh7.50 per cluster	1 <sup>st</sup> 50 trees @ Ksh15.00 per cluster Next 50 trees @ Ksh7.50 per cluster Balance @ Ksh3.75 per cluster
<b>Casuarina</b>	
<u>Mature</u>	<u>Young</u>
1 <sup>st</sup> 200 trees @ Ksh138.00 per tree 2 <sup>nd</sup> 300 trees @ Ksh69.00 per tree 3 <sup>rd</sup> 500 trees @ Ksh34.50 per tree Balance @ Ksh17.25 per tree	1 <sup>st</sup> 200 trees @ Ksh69.00 per tree 2 <sup>nd</sup> 300 trees @ Ksh34.50 per tree 3 <sup>rd</sup> 500 trees @ Ksh17.25 per tree Balance @ Ksh10.63 per tree

Source: The Compensation and Resettlement Committee Report (2004)

The release of these figures was met with much consternation from the farmers. Among the things that irked them was the categorisation of their crops into 'young' and 'mature' and the amount offered for each crop category. They were equally incensed by the offer of Ksh9,000.00 per acre for their land, and by the further categorisation of 'their' land, which in effect meant less payment for land with increasing acreage (this is elaborated in Chapter Eight). Of course, the lack of clear laws that outline compensation criteria for such matters led to this crisis.

It was at this point that the government came in and, using the powers conferred on it via Section 36 of the Land Acquisition Act (which empowers him to make rules to govern the course of compensation), the Minister of Lands directed the formation of the Compensation and Resettlement Committee (at national level) which would from that day onwards manage the process, and more important, come up with compensation rates acceptable to the farmers. In order to ensure the acceptability of the proposal, the committee included representatives from the farmers.

Further to this, a District Resettlement and Compensation Committee (DRCC) was also constituted to further co-ordinate the resettlement programme at the grass-roots level, and it was to act as the primary executive body in matters relating to resettlement (Coastal and Environmental Services, 2005a). This committee consisted of representatives from the affected farmers, from the government and from the extractive company. It is understood that a farmers' executive committee was also established to further pursue the interests of the farmers. This committee was tasked to collect and consolidate grievances which were

thereafter channelled to the local DRCC. It would appear that ad-hoc arrangements were now being put in place to deal with the resettlement matter, and an attempt was being made to include the farmers in the process.

The Compensation and Resettlement Committee (at national level) came up with the following recommendations affecting the farmers:

a) That land would now be purchased at Ksh80,000.00 (US\$1013) per acre—the prevailing land rates at the time was Ksh24,000.00 (US\$304) per acre. The Ksh80,000.00 was inclusive of a “disturbance allowance”. Both title holders and squatters occupying land required for the project would be compensated—it should be noted that the Land Acquisition Act (Cap 295), Sections 9 (3) (a), (b) and (c), entitles the Commissioner of Lands to determine compensation payable and the attendant beneficiaries;

b) That displaced persons be also awarded 5.5 acres of land at Mrima-Bwiti, and that for effective possession of the land, each awardee should pay Ksh3,000.00 (US\$38) being the required mandatory fee under the law for processing individual land titles—this award meant that the beneficiaries were doubly compensated, as Section 12 (1) provided for compensation of land in cash or by land in lieu of cash, but not both;

c) That annual crops (such as maize, legumes, rice, sorghum, millet, vegetables, etc.) would not be compensated as the farmers would be allowed time to harvest these crops;

d) That perennial and tree crops (such as coconuts, citrus, mangoes, cashew nuts etc.) would be compensated on the basis of the report provided by the Director of Agriculture (who now introduced three categories of “young”, “medium” and “old” which differed from Fairlane’s two categories of “young” and “mature”), with the modification that the rate to be used for purposes of compensation would be the average of the recommended rates for “young”, “medium” and “old” trees. It was decided that the value of palms and other related species (such as bamboo and sisal) would be based on their uses as these species “provide a reasonable array of products like baskets and mats, traditional wine, fruits, boundary marking and ropes” (DRCC, 2005:5). Under Section 11, Section 12 and Section 100 (2) of the Agriculture Act Cap 318 the Minister for Agriculture is given the power to fix the compensation prices for crops, and the above ((c) and (d)) was the result of his determination.

**Table 7.11: DRCC's compensation rates for agricultural crops**

Crops	Young (in Kshs)	Medium (in Kshs)	Old (in Kshs)	Cabinet Approved (in Ksh)
Coconut	242	400	255	299
Cashewnut	104	150	100	118
Mangoes				
Apple	2,927	3,165	2,665	2,919
Ngowe	2,927	3,165	2,665	2,919
Dodo	2,927	3,165	2,665	2,919
Exotic	2,927	3,165	2,665	2,919
Mangoes (Local)	50	300	720*	356.67
Oranges	1,816	2,286	1462	1,854.67
Lemons	1,816	2,286	1462	1,854.67
Lime	1,816	2,286	1462	1,854.67
Jackfruit	100	400	1,200 *	566.67
Custard apple	20	100	225 *	115
Guavas	20	100	225 *	115
Mulberry	20	40	100 *	53.33
Bixa	30	100	240 *	123.33
Coffee	5	200	400 *	201.67
Grape fruit	20	100	300 *	140
Pineapples	5	10	20 *	11.67
Passion fruit	20	80	200 *	133.33
Sugar cane	5	10	20 *	11.67
Tamarind	30	100	200 *	143.33
Kapok tree	20	100	200 *	106.67
Paw paw	30	40	100 *	56.67
Bananas	30	50	100 *	60
Avocadoes	100	300	900 *	433.33
Macadamia	100	200	400 *	233.33

Source: DCRC (2005)

\*prices unchanged from values suggested by Fairlane' Valuers

e) That indigenous and exotic trees would be compensated in accordance with the valuation report of the Kenya Forestry Research Institute, of the Department of Forestry (see Appendix V). In short, the values of the trees were based on the volume of merchantable wood, as pegged on the 2002 estimates provided by the Forestry Department. Where such rates were not available for specific species, the estimated value was based on their uses as compared with species with comparable values, and whose rates were available from the Forest Department. Trees which had medicinal value, such as the neem tree, would have their rates

based on both timber and medicinal values. The Forest Act Cap 7 empowers the Department of Forestry to determine the prices and in effect the compensation rates for trees under its docket. The result of its determination is reflected in Appendix VI.

f) Medicinal plants were not to be compensated, since in the opinion of the Forest Department, a comparative array of plants in this category would be inherited upon relocation to a new settlement area. This was because it was envisaged that the farmers were likely to be relocated within the same general area with fairly similar ecological and climatic conditions where most of these plants would be found. But, as would be observed in Chapter Eight, these herbs did not exist in resettlers' new sites.

g) That compensation would be paid for residential, commercial and physical structures in both freehold and leasehold/squatter areas of land required for the project. The Committee adopted the values obtained by the valuers commissioned by Tiomin (as these rates were found to be more favourable) over those obtained by the Government Chief Valuer. But the same was to be moderated by the Government Chief Valuer (which appears as if the government was giving with one hand and taking with the other). Farmers were allowed a one month reprieve to salvage materials from their houses before they were demolished. The law under Land Acquisition Act Cap 295 Sections 9 (3), (a), (b) and (c) entitles the Commissioner of Lands to determine compensation payable for such structures and the attendant beneficiaries. The same applies to h—k below.

h) For all deaths occurring before end of June, 2005, it was resolved that compensation would be paid out as follows. Graves would be compensated for at the rate of Ksh10,000.00 (US\$126.6) per grave (to cover traditional rites). The company would meet the cost of exhumation (which entailed obtaining licence in this regard from the government), transportation, and associated works. A replacement tombstone, where such existed, would be provided by the company. Where none existed, Tiomin would pay for an inscribed wooden tablet of a shape in keeping with religious beliefs. The company would also provide a cloth-lined coffin, or a white cloth in the case of Muslims. The company also agreed to set aside some land for use as a cemetery at the resettlement site for those who would wish to inter their dead there. The company further agreed to put up a shrine which would be used to inter excavated remains for those whose remains could not be identified, and the shrine would be placed at the Kwale Municipality Cemetery. The company would also facilitate an annual service to commemorate the community ancestors. A cemetery would also be

established at the resettlement area (Mrimi-Bwiti). A church and a mosque would be constructed to enable observance of religious rituals. In the meantime, a burial moratorium was placed among those yet to be relocated in Mivumoni and Kinondo locations. For resettlers who would pass away during the process of displacement (that is, after 30<sup>th</sup> June, 2005), the company would offer transport services, a coffin or cloth liner (for Muslims), provide a vehicle for 5 hours to transport the funeral party to and fro, provide assistance with completion of any paperwork to complete the burial, and all other work associated with burial expenses;

i) Transport (for their household belongings) was provided to their resettlement areas or farmers were allowed to opt for a flat transport rate of Ksh50,000.00 (US\$633). Field findings indicated that most of the farmers opted for the flat rate as they stood to gain more;

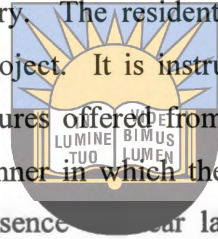
j) Demolished Churches and Mosques and other community owned structures such as water wells would also be compensated;

k) Where affected, loss of business and employee wages would be compensated, subject to production of enterprise audited accounts for the last three years. This, as discussed in Chapter Eight, was found to be unworkable as the businesses were too small for audit.

It is noted, however, that despite the fact that farmers were represented in the national Compensation and Resettlement Committee, and the fact that it was through this committee that the final report was sent to Cabinet for approval (Cabinet did approve these recommendations), some farmers were still not satisfied with the various compensational awards. So in 2004, seven farmers, acting on behalf of others, filed a case in court arguing against the 'unfair' compensation offer. They again questioned the legality of the acquisition. The court ruled against them on 19<sup>th</sup> December 2006 citing the powers of the state under eminent domain (Bank Information Centre, 2006). Consequently, in the early hours of the morning (at 3.00 a.m Kenyan time) of 14th April 2007 during a heavy downpour, the farmers were finally 'bulldozed' from 'their' land, after a long 12-year struggle to retain their land (Mines And Communities, 2007). The farmers lodged an appeal in 2007 which led to a halt to mining activities at the mining site through the issuance of a court injunction. This case was however dismissed in the same year and with that, the locals lost their hold on the land. The farmers had no choice now but to accept the compensation offered. Chapter Nine reveals their sentiments towards these compensation rates.

## 7.5 Conclusion

The Kenyan mining industry is still in its nascent stage, contributing only 1% to the country's GDP. The discovery of titanium deposits, which accounts for 40% of the world's total reserves, promises to change Kenya's mining landscape—as happened in the case of the discovery of diamonds in Namibia. The devil, as it is said, was in the detail, which in this case was the compensation package due to landowners. In view of the social pathologies that accompanies social displacement (as observed in Chapter Two), there was need to address these concerns as well as minimise the conflict that mining activities come with (Chapter Three outlines these conflicts). But as observed, the Kenya government in the initial stages was quite willing to give Tiomin a free hand to manage the process, thereby almost abdicating its responsibility to its citizenry. The residents' agitation however forced the government to 'dirty its hands' in this project. It is instrumental to note that the farmers contested the various compensatory measures offered from the beginning to the very end. This may be attributed to the ad-hoc manner in which the resettlement and compensation exercise was being undertaken. The absence of clear laws that lay out the criteria for compensation of identified assets also contributed to the protracted crisis. An ethno-ecological analysis would likely assist in assessing what the environmental resources mean to the residents to cause such a prolonged conflict; the next chapter (Chapter Eight) provides the empirical results from the field with regard to this.



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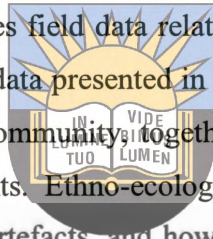
## CHAPTER EIGHT

### FIELD FINDINGS AND ANALYSIS

#### 8.1 Introduction

The literature on community-enterprise conflict is currently dominated by notions of equity, land ownership, compensation and environmental degradation. This thesis, however, aimed at going beyond these prevailing notions to bring into focus the meanings that communities, in this case the Kwale community, attach to the biogeophysical environment (or in other words, “nature”) and cultural artefacts, and how such meanings intersect with local experiences of resource extraction and social displacement.

This chapter therefore presents and analyses field data related to the two research questions outlined in section 1.3 of this thesis. The data presented in this chapter are derived from in-depth interviews conducted in the study community, together with focus group discussions and extensive interviews with key informants. Ethno-ecology (which asked the uses to which the community put “nature” and cultural artefacts, and how this in turn led to appending of meanings to “nature” and cultural artefacts) and ethnography were also used to collect data. Visual sociology was employed to enrich the narrative data collected. Verbatim quotes from respondents are used and anonymity of the respondents is preserved in keeping with social research ethics.



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#### 8.2 Research Question 1:

- What meanings do residents of the study community attach to environmental features (land and specific trees) and to cultural artefacts (graves and houses) and what impact does social displacement associated with titanium mining have on such meanings?

The findings related to this research question are presented in themes as further elaborated in Section 8.2.1 below.

## 8.2.1 Social construction of “nature” and cultural artefacts

“Nature” is a social construct which is often made in line with the uses to which the community puts its immediate environment, and which is guided by a set of cultural values. Meanings are then attached to “nature” and cultural artefacts. Since it was not possible within the scope of this study to look at all aspects of “nature” and cultural artefacts, the present study focused on land (Sections 8.2.1.1), the plant community (Sections 8.2.1.2), graves (Sections 8.2.1.3), and residential structures (Sections 8.2.1.4). These representations then became the themes for this thesis and findings are presented in line with these themes.

The findings as they relate to the above themes are presented in the following manner: After discerning the social construction of nature, the impact of titanium mining-related social displacement on these constructions/meanings is then presented and discussed.

### 8.2.1.1 Ethno-ecology of land

Shipton (1994) defines ‘land’ to mean the soil or the sand, a political power base, an aspect of divinity, a resource to be exploited (for this discussion these four definitions are adopted as the definition of land), minerals, and the other dimensions of it such as plants, structures (these will be considered in Sections 8.2.1.2, 8.2.1.3, 8.2.1.4), animals and the inhabitants themselves.

The researcher found that the displaced residents of Kwale, especially the Mijikenda, revered land, as it was on this particular land that the first Mijikenda settled (see Chapter Six on Mijikenda migration). This was the land on which the first Mijikenda migrants built the first, and now the oldest, *kaya*—the *kaya* Digo/Kwale. Other *kayas* were also constructed here, such as Kinondo, Duruma and Gandini. It is partly because of these *kayas*, and other minor ones which sprung from these three, that land in Kwale was revered by the indigenes.

The researcher found that the community at Kwale have endowed land with the following ethno-ecological importance:

i) Land was equated to be part and parcel of human life. In other words, people could not exist without land. Humans, after all, were believed to have been created from earth; to the earth they will all return. This resonates with Whittlesey’s (2004:89) assertion that land is the “soul foundation of human life”. One respondent emphasised that land meant “everything” to him; without it, how else would he be defined?

ii) Land was described as the source of all sustenance, echoing Kilson's (1955:103) observation that "land was significant as it was the basic source of subsistence for most African people". Land was where people farmed, reared their animals, hunted for game, and obtained material to build shelter, among other things. One respondent asserted that an "African's life is [dependent and spent] on the 'farm'[land]".

iii) Land was considered important as it was the "final resting place" for human beings. Land is where one's ancestors were buried. This was found to be of particular importance to the displaced community at Kwale, as discussed later.

iv) Land was the abode of ancestral spirits, who hover over land once they leave their physical form—see Bovensiepen (2009), who argues that complete unity with land is achieved through death, when through burial, people become part of the spiritual landscape as ancestral spirits. Respondents stated that land was important because this was where their ancestors were buried, and that when they walked on this land, the ancestors walked with them and guided and protected them.



v) Land was the one sure resource that one could bequeath to one's children.

vi) Land was a 'book' of community history. One could trace one's family and clan lineage through the graves situated on the land.

vii) Land was where one could practice one's culture, have holy places and shrines for prayer and sacrifice, and where one could hide one's charms.

viii) Land was a form of security as it was 'there' for one to till 'forever'. One respondent said that land was one's 'pension scheme'.

ix) Land was a form of wealth.

ix) A large acreage of land was a 'sign of good luck' as it was a reward from a higher being (God) or from one's ancestors.

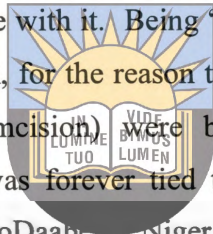
One 42-year-old male respondent described land as follows:

Land is of utmost importance because man's life is spent on the surface of the earth. This is where you practice your agriculture, obtain water to drink, build your house, and inter your dead. *Without land, one has no life. You are not a human being if you have no land, especially if you are a man.* Where will you take your wife to if you have no land? Where will you be buried if

you do not have land? If you do not own land, how else will people find you? Land gives you an address! Land makes you be known. It's land first then all other things follow.

The above sentiments echo those of Havemann (1999) who argues that for indigenes, land is not just another form of property, it determines the very rationale for existing as a human being. In other words, land justifies human existence.

The respondent quoted above added that one cannot marry if one does not own a piece of land; for where else would he raise his family? For him, land provides one with identity, sustenance and worth. A 63-year-old respondent stated that “an African is incomplete if he does not possess his own land”. Another respondent, a 52-year-old man, explained that he loves his land because he believes he is one with it. Being “one with it” meant that this was where his ancestors were buried and, again, for the reason that this was where his umbilical cord and his foreskin (following circumcision) were buried. He asserted that this demonstrated a permanent sign that he was forever tied to the land. Loftsdotirr (2001) observed similar sentiments among the WoDaabe of Niger, who believed that where one's *sibiiru* (umbilical cord) is buried is sacred land, and that this marked one's lifelong commitment and union with that particular spot on earth.



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A government official in the Ministry of Lands noted that communities in Kwale were attached to land as they considered it an asset as one could pass it on to his/her children. He added that future generations would blame any member who either sold or allowed the family land to be “taken away”. Land therefore belonged to the clan and not just to an individual. He also said that land was equated with wealth, and it was the ultimate wealth that one could bequeath to one's children (indeed one respondent declared that the wealth of an African was his land, and not the money he has in his bank account). His views were similar to those expressed by Carr (2004) and Lastarria-Cornhiel (1997) who observe the importance of land for purposes of inheritance and identify land as belonging to the clan. The government official further highlighted that communities in these parts viewed land ownership as a natural thing (as a way of life) and it was by it that one satisfies all their other social, cultural, economic and political needs. He also asserted that ancestral spirits would only rest in peace when they are interred on land they once called their own.

A farmers' representative during the period of displacement and (at the time of the field work) an influential opinion leader in the community elucidated the importance of land as follows:

We love our land because unlike the developed countries that have industries, our land is our only factory. We do not look for employment because our farms are our employers. We depend on our land for rearing of animals and growing food, the produce of which we use to raise our children. Our land is our source of livelihood. Land belongs to the whole family and as such, we do not sell it as this will not only impoverish the seller, but it will also impoverish the generations to come. One therefore holds land in trust not only for himself and for his immediate family, but also for his clan and for future generations as well; and even for the dead.

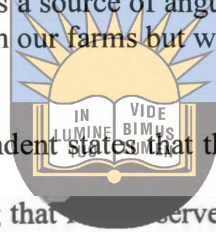
But not all respondents shared this pre-modernist view. A minority (26% of the 122 respondents interviewed) viewed land differently. One 49-year-old woman, for instance, said that one felt secure if one owned a piece of land, as one could then proudly profess that one was a property owner. One could then speculate and perhaps even later sell it at a profit and use the proceeds for further investments. One could even obtain a loan from a financial institution using the land as security for the transaction. One could also will it to one's children—"if you do not have land, what then will you bequeath to your children?" she asked rhetorically during the interview. But the researcher found that even those who held "modernist" notions of land still saw it as an inalienable asset, without which life as we know it loses its meaning. This demonstrates that social change is indeed taking place in society. It further shows the emerging new views regarding nature from the youth. Since the aim of the research was not to investigate differing view points regarding meanings bestowed on 'nature' (as the thesis was interested on "shared meanings"), this aspect was not explored—this could possibly be a good area for further/future research. At the moment, cultural change, modernisation, urbanisation and education can be offered as factors accounting for this emerging difference.

The above sentiments resonate with Ng'weno's (1997) argument that land inheritance among the Mijikenda, especially among the Digo, is held in high esteem. Ng'weno notes that there were four different types of landholding among the Mijikenda groups: *dzumbe* (father's land), and *konho* (mother's land), which tend to be self-acquired property and which the owner can bequeath as s/he deems fit; *mashamba ya mafuko* (clan farms, matrilineal) and *mashamba ya mbari* (lineage farms, patrilineal), which were inherited property and which were inherited

according to cultural norms and traditions. Ng'weno (ibid.:63) argues that “land connected social kin relations” through matrilineal and patrilineal inheritance, a system that was now at risk with the displacement. The meanings attached to land, as discussed above, also echo Rogers and Wang’s (2006) argument that spaces became places of attachment because they act as anchors of meanings to residents by symbolising and sustaining self.

As to how social displacement has affected these meanings, most respondents were categorical that the condemned land had lost all the meanings previously attached to it. This was how one of the affected farmers put it:

Our abandoned land has lost all the meanings attached to it! We only look at it now with envy. It now only serves as a source of anguish and frustration. Our coconuts and mangoes are now ripe in our farms but we can't do anything.



It should be noted that although the respondent states that the land means nothing to him, he however qualifies this statement by saying that it serves as a source of anguish. This is the new meaning now associated with the land. Another relocatee lamented on the lost meanings and lost material resources:

The land means nothing to us now! The trees and other plants we left there no longer serve as a source of nourishment to us; but are a reminder of a good life we once had but which is now lost. We only see our land and coconuts once in a while when we sneak back to our possessed land to take a peep at our lost treasures, and it only reminds us of the good life we had, but now lost. This fills me with great sadness when I think of it (the land).

This respondent also demonstrates that the land has acquired a new meaning, that is of serving as a reminder of a good life lost.

The displaced also reckoned that they were left the poorer with the dislocation. Says a 57-year-old displaced farmer:

*Na shamba zetu, hatukukua tunalala njaa! Lakini sasa, tumbo zetu zina guruma kama mashini ya kusiaga mahindi. Tulikua tunafundisha watoto wetu na mazao ya shamba, lakini kwa hivi sasa, wengine wetu hatuwezi kupeleka watoto wetu shuleni—wengi wao sasa wako Diani wakijaribu maisha na watalii! (With our farms we could never go to bed hungry. But now our stomachs are grumbling like posho mill machines. We educated our children*

with proceeds from the farm but now that we have been deprived of these, some of us can no longer take our children to school—most of our children have dropped out of school and are in [the resort town of] Diani trying their luck in the tourist trade).

The researcher found out that elderly residents now perceived the condemned land as “cursed land” on account of the fact that ancestors had been abandoned on the condemned land by their keepers, the displaced persons—such abandonment was a cultural taboo.

Our abandoned land is now just a reminder of a good life once lived, and our ancestral spirits are now hovering aimlessly over ‘our’ taken land. Do you think the ancestors moved with us to our various areas of relocation? I doubt that very much! I don’t think they did! That land is only now a cursed land (said a 67-year-old displaced farmer)



As shown later (Section 8.2.1.3), the displaced were forced to migrate and abandon their ancestors’ graves, and given that there existed the belief that ancestral spirits roamed the land and that graves have to be taken care of and sacrifices offered regularly to appease these spirits, “ancestral spirits are roaming all over the condemned land in anger and passers-by could very easily be harmed”, added the 67-year-old respondent quoted above. Bovensiepen (2009) made similar observations when he noted that among the displaced community of East Timor, there was a belief that angry spirits were roaming about on account of having been abandoned on the land when the people were displaced.

To other respondents, the possessed land now reflected ‘lost life’. These respondents said that they were now forced to begin life afresh, and begin it in an entirely different environment with all its hardship.

The land here is very ‘hard’. We were used to our land in Maumba. In this place I can’t even find *Mikoma* and *Mikerekere* (local tree species) to construct a toilet! There is too much hardship here. In fact, we are now suffering from diseases, such as cholera, that were previously unknown to us. Perhaps this was because we had a lot of wild vegetables in our land whose intake shielded us from these diseases. I came here with over 50 chicks but now I have none as they have all died from some mysterious disease present in this new place. In my land I had game such as *ndezi* (hedgehog) and wild pigs. But now my hunting dogs are useless as there are no wild animals in this place. And when my children ask me when it is we are going to eat *ndezi*, I have no answer and this saddens me (remarked a 52-year-old male respondent who had relocated to Kikombero).

The respondent stood up and paced around rubbing his chin before placing his hands on his hips and declaring that he had no alternative but to migrate from this new resettlement area. Other ethno-ecological losses experienced by the community included the inability to access local flora that served as medicinal herbs, loss of construction materials (both of which have been alluded to above), loss of grazing ground (as they now had tiny pieces of land and the host community were not willing to share their grazing spaces with them), loss of watering places (they now had to buy water from water vendors, whereas before they had clean streams or communal boreholes to draw water from), among other losses.

Some missed the wild animals that roamed the land, some of which served as community/clan and/or individual totems. Others missed the trees that were able to 'tell' season changes as they would shed their leaves, change their colour, or flower. Others reminisced about the birds they now missed, not only for their aesthetic value, but also for the manner in which they alerted the residents of potential danger (for instance from snakes or buffaloes) or 'alerted' them to the time of the day. This was for the reason that they had resettled in completely different ecological zones

Others talked of how they were now unable to catch rats and give them to their Duruma neighbours to whom this was a delicacy, an act which previously cemented social relations. As it now stood, the rats and other animals were terrorizing them in their new settlement as they had no predators. This shows how the community had formed an inextricable web with their environment. During the displacement, the community were not compensated for certain trees, herbs and other fauna as it was thought that the community would find these resources at their resettlement areas. Mburugu (1994) however criticises the assumption that land of equivalent agro-ecological potential is always available, as this is normally not the case. Every environment is unique.

The displacement left many feeling vulnerable and restless, with many describing their current life as "wasted". Plate 8-5 offers a glimpse into the new lives of the relocated farmers. While the first allocatee in Plate 8-5 now lives in a dilapidated grass-thatched hut, which he describes as a far cry from his previous "grand house" (as he called his demolished structure), the second relocatee now owns a house protected by ironsheets as roofing material—this is very unsuitable for the hot humid weather that is found in the coast region (see Chapter Five, Section 5.2 for a description of the study site). The material is therefore cheaply available as few people use it due to its unsuitability.

The community was also greatly troubled that with the displacement, as they had lost some of their secret *kaya* sites:

What saddens and concerns us is the fact that with this displacement we have lost a number of our *kayas*. Where will we now bury our important people when they pass on? Where will we now go to for important communal prayers and other traditional rites? Where will we now ‘hide’ our strong medicine that cannot be ‘hidden’ in own houses? A *kaya* is not a small thing—we can’t construct a replacement *just like that!* These *kayas* were put up long long time ago even before our great great grandparents were born. The loss of the *kayas* is a great loss to the Mijikenda community. It is possible that we lost the case of our land to Tiomin because we no longer had the blessings of our lost *kayas*—now misfortune and bad luck follows us everywhere! (response from a 62-year-old displaced person)

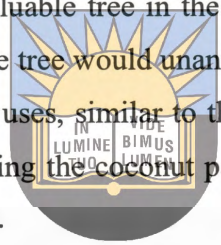
These *kayas*, as observed in Chapter Six, were held in high reverence by the Mijikenda, as they served not only as important shrines and places of prayer, but also as burial sites for Mijikenda ancestors. With their loss, the community felt that they had lost the protection that came with the existence of these *kayas*, and therefore the community harboured feelings of vulnerability. The spiritual connection that previously ‘bound’ the community with their ancestors was thus weakened. As Bovensiepen (2009:328) argues, “people’s relationship with the landscape is...a holistic one, since the spiritual aspects of the landscape encompass political and economic factors”. In other words, spirits are involved in the daily lives of the local indigenes and social displacement in Kwale threatened this bond. The loss of the landscape that bore crucial meaning to the community illicited a feeling of vulnerability among the community—this hence formed the “roots” of vulnerability that the pressure and release model of vulnerability talks of (section 8.4 discusses this issue in more concise detail).

### 8.2.1.2 Ethno-ecology of the ‘ordinary’ coconut tree

To visitors, the coconut palm may look like any other ordinary tree; but this is hardly the case. The coconut tree is certainly no ordinary tree among Kwale indigenes. Of all the plants found in Kwale, none holds a more revered position than the coconut palm tree. It is found in almost every homestead in this coastal community. A brief background on the coconut tree is necessary at this point to enable readers to grasp the long and intimate relationship that the Kwale community have had with the coconut palm.

Harries (1977) suggests that the seedlings of the coconut tree might have been carried by Vasco da Gama to the Cape Verde Islands in one of his many voyages in the 17<sup>th</sup> century, and this was how it eventually found its way into Africa. By 1946, four families of the palm tree had been identified in tropical Africa, with around 50 varieties of the palm tree having by then been named, the coconut palm tree (which is what is found in Kenya's coast) being one of them. Of the other species, the African oil palm, originally introduced from Brazil and found mostly in West Africa, has been recognised as being of immense commercial importance. Cook mentions that in the palm group alone, five of the principal requirements of human existence—that is starch, sugar, oil, fibre, and building materials—are obtainable from the palm tree (Cook, 1946).

Searles (1928), in an article “The most valuable tree in the world” remarks that for people living in tropical Africa, their most valuable tree would unanimously be the coconut tree. He justifies this by listing down its numerous uses, similar to those later enumerated by Moore (1948) and Weiss (1973), with Moore calling the coconut palm tree (*Cocos nucifera L.*) the most important member of the palm family.



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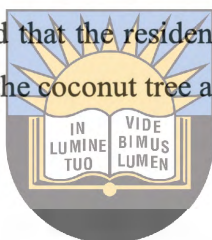
Herlehy (1984) notes that the coconut palm has a long history with the coastal people of Kenya, especially among the Mijikenda, with the Ravai being the first to plant coconut palms after getting the seed from the Coast near Jomvu or Changamwe in the mid-18<sup>th</sup> century. Herlehy remarks that because of its many uses, including the production of *uchi* (the traditional wine, currently commonly referred to as *mnazi*), the distribution of the coconut seed in the formative years was strictly controlled by the *kaya* elders (these are revered traditional/cultural leaders) and only the elders or their blood-brothers were allowed to plant it. Palm wine was a beverage consumed by Mijikenda elders on all ritual and social occasions. Gifts of palm wine were an integral part of marriage negotiations and were part of the bridewealth itself. The payment of *uchi* was of special importance because it guaranteed the husband ownership of the genitricial rights over his wife—that is, any children born would stay with him if he and his wife ever divorced.

This payment varied from as few as two *kadzama* (calabashes) to as many as twenty *kadzama* of *uchi*. Palm wine was also used as an ancestral offering, being placed in a coconut shell and put on the grave of one's forefathers. Compensation paid for criminal offences or social misconduct included payment of at least one calabash of *uchi*. Applicants seeking to join the *kaya* council of elders or any secret societies were required to donate palm wine to members

of those groups as part of their initiation fee. Although palm wine did not have such comparable importance within the cultural complex of the Kamba people (largely later day migrants to the Kenyan coast, particularly during and after the colonial period), or the Taita, or the Waata, or among the Orma, they still sought it because *uchi* was a beverage to be enjoyed and a commodity to be sold back in their own home areas.

Ng'weno (1997:63) in fact argues that there was a time in Mikjikenda history when the coconut trees were of more value than the land on which they grew. Ng'weno points out that “what was important were the actual trees, and not the land on which they were planted. While ownership of specific coconut trees was remembered, who last planted fallow land was not”.

During the field work, the researcher found that the residents of Kwale relied very much on the coconut tree. Some of the local uses of the coconut tree are summarised in Table 8.1.

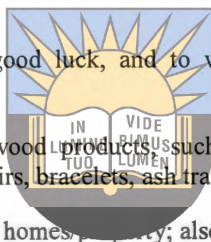


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**TABLE 8.1: PARTS OF THE COCONUT PALM TREE AND THEIR USES AMONG THE KWALE COMMUNITY**

<b>ROOTS</b>	<ul style="list-style-type: none"> <li>• For medicinal purposes (to ease stomach pains).</li> <li>• Used for animal feed.</li> </ul>
<b>TRUNK</b>	<ul style="list-style-type: none"> <li>• For building of huts, storage facilities and other physical structures.</li> <li>• For furniture construction, coffin making and canoe building.</li> </ul>
<b>BRANCHES</b>	<ul style="list-style-type: none"> <li>• For construction purposes.</li> </ul>
<b>FRONDS</b>	<ul style="list-style-type: none"> <li>• House roofing material (<i>makuti</i>); Mattress and pillow stuffing; can be used to weave mats, make brooms, make fish traps;</li> </ul>

<b>FRUITS</b>	<ul style="list-style-type: none"> <li>• The sap is used to make a local brew for domestic and cultural practices such as marriage gifts and negotiations, and ceremonies such as funerals, births, and offerings to ancestors.</li> <li>• Shells used for cups, plates and ash trays; Fibre for cloth making.</li> <li>• Coconut milk (<i>madafu</i>) as a soft drink and is believed to cleanse the stomach of its impurities.</li> <li>• Coconut fibre is used as spice for the making of practically all foodstuffs, such as rice, beef, vegetables and chicken.</li> <li>• Coconut fibre are squeezed and turned into milk for a baby supplement.</li> <li>• Residents believed that sap from the fruit can also be used to cure yellow fever, cure mental illness for the aged (“spill a few drops on the ground then the patient walks over it and he gets cured” a respondent explained).</li> </ul>
<b>TREE</b>	<ul style="list-style-type: none"> <li>• Planted in homesteads to mark the beginning of the homestead and therefore serves as a marker of history.</li> <li>• Planted as a sign/symbol of good luck, and to ward off evil spirits from the homestead.</li> <li>• Tree trunk is used to make wood products such as timber for domestic and commercial purpose, tables, chairs, bracelets, ash trays.</li> <li>• Marking of boundaries between homesteads; also used for aesthetic purposes.</li> <li>• Used for crafting of grave posts (<i>logango</i>), an important cultural practice.</li> </ul>
<b>OTHERS</b>	<ul style="list-style-type: none"> <li>• Coconut oil can be used as oil for the skin and for the hair.</li> <li>• Its sap can be used to make mosquito repellent.</li> <li>• Coconut palm tree roots have various medicinal uses. Its roots can also be fed to domestic animals such as cows and goats.</li> <li>• Bathing soap is obtainable from the coconut tree.</li> <li>• Cooking oil is obtainable from the coconut tree.</li> </ul>



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The coconut palm tree is extensively used by the Kwale community, thus substantiating Cook’s (1946) early observation that the palm tree fulfils five of the principal requirements of human existence—that is, starch, sugar, oil, fibre and building materials. Given that the Kwale community’s association with this tree dates back to the mid-18<sup>th</sup> century, it is not surprising that the community had established a very close relationship with this tree. The coconut is, therefore, no ordinary tree to the Kwale community. When asked about the importance of the coconut tree to the community, this is how one farmer, a 54 year old man, put it:

*Mnazi ndiye baba na mama ya jamii. Bila mnazi hakuna maisha* (The coconut tree is the father and mother of the community. Without the coconut tree, there is no life).

Another farmer, a 60-year-old man, described the coconut palm tree as follows:

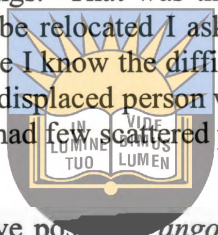
*Mnazi ndiyo maisha! Hakuna mtiyeyote (sic!) mwengine ilio na umuhimu kama mnazi!* (Coconut tree is the giver of life. No other tree is as important as the coconut tree!)

The above two statements essentially summarise the ethno-ecological importance bestowed on the coconut tree. It was the very essence of life, the giver and sustenance of life. These sentiments, in different forms, tones and shades, were echoed by many interviewees. The findings by Moore (1948) and Weiss (1973), that the palm tree is of immense ethno-ecological importance to people living in tropical Africa are as relevant today as they were then, if not more. The coconut tree has thus been constructed by the local Mijikenda, Duruma, Kamba and other communities in this area as being not just any other ordinary tree, but as being the most important tree in the community. This echoes the related findings made by Howard and Nabanoga (2007) on the local jack fruit which the locals (in Uganda) named *muzadde* ('like mother') because of its usefulness to the community, especially in times of food scarcity.

The coconut palm tree also bore important social significance as the traditional drink, *mnazi*, was derived from it and served several cultural purposes, as Herlehy (1984) earlier pointed out. For instance, a man has to deliver at least a drum of *mnazi* to his in-laws as part of the bride wealth. For it to have meaning, the wine ought to have been tapped from one's own trees. It is equally essential to serve *mnazi* during funerals and on other important ceremonies such as the birth of a new baby. For some families, planting of a coconut tree to symbolise such events (death and birth) was equally important. One is also expected to use his own coconut palm trees to construct one's shelter, thus further cementing one's attachment to this tree. The coconut tree was thus described as the "giver of life" and as the "mother and father" of the community, for as one other respondent stressed, when one nurtures a coconut tree, "one cannot 'sleep' hungry, be without shelter, or be without an income".

Coconut fibre is used in the cooking of practically all types of food stuffs, from rice (popularly referred to as *wali*), *ugali*<sup>45</sup>, maize and beans, vegetables and various meat and chicken dishes. A meal is therefore never complete without having been spiced with coconut fibre. Another thing that makes the coconut tree very important is the fact that it is an intergenerational tree—a tree could be used by the farmer, the farmer’s children (once the farmer passes on), and even by the farmer’s grandchildren. So although the coconut tree may look ‘ordinary’ to a visitor, in Kwale this tree is actually the community’s lifeline—literally.

*Kwa sisi watu wa pwani, mnazi una umuhimu kibwa sana!* (to us people living in the Coast, the coconut tree is very important). *Mnazi*<sup>46</sup> is very important because it very many uses. It is said to have over one hundred uses! If you have *mnazi* then you are secure in life because *mnazi* provides one with food, income, and shelter among other things. That was the reason why when we were first informed that we were to be relocated I asked if there were *mnazi* where we were going. This is because I know the difficulties we would face if we have no *mnazi* (comments from a displaced person who declined to relocate to the identified host area as the land had few scattered palm trees).



Coconut trees were also used to craft grave posts (*ngungu*) which bore important cultural value (see Section 8.4.1). A man's *University of Fort Hare* *Together in Excellence* wife had the installed grave post on the husband’s grave rots and falls.

These sentiments echo the earlier sentiments attributed to Searles, when he asserted that the most important tree in the world for those living in tropical Africa (and at least in the world of the Kwale residents) is the coconut tree. The effect of social displacement in Kwale was that it alienated the community from ‘this giver of life’, and therefore, individuals and the community as a whole were left vulnerable, more so when the displaced settled on land where coconut trees were not found or where they could not easily be cultivated. One respondent remarked in a focus group discussion that “land without *mnazi* is a difficult land”, suggesting that land without coconut trees was land without value or ‘respect’. Social displacement thus denies individuals and the community at large the relationship that the two entities have enjoyed over generations. One displaced person lamented as follows:

This titanium has caused me great anguish. Can you see any coconut tree here where I have relocated to? I left all my coconuts on the land I was evicted from. All the advantages of having coconuts disappeared when I moved here. My relationship with my trees was severed with this dislocation. While I had

<sup>45</sup> Commonly referred to as *pap* in South Africa, and as *sadza* in Zimbabwe.

<sup>46</sup> Swahili term for ‘coconut tree’. The wine derived from it is also referred to by the same term; one has therefore to be aware of the context within which it is used.

over 200 trees, I now only have these three miserable coconut trees that you can see here. I am now a pauper, eking out a living in Kikombero (one of the villages in Kwale District).

When community members were asked to state what the coconut trees, now abandoned in the condemned land, meant or represented, many were visibly angry. One 47 year old farmer, after carefully lighting a cigarette, commented as follows:

I feel very bad about my coconut trees. In fact I really hate passing anywhere near 'our' [possessed] land as I hate looking at those trees. How would you feel when you see your trees just standing there in the wilderness, heavy with fruits, and yet you are not allowed to harvest! I feel very very bad.

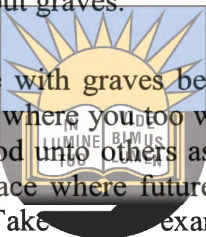
A farmer, who also happened to be an opinion leader in the community, captured the mood of the community on what the coconut trees now represented. The respondent remarked that the abandoned coconut trees now only served as a source of *wivu* (which literally means 'envy'; but the manner in which it was expressed the feeling was equated to 'jealousy'—the kind that a protective husband would have over his wife). In other words, they now 'envy' the new (which to them meant the 'illegal') owner of the coconut trees, who had seemingly 'eloped' with their beloved 'wife'. The loss of this tree and its associated meanings left the community feeling rather vulnerable. The constructed meaning (that has been derived through the ethno-ecological approach) demonstrates the community's attachment to this resource, but following its loss, the "roots" of vulnerability was planted. The progression of vulnerability to the next two stages (as explained in the pressure and release model of the political ecology perspective of vulnerability) was thus ignited. Unable to call on this resource to face off adversity, the community progressed to stage two ("dynamic pressures"). The community was now a vulnerable group and were now on the last stage of the progression to vulnerability, that is, "unsafe conditions". Conversely, having developed strong ties with its socially constructed environment, the loss of this resource undermined the community's ability to cope and hence led to state of vulnerability. Section 8.5 further analyses this.

### 8.2.1.3 Ethno-ecology of graves

As seen in Chapter Three, graves are not just spots on the earth where the dead are interred. Many African communities regard graves in a more holistic manner than this. For instance,

De Beer (2006) argues that graves are considered as gateways to the supernatural world, and not merely as places of remembrance. This therefore shows that graves serve several other functions other than just merely serving as burial places.

Among the people of Kwale, the dead are buried within the compound. It is, therefore, not unusual to find graves dotting homesteads in this District. During the field work, the researcher found that graves were revered by the community, and that they were treated with caution. Graves were considered as sacred places, a “gateway” to the spiritual world. Graves were also viewed as important markers of history. Graves enabled people to trace their lineage and establish important kinship patterns. Graves thus provided one with identity, as one could trace one’s lineage through the graves dotting the homestead. A 47-year-old male respondent had this to say about graves:



In African culture, you do not joke with graves because that is where you have buried your person, and that is where you too will eventually be buried. You would therefore want to do good unto others as you would want others to do unto you. A grave is the place where future generations are shown where their ancestors are buried. Take \_\_\_\_\_ example; I moved from the mainland (Kamba land) to come and settle here at the Coast. But each time I visit my rural area, my great grandparents and other graves of importance are always pointed out to me. I am told this is who and who and this is where they are buried. And when I finally pass away, my descendants will also be shown that “this is your grandparent who migrated from the mainland and settled at the Coast and this is where he is buried”. So graves maintain one’s lineage and tell one’s history.

In other words, graves are places where reconnections are made, where one connects the past, the present and the future. To the people of Kwale, therefore, graves record, maintain and narrate the history of the clan, and thus land (where graves are found) provides one with identity, as Donge and Pherani (1999) also found.

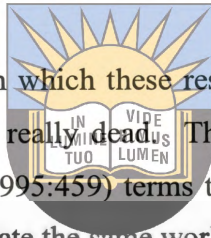
In Kwale, graves were also found to provide solace and peace to the living as they (the living) rest easy in the knowledge that their ancestors/relations are also resting in peace. There is usually much anxiety when a relative goes missing as there is no grave to settle the matter about his state of being (is he alive or dead?). One respondent remarked that graves were also a “form of blessing” as one knows where his ancestors and relations are buried, and surrounded by those who loved him/her, one was sure to receive blessings from them

(the dead relatives). Graves were thus considered as ‘final’ resting places for the dead. A respondent clarified what ‘final’ resting place meant:

When people die, there don’t die—they are still just ‘there’. But we need to put the body somewhere in the earth so that we can remember them, and that is why we have graves. To show respect to them, we maintain their final resting place. But they are still ‘alive’.

Another resident remarked as follows:

Graves are where we remember our dead, and this is where we go to when we want to talk to them. This is because they are not dead, as they just assume another life form.



The above demonstrates the unique way in which these residents regarded graves—as final resting places for their dead, who are not really dead. The dead were believed to still be “around” but in another form. Giddens (1995:459) terms this animism which he defines as “belief in spirits or ghosts, thought to populate the same world as human beings.”

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Another displaced resident illustrated the importance of graves as follows:

A grave is very important. One must look after the person that he buried ‘there’. For if you just leave him like that, he will haunt you! We are Africans and we believe in such things. Even if you ‘read’ and get 100 degrees, you will still remain an African. So when you put your father in the grave, you must maintain this grave. For if you don’t, then your endeavours on this earth will never work out. This is because you have neglected ‘your’ grave. Even [President Barack] Obama [of the USA] had to come to Africa to pay respects on his father’s grave, and didn’t he succeed and become the President of America? Graves are important vessels to us. They are a source of blessings. If you pray by the graveside, as I usually do by my father’s grave whenever I am disturbed, you come out refreshed and with your problems a lot lighter.

Hence graves are like shrines where people go for prayers, and from where people receive blessings. When discussing the *kaya* complex in Chapter Six, we noted that it was within these structures that the original founders of the Mijikenda were buried. *Kayas* therefore assumed shrine status on account of these graves and people would come from all corners of the Mijikenda territory to these *kayas* for prayers and for other important social ceremonies (refer also to Spear, 1978).

In Kwale, graves also assumed the position of land titles:

A grave signifies land ownership. Can one bury his dead on land that is not his? Can you place flowers on land that is not yours? Can you hold remembrance ceremonies as you please on land that is not your own? No! (Interview response from a 43-year-old displaced farmer)

These sentiments are similar to those expressed by Shipton (2009) who found that among the Luo of western Kenya, a grave was considered as a more significant marker of land ownership than government titles. Shipton narrates how financial institutions had a very difficult time trying to dispose repossessed land belonging to loan defaulters, because prospective buyers would be informed (by community members) that the real owner of the land would forever remain the person who had graves on the that land.

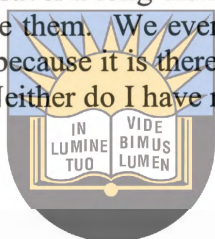
Graves also indicate the duration one has spent on the land, which further cements claims of ownership. One respondent remarked that one does not sell or lend out or take loans on family land on which graves can be identified, for to do so one would be ‘mortgaging the ancestors’, to use Shipton’s (2009) words. In most of Africa, the existence of graves attests to ownership of particular pieces of land and to which individuals therefore have rights to use it. Graves therefore hold immense ethno-ecological importance as they were loaded with much meaning—they are more than mere places for remembrance.

However, some youths in this area contested this belief. Several young men interviewed for this study were insistent that only title deeds issued by the government confirmed land ownership. They dismissed the notion that graves acted as symbols of land ownership, terming it “unrealistic”. When this matter was raised with FGD participants in Ukunda town, there were differing opinions. While some (six of the total thirteen participants) believed that title deeds were what mattered, and attributed the insistence on graves as a “hangover with tradition”, especially among the older generation, the rest considered graves to be of importance. These divergent views indicated that social change was indeed taking place in the society.

How has titanium mining-induced social displacement impacted on these meanings? The researcher found that social displacement adversely affected the meanings attached to graves in Kwale. Physical relocation of these people from their land meant that they were now physically, spiritually and emotionally separated from their graves. The residents said that

they were now not able to wake up every morning and see their graves as casually as they used to whenever they would step out of their doorways. A 42-year-old man described his situation as follows:

I left my father's and my wife's graves in Maumba. I also 'lost' several graves belonging to my nephews and nieces over there. We Kambas place graves where we can see them, and that is why we have graves within our homesteads. Whenever we emerge from our houses, we want to see these graves—for although they are dead, looking at the graves is like seeing them alive over and over again. So we 'see' them, we 'feel' them, and we feel contented and connected with them. But here I am now, without my graves. I have nothing to remind me of my people. This 'remembrance' is missing. This displacement separated me from my [living] family (mother and brothers) because I had to look for land elsewhere to settle on when Tiomin took away my land. I now have to travel a long distance to see them. I have to spend money to travel and go see them. We even used to share one dog, but now that dog does not help me because it is there and I am here. I do not have my [living] family with me. Neither do I have my graves! What kind of a life is this?!



They were therefore now denied the luxury of remembering their dead, and graves as places of remembrance had lost this meaning. The attachments that the community previously had with these graves were also lost, as they were now physically separated from them.

The displaced residents of Kwale were also unable to hold commemoration ceremonies as they were not allowed to set foot on their condemned land. This was similar to what Rogers and Wang (2006) found had befallen the displaced community of Wang Sheng, Mongolia, who were equally unable to access their graves and carry out *Qing Ming Jie* (the sweeping of graves in spring) ceremonies. Apart from graves losing their meanings (as places of remembrance, as places of prayer, and as places of solace), the residents of Kwale were unable to carry out their socio-cultural practices related to this, such as holding remembrance ceremonies, prayers and holding conversation with their dead ancestors. These 'abandoned' graves now became sources of anguish and stress. It was said that many who were forced to abandon their graves were now living very uneasy lives. Said one respondent:

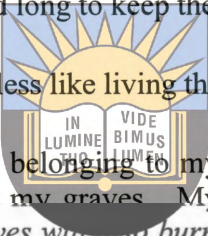
Traditionally, when one migrated, one did so with his graves. However, in this case, we left our graves behind. Now we cannot go back to our graves for commemorative purposes, neither can we do the same here as that would be meaningless and incomplete without a visit to the grave. We can no longer slaughter goats by the graveside and lay wreaths on the grave as that is

no longer our land. What this means is that we are now unable to live peacefully in our new places of residence.

When asked about the importance of graves and the impact that displacement has had on the meanings, a 60-year-old woman respondent intoned that graves were good and insisted that one should live alongside the graves of one's departed relatives as this would enable one observe *tambiko* (seeking assistance of the dead by praying beside the grave whenever she encounters difficulties in life). Graves were therefore pathways to the spiritual world. The respondent wondered what would now happen to community members as they were now no longer with their graves. She asked where they were now expected to 'go' for such prayers. The community was in agreement that the thought of abandoning their graves was one of the major reasons why they 'fought' so hard and long to keep their land.

In Kwale, graves were also treated more or less like living things:

I left three graves on 'my' land, all belonging to my three children. Now I feel very bad because I cannot see my graves. My graves are now in the bush. *So if the bush burns, my graves will also burn* (response of a 55-year-old man).



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The above quote illustrates that graves were simply not ordinary places on the earth's surface but that they were almost like living beings that need to be taken care of, in the same manner that people take care of houses or even take care of their own children. The displaced person felt vulnerable as he no longer could protect his graves, which as he puts it, are now 'out there' in the bush. So if the bush caught fire, his graves would also literally burn!

The graves had therefore lost much of their meaning and were now mainly a source of mental anguish, in the same manner that Rogers and Wang (2006) had observed of the graves belonging to the displaced community of Wang Sheng. One 37-year-old respondent said that "my mother's grave is no longer a place of remembrance, but an abandoned angry site".

The community in Kwale were therefore left feeling vulnerable as the intense relationship that the residents had had with their treasured graves had been interrupted, causing them much anguish as elaborated above. Some of the displaced residents admitted to the researcher that they would at times sneak back to their condemned land just to ensure that the grave was still in place. Due to the cat and mouse game that they had to play with the extractive company on this, the researcher was unable to accompany any of the affected persons to view the grave(s)

of their relatives. The researcher did, however, manage to visit some of the graves in the company of Tiomin officials but since consent from those affected had not been obtained, photographs of these burial sites cannot be depicted here.

#### 8.2.1.4 Ethno-ecology of residential structures (houses)

It is often said that a man's house is his castle. Other than just being a place where one finds shelter from the vagaries of weather, the researcher found that a house bore important ethno-ecological significance among the community in Kwale. The key findings in this regard are summarised below:

- i) It was only when a man had a house that he was permitted to marry. A house, therefore, enabled one to change one's civil status.
- ii) Houses were crucial for inheritance purposes. A house was a source of wealth to be passed on to the next generation.
- iii) Houses were a form of security. In other words, with a house one was physically, economically, socially and psychologically secure.
- iv) Houses served as markers for homesteads.
- v) Without a house certain social activities, such as welcoming of visitors, dowry negotiations and other culturally crucial discussions, could not be meaningfully and successfully carried out.
- vi) A house accorded one much needed cultural/social status (in society).
- vii) A house was where one hid/kept his secrets.

Houses had several other crucial socio-cultural uses. Without a house, one was practically unable to exist in the Kwale society. The following comment by a 37-year-old displaced male resident, who was among the few who had relocated to the resettlement site at Mrima-Bwiti, captures other ethno-ecological importance of a house:

A house is important because it gives one *stara* (respect). Without a house one has completely no respect! One can only sleep soundly when one is in one's own house. A man can also only eat and enjoy his food when he is in his own house. Good parenting can also only be realised when children are

born in one's own house. Guests are also better welcomed in one's own house. Without a house, one is not a human being. With a house, one's heart is settled. A house also gives one an address, for without it, how can one be traced?

One respondent, a 47-year-old male, while categorically stating that a house was very important to an African, wondered what one would be if one did not have a house of one's own. "Where would a man preserve himself, preserve his family and/or preserve his items if he does not have a house?" he asked. He echoed an earlier sentiment that one could neither marry nor be considered as a socially respectable being if one did not have a house. A house therefore gives one a place in society. Another resident agreed with these sentiments, stating that houses are important shelters for mankind. He argued that even animals had dens while birds had nests: "what kind of a person would one be if he does not have a house?"

Social displacement was found to have altered the meanings attached to houses. To begin with, many lost the houses that they would otherwise have inherited from their fathers and probably in turn handed down to their own children. The response from the 36-year-old respondent below. Inheritance gave one immense pride, which social displacement had wiped away. For those who had inherited their houses from their fathers, they lost this valuable cultural bond. Since the houses had been demolished (see Plate 8-3), these meanings were lost, and were replaced with feelings of great loss.

A 36-year-old respondent, who had relocated from Maumba and now settled in Ukunda where he was managing some residential houses and running a shop on the side, commented as follows about a house:

Houses are not just houses. They are places where history is developed and they act as places of remembrance: as this is where I and my siblings were born, and as such, we develop strong attachment to it. Houses are also handed down from father to son. The house I was to inherit from my father was demolished and this pains me intensely.

The relationship that residents had with their residential houses that bore significant ethno-ecological importance was dented as the benefits pointed out in the foregoing discussion were lost and hence the residents' life was negatively impacted upon.

### 8.3 Research Question 2:

- What are the dominant community-targeted compensational practices in the Kenyan titanium mining industry, and how do such practices intersect with local ethno-ecological narratives in the study communities? Put differently, how do local idiographic narratives about the natural environment shape grassroots sentiments about titanium mining-induced social displacement and the broader issue of corporate- and state-community relations? In other words, what are community member's responses to the compensational practices in the Kenyan mining industry vis-à-vis the meanings that the communities have attached to the items targeted for compensation, and how does this affect corporate- and state-community relations?



#### 8.3.1. Compensating for 'lost' assets

Chapter Seven examined the mining industry in Kenya, and to maintain a good flow, findings related to the compensational practices in Kenya's mining sector was presented in this chapter (see section 7.4.2). This section hence presents the grass-roots sentiments related to these practices as this maintains a good flow from the analyses of the communities' response to the compensational practices in the Kenyan mining industry vis-à-vis the meanings that the communities have attached to the items targeted for compensation. How this affect corporate- and state-community relation is also presented in this section.

This section therefore presents findings on community response to the compensation practices in relation to land (Section 8.3.1.1), the plant community (Section 8.3.1.2), graves (Sections 8.3.1.3), and residential structures (Sections 8.3.1.4). How local idiographic narratives about the natural environment and cultural artefacts shape grassroots sentiments about titanium mining-induced social displacement and the related compensational practices and the broader issue of corporate- and state-community relations are discussed within the context of each compensational regime. Some light is then shade on Tiomin's Corporate Social Responsibility programme (section 8.4) to round up the discussion on corporate- and state-community relations.

### 8.3.1.1 Compensating for 'lost' land

Chapter Seven, Section 7.4.2 details how land was compensated. Here, we present the narratives of the displaced persons in response to the compensation awards made by the mining company and the government.

To begin with, most of those interviewed contested the government's right to take their land, on account that precious mineral has been discovered on it.

What is the purpose of land titles if the government can come and simply take away my land? Doesn't this land belong to me by virtue of my long stay on it and by the dotted graves of my relations? Well, if the government can simply take away my land because it has discovered some precious minerals then they should indicate on the title deed that the land belongs to you so long as minerals are not found on it! Let me ask you, if all of Kenya was found to have precious minerals, does that mean that all Kenyans will be displaced? (asked an infuriated 47-year-old male respondent)

The respondents maintained that the (government of Eminent domain) was one of the major issues that made them seek relief from Kenyan courts. The displaced insisted that the land belonged to them and if the government (which they themselves had elected) desired to take possession of their land, then the government should have entered into direct negotiations with them on a willing-buyer willing-seller basis. Further, on eminent domain, another 55-year-old male respondent commented as follows:

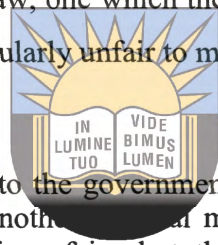
That law on forceful possession of land is a colonial relic! How can it be that you can only own land up to six feet and that anything beyond that belongs to the government? The colonialist introduced this law because they knew that the minerals found down there are more valuable than the surface land. Now tell me, since we only own land up to six feet, does that mean that those big hotels such as Hilton (in Nairobi) which have underground floors are squatting on government land?

When the researcher asked another respondent if the law was followed in the process leading to the displacement, he retorted:

That is an irrelevant question! What does it matter if the laws were followed or not and yet these are unfair laws? These laws were inherited from the colonialist, and shamefully, we have still retained them in our law books. How can we have a law that says that you only own surface rights for your piece of

land and that the government can come in and throw you out of it at any time just because minerals have been discovered? Why do you think we now want to change our constitution? So that we rid ourselves of such archaic laws.

As noted in Chapter Two, the issue of land ownership is often central in conflicts between mining communities and the government, and between communities and mining companies (see Akpan, 2005, and Hilson and Yakovleva, 2007). Communities often argue that they are the real owners of the land by virtue of being the occupants and having been on the land long before the state was established (what Shipton (1994) calls “pioneer primacy”). As noted in Chapter Six, the Mijikenda settled on this land, having migrated from Shungwaya, long before the country now known as Kenya existed. That the state could easily step in and take ‘their’ land on the basis of some existing law, one which they were aware had been inherited from the British colonialists, seemed particularly unfair to most respondents. One respondent angrily remarked as follows:



I do not agree that all land belongs to the government. It is mine! This law they keep reminding us of is just another colonial mentality; as if we never attained independence. This law is unfair—but the government retains it because its desire is to suppress us. Do not tell me that you and I are the government because if that was the case, then I challenge the DO (District Officer) and demand that he gives me food for we are both government—you know very well how that will end up.

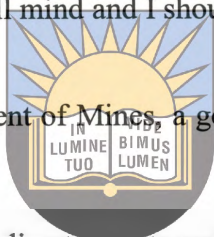
The respondent accused the government for being corrupt and castigated it for allowing ‘foreigners’ to take possession of their land at will. The belief that colonialism was still in place was reinforced by the fact that the General Manager of the extractive company was a white man of foreign nationality. The forceful acquisition of land was compounded by the fact that land had deep socio-cultural significance in the community. It is for this reason that the issue of land ownership played a central role in the Kwale mining conflict.

It was because of this that the initial lease offer sounded attractive to most members of the community as there was the ‘assurance’ that they would retain their land after cessation of mining activities. But when the government later settled on forceful acquisition of ‘their’ land, community members were displeased and vowed not to accept it.

One thing that came out during the field work was that the locals were quite conversant with current international practices on social displacement and mineral exploitation. Most respondents interviewed wondered why they could not own the minerals found on their land

in the same way as land owners did in California in the USA. They also questioned why the processing of the minerals had to be done in Canada and not in Kenya. It was in light of this knowledge that they had lodged several cases against the Kenyan government in an attempt to have the law re-interpreted in their favour. One displaced farmer argued thus:

As a farmers' representative during the period of dislocation, I asked Tiomin why we (he meant the Kenyan government) could not mine the Titanium ourselves. I asked why the Ksh800<sup>47</sup> million processing plant cannot be constructed here in Kwale for the separation, refinement and separation of the three minerals. This will give us jobs and we shall sell the true value of the minerals, without [bringing in] middlemen. Why should we be blackmailed? That we send our raw minerals abroad and then never get to know the true value of the minerals? Out there we have no representatives. Then we will see products labelled "Kenyan product made in Canada". When I asked all these questions I was told that I have a small mind and I should keep quiet.



When I followed up this with the Department of Mines, a government representative offered the following explanation:

[T]he government has no money for direct investment in this project, and that is why we had to invite investment. Investment in titanium will enable the country obtain the foreign exchange that it desperately needs. This venture will on its own bring in an equivalent GNP of what the entire mining industry current fetches!

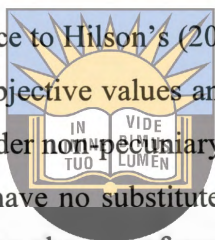
Following the dismissal of their cases, the community soon realised that they risked losing their land without compensation, a situation that was made worse by the fact that most of the displaced persons were 'squatters' and hence legally not entitled to compensation. With a deep sigh, one 56-year-old displaced farmer stated that:

We got tired of fighting the government. Ten years! Can one succeed in fighting the government? We saw what happened to squatters in Mt. Elgon, who were evicted without any compensation. We were afraid that the same could happen to us as we are also referred to as "squatters" as we had no titles to the land that we have occupied for years. So we decided to take whatever was offered as 'fair' compensation lest we will lose everything. This was a threat that hung over heads on a daily basis. They also promised us 'milk and honey' if we relocated, and many were persuaded to leave on the basis of these promises.

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<sup>47</sup> Approximately US\$10M.

It thus appears, judging from the farmer's sentiments, that the lure for a better life enticed them to give up the fight for their land. This shows that whereas humans are cultural beings, they are also economic animals. Although they had cultural attachments to the land, economic benefits also weigh heavily on such decisions. This was more-so given the feeling that they were powerless against the government which was set to acquire their land. Weighed against cultural attachment and loss of the land without compensation (as happened in the nearby agricultural displacement in Ramisi for large scale farming of sugar), many opted to pocket the compensation first. This shows the contradictions that arise when people who uphold or proclaim certain cultural values and attachments are faced with specific economic choices under particular circumstances. At the time of the fieldwork, and as observed in this Chapter, residents wanted their land back or were demanding additional compensation. This appears to lend credence to Hilson's (2002:68) assertion that loss of land cannot be justly compensated given the subjective values and aspirations attached to it. For as Goodin (1989) argued, assets defined under non-pecuniary harm (such as land for instance, given the varied meanings attached to it) have no substitutes. This further attests that "fair market value" cannot be achieved given the absence of assent in instances of displacement (Bratland, 2006). The displaced residents are therefore bound to keep demanding for more compensation regardless of the amount paid. This is because money and commensurability are incompatible at the level of Radin's (1993) "noncommodification".



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As mentioned earlier, the residents rejected the first offer made by Tiomin in which the amount payable per acre decreased with a corresponding increase in one's acreage (i.e. first 20 acres at Ksh9,000 (approximately US\$114) per acre; next 20 acres at Ksh6,000 (approximately US\$76) per acre and the balance at Ksh3,000 (approximately US\$38) per acre). This incensed the community as it seemed people were being penalised for having a larger acreage of land.

[H]ow can you be paid less for more? What kind of mathematics is that? That the more land you have the less your payment becomes with each increasing acreage? I have not been to school but I have never heard of anything like this. The government should have paid me for what they could afford and then let me look for someone else to sell the balance to (argued one displaced farmer).

The residents were convinced that this was nothing but a government and company ploy to defraud the community of fair compensation. One male respondent retorted that had that offer stood, "blood would have flowed". Company officials however defended the payment

stating that the “compensation rates were not determined by the company, but by a committee that was set up by the government, and farmers were represented in this committee; we paid out what was given to us by this committee”.

As for the revised and final rate of Ksh80,000 (approximately US\$1,013) per acre as compensation, most residents viewed this as insufficient, given the socio-cultural meanings attached to land. Given that they were being forced out of their land, residents felt that a higher negotiated compensation should have been awarded. “What is Ksh80,000 per acre when what they were going to mine would be worth millions of shillings?” one respondent asked angrily, a sentiment that was ironically supported by one ministry official whom the researcher interviewed, who remarked that “minerals were of great value, but only the value of the land was compensated”. He stated that the decision on the compensation rate for the land was imposed on the residents whereas it would have been fair to have had this negotiated.

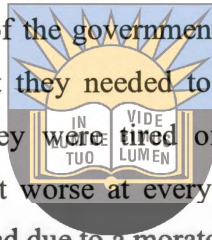
Other respondents interviewed were of the view that a higher compensation was merited given that the company was simply not “buying land, but was buying villages”. As Brätland (2006:19) argues “compensation cannot be just until it is voluntarily accepted by the property owner without coercion...[T]he absence of assent bars any conceivable inference that compensation is just”. Since assent was absent in the Kwale “taking”, ‘just’ compensation as per Brätland’s dictum would be difficult to achieve.

The community was also incensed by the fact that the Ksh80,000 was imposed on them by the government, a fact that an official in the Ministry of Lands confirmed. This demonstrates that the farmers were not actually involved in the process. They were therefore removed from access to power to negotiate their fate, and as the pressure and release model of vulnerability explains, such lack leads to progression and states of vulnerability. A representative of the farmers told the researcher how, in one of the DRCC meetings held in the capital city of Nairobi, the farmers’ representatives were informed by the Minister in charge of Environment and Natural Resources that they would be compensated at Ksh80, 000 per acre and that there was to be no negotiation on the matter—this was the final figure. Aware of other experiences around the country (especially those in Mt Elgon area—refer to Appendix IV for the location of this site) where residents were thrown out of ‘their’ land without any compensation, the representative said that they accepted this offer for fear of losing it all. The community nonetheless continues to blame them (the representatives) for

accepting the 'low' compensation paid, arguing that they had been 'bought' by the company and the government. Said one disgruntled farmer:

We lost faith in our representatives a long time ago. How were they to faithfully represent us when they were frequently flown to Nairobi and accommodated in big hotels and fed on sumptuous meals by the same people they were 'fighting'? How can someone fight an enemy who is giving him daily allowances? When these people came back from Nairobi and we observed the manner in which they were cracking jokes among themselves, we had no doubt in our minds that they had been pocketed.

One displaced farmer conceded that farmers grudgingly accepted the offer for the reason that the farmers were "worn out by the over 13 years protracted fight over the land". Even so, because of emerging evidence elsewhere of the government possessing land without paying compensation, the residents reasoned that they needed to cut their losses and accept the compensation. The respondents said they were tired of fighting the government in a seemingly endless conflict which only got worse at every new stage. For instance, some residents were now unable to bury their dead due to a moratorium placed on the land.



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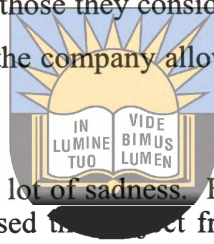
To demonstrate their dissatisfaction, nine farmers, acting on their own behalf and on behalf of others, lodged a legal appeal against the government/company protesting over "unfair" compensation and claiming ownership of the land. The respondent earlier quoted as having lost faith in their representatives in the DRCC, added that since the matter was being heard in far-away Nairobi, farmers were unable to attend the court sessions and it was only much later that they heard on the radio that they had lost the case. That very night the company evicted the nine farmers during a heavy down pour. "Why did they have to carry out the eviction in the dead of the night if they were not aware that what they were doing was illegal and inhumane?" the respondent asked during the interview. The respondent also alleged that their lawyer on the case had long been compromised as he was never on hand to update them on the case, remaining vague and aloof whenever contacted. One resident described their lawyer as a "cartoon" lawyer whose interest was to please the company (Tiomin).

Apart from being unable to attend the several court sessions held in Nairobi, further allegations of the company's underhand tactics to defeat the farmers cause were also cited by respondents. One respondent said that:

Whenever we identified a good person as our spokesperson, the company quickly engage this person into its employ, thereby effectively neutralising him and denying the community effective representation. This is what happened to 'Juma' who was one of our best representatives. He is now growing fat on company salary.

However, the company contended that their intention was only to pick the person best suited to articulate the views of the displaced.

Respondents further alleged that in other instances, community members who were in the core mining area and who were the first to be displaced, were appeased through expeditious (and 'favourable') payment of the compensation due to them and were offered lucrative jobs. The company further allegedly neutralised those they considered to be very vocal against the project. In one instance, it is alleged that the company allowed "fraudsters" to claim part of the land of one such vocal opponent.



Talking about Tiomin fills me with a lot of sadness. But let me tell you this; I think I was targeted because I opposed the project from the word go...I was informed that since I am fighting the project, then I will not benefit from it. When we took Tiomin to court, five people suddenly appeared and claimed ownership of my land; this was despite the fact that my grandfather settled on the land in 1963, and was buried in this land in 1972. I inherited the land from my father when he himself passed on, and who is also buried in that land. How can this land all of a sudden not be my land? These five fraudsters were compensated for land which everyone knew was mine. Can you believe that they were even paid for the trees that I had nurtured? All the same, I told them (government and the company) that since I still have my limbs, I will be okay (remarked the aggrieved farmer).

He was only compensated for the standing physical structures found on the land and not the land on which the structures stood. The interesting thing, however, is that the narrated incidence demonstrates that although people are cultural beings, they are also economic animals. This particular respondent accepted the compensation for his structures despite the perceived unfairness.

Still on the matter of company underhand dealings, another opponent alleged that his land was cut off from the project area due to his visible opposition to the project. This action ensured that he lost his *locus standi* over the compensation debate as his land no longer fell within the mining area.

I was viewed as a trouble maker so they cut off my land from the mining area with a big ‘C’, or was it a ‘U’?—we took it to mean “Cut-off” or “Unworthy”. They said “this is a trouble maker—remove. This is another trouble maker—remove!” So I became a non-stakeholder and I was never again invited to any meeting. Others who were noise-makers like me, but who could not be cut-off, were dealt with ruthlessly. For starters, the court cases were held in far-flung Nairobi to ensure that they could not attend. The day they lost the case, was the same day, in the dead of the night, that they were evicted during a heavy downpour. Although I saved my land, I am unable to live there as all my neighbours were displaced leaving me at the mercy of wild animals as the area is now a forest. In fact the wild animals have eaten all my trees and crops. I had to move my family to Shimba Hills. The company later made several offers for my land, but I rejected all of them, including one for Ksh22m<sup>48</sup>. Despite all this inconvenience, I am proud that I saved the family land (said the 52-year-old farmer).

When the researcher inquired about this from the company, company representatives responded that determination over land ownership was a government function and that they “only paid compensation to persons as determined by the government”. Government representatives, on the other hand, maintained that as required by law, local chiefs, who were recruited from the local populace, assisted in this exercise, and hence compensation was paid out as adjudicated by the local administration. The District Officer, however, countered that the local chiefs had already been compromised through personal purchases of motor cycles, while the District Officer was presented with a motor vehicle (which company representatives clarified was issued to facilitate movement of government officials during the displacement exercise). “Tell me, if this was not a bribe, why then were the vehicles registered under private number plates and not issued with official government plates?” one of the residents asked.

It is also alleged that the government recruited spies among the residents such that plans that were formulated at night would be “known before daybreak”. Or “even if we held strategic meetings at night, the following day the government or the company would have a counter to our ‘surprise’ proposal”, which the residents alleged was only possible if there were spies among them.

Another issue that was of concern to the community was that compensation for land was not extended to the ‘original’ owners of the land, the Digo and the Duruma, who had established *kaya*’s bearing the same names when they first settled in this place (refer to Chapter Six

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<sup>48</sup>Approximately US\$278,481.

which touches on Mijikenda migration). Not compensating the ‘original’ owners was viewed as an affront to the community.

We the Mijikenda feel very bad about the fact that people who were not supposed to be compensated were compensated for land that they do not own. We gave out this land free of charge<sup>49</sup> to our Kamba neighbours as we were only helping them as they were destitutes looking for land. Now they are being compensated for land that belongs to us and this infuriates us. If the company so desires, it can give them money but we, the Mijikenda, through our *kaya* elders, must be compensated for the land as ‘original owners’ of this land. We are also not happy with the government because they displaced us from our land in the first place, and up till now, the much heralded project has not even taken off (argued one Mijikenda elderly person).

These feelings were reinforced by the fact that a nearby sugarcane project (the Ramisi International Sugarcane Project), which had begun almost simultaneously with the titanium project, had taken off rapidly, while the Tiomin project, in its 14<sup>th</sup> year, had not despite the home demolitions and abandoned fields. On the other hand maintained that whereas they had to grapple with compensation matters and best practices in IRR, in the Ramisi project, no compensation was paid out as the squatters were simply evicted.

Following the failure of payment of compensation to the ‘original’ owners of the land, respondents reported that *kaya* elders had been spotted burying charms on the land and were said to have laid a curse on the project. Since the project had thereafter stalled, it was widely believed that the curse had worked (though the company said this was due to financial reasons). The Kamba were said to have contracted their own medicine man to undo the curse. The counter-act by the Kamba was said to have infuriated the Mijikenda, who accused them of betraying the wider Kwale community’s fight against “colonialism”. The charge against the Kamba community was that since they were not the ‘original’ owners of the land, they lacked deep attachment to the land and hence were ready to profit from its sale; a charge which the Kamba refuted. All this led to an escalation of tension between the two communities.

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<sup>49</sup> See Chapter 6 which describes how, due to trade among the two groups, the Kamba were allowed to settle at the coast. Since the Digo were a matrilineal clan, the Kamba who had married Digo girls were also allocated settlement land upon such unions. Some members of the Kamba community had also benefited from free allocation of land under the land resettlement scheme, while others had been allowed to squat on the land by the Mijikenda.

A representative of the Ministry of Lands confirmed to this researcher that they had received a written demand from the Vurize clan (who are part of the Digo lineage of the Mijikenda group) demanding compensation as “original owners” of the land. He reported that although this matter had been adjudged in court before, with the Vurize losing the case on account of the fact that they did not possess land title(s) to back their claim, this has not deterred the clan from continuously demanding compensation. The government official was of the opinion that since these were sensitive cultural issues with roots deeply entrenched in history (see Chapter Six on Mijikenda history), there was a need to give them a hearing. Evidently, the titanium project was now threatening relations among communities that had for a long time lived together in harmony.

As for the 5.5 acre resettlement site at Mrima-Bwiti (the host site), this too was a dismal failure. Of the over 350 households already displaced, only four households settled on this land. The researcher learnt from the 42 families in Kibwage village of Shimba Hills (who were awaiting compensation and displacement), that it was unlikely that they would resettle at Mrima-Bwiti. Company representatives commented that they were surprised that despite initial positive indications that the displaced persons were eager to be resettled at Mrima-Bwiti, on the day of resettlement, only 10 households showed up and to be transported to the host site. The rest did not show up as they had long opted to purchase land elsewhere.

Interviews with the respondents revealed that the affected persons only created this impression to ensure acquisition of land at Mrima-Bwiti, as their intent was to wrestle as much as they could from the government whom they considered to have unjustly possessed ‘their’ land and offered a pittance for it as compensation.

This government had already taken from us our land and given it to others. We pretended that we were interested in the land at Mrima but all we wanted was to get as much as we can from this government that had forced us out of our land. So if we could get another piece of land for the injustice brought on us, then what’s wrong with that? (remarked a 49-year-old displaced person).

To have been deceived in this manner goes to show that the extractive company and government had failed to gain the trust of the displaced persons.

There were other reasons advanced by the respondents as to why the community had opted not to resettle on this land. Among these were, that:

i) The resettlement site was a low lying and swampy land and hence not suitable for either settlement or farming. The residents argued that many did not even know the exact location of their plots, for when they were taken to the site to view their plots, most of the beacons were submerged in water. Respondents were incensed with the Ministry officials who later advised them to identify the beacons on their own once the rainy season was over, a feat which many deemed impossible given that many did not even know what a beacon looked like in the first place, let alone be able to locate their own beacons.

ii) The 5.5 acres awarded was too small to satisfactorily resettle their large families, which averaged about nine people per household—affirming Abuodha and Hayombe’s (2006) argument that the compensation offered was too small as it did not take into account family size and structure.

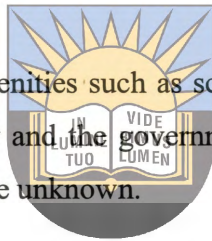
iii) The host site was lacking in social amenities such as schools, water, roads and the like, which although promised by the company and the government, were yet to be constructed and the timelines for such construction were unknown.

iv) Most farmers were unable to raise the mandatory Ksh3,000 required by law for the registration and issuance of titles of the land under their names. In essence, most of the displaced persons now stood the risk of eventually losing their allocation on this account.

v) Respondents claimed that the host population, most of whom were squatters, were very hostile towards them. “They were very hostile towards us. They hated us, and that is why only four families settled at Mrima”, explained a 32-year-old widow who settled in Ukunda town.

As stated in Chapter Seven of this thesis, the Coastal Province has the largest number of squatters in the country. Some of these squatters were now the same people protesting the resettlement of those affected by the titanium project. They comprised mostly former employees of the defunct Ramisi Sugar Company who had chosen to settle on the company’s land after it closed down its operations. They were later joined by other ‘squatters’ who had been victims of recurring electoral violence in the coastal area.

The problem of squatter resentment was of particular interest and so the researcher sought to understand it further. The researcher found that despite the fact that squatters were occupying the land at Mrima-Bwiti, the government had nonetheless gone ahead and identified this land as suitable for the resettlement of those affected by the titanium project.



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The government resolved to allocate land with accompanying titles to the squatters already resident at Mrima-Bwiti. The problem with this arrangement, as this researcher found out, was that the government arbitrarily adjudicated over the land and ignored the fact that the existing squatters were interested in being settled on the farms they already occupied. They were instead allocated plots elsewhere.

What further complicated the matter was that the squatters were only allocated 5.5 acres of land even when many had “squatted” on land much larger than this. This meant that this group of squatters were now going to lose large acres of land on which their treasured coconut, orange and mango trees and revered graves stood. What came out of the FGD session held at the host site was the indignation of these squatters to the suggestion that they now have to share ‘their’ land with other squatters displaced from Maumba and Nguluku over the titanium project, who had already been compensated for the land they had lost. This infuriated them.

One resident in the host area, a squatter, made the following comments about the resettlement exercise during the FGD:

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When this matter of resettling ~~to Maumba~~<sup>50</sup> ~~people~~ came up, the District Commissioner summoned us to a *baraza*<sup>51</sup>, and assured us that we shall all retain our land. However, this was not to be. We were resettled elsewhere, even in swamps, because our land, bearing the graves of our relations, had been allocated to the ‘Maumba’ people. This made us very mad. The bad thing again is that even though land was demarcated, some of us have not yet been allocated any land, while the pieces we currently occupy have already been allocated to ‘Maumba’ squatters. One ‘Maumba’ fellow came to me claiming ownership of my land and I glared at him like this! He has since not returned. I have lived on this land for over 12 years. How can another squatter, a late arrival, now come here and claim that this now is his land? Or that we should now share this land with him? How can that happen?! I was here first! Many of us here are now ready to die for our land...[M]y machete is ready.

Indeed, many of the displaced were fearful about their security if they were to resettle at Mrima-Bwiti. Cernea (2000a) mentioned in his IRR model that the host community are normally faced with the risk of increased competition of resources, cultural clashes, competition for employment and rises in prices of commodities. It is these risks that

<sup>50</sup> All the displaced persons were collectively referred to as ‘Maumba’ because this was the village from where the majority were displaced.

<sup>51</sup> Swahili term for ‘public gathering’.

seemingly made the host community at Mrima-Bwiti develop a hostile attitude towards the displaced. One displaced respondent (a 55-year -old male) from Nguluku village expressed his fears as follows:

I could not settle in Mrima as our security there was not guaranteed. The people over there were very hostile towards us! They threatened us with death should we attempt to settle there. They were incensed that they were being forced to share land with people who had already been compensated for their land. In the end, only 4 families settled there, and even then, they had to go down on their knees and beg to be allowed to settle there.

So serious was the “host-settler” crisis that it seemed strange that the government did not pick up the problem, let alone address it in a way that was satisfactory. The host population were of the strong opinion that they had been unfairly treated by the government. They reasoned that they ought to have been allocated land that they were already occupying, and only thereafter should the balance have been turned over to the displaced. They felt that they had been taken advantage of by the government who had used their disadvantaged position (as squatters) to resettle ‘Maumba’ people. They further reflected that the exercise was also being used to settle other people who were clearly not among those displaced. It appeared that the usual practice of allocating land to *wabara*<sup>52</sup> at the expense of the coastal people was going on under the disguise of resettling ‘Maumba’ people. This was how one of the residents put it during the FGD:

We the inhabitants of the coastal region are very good people. Elsewhere [in Kenya] something like this would not have happened without much bloodshed. I overheard one government official narrate the following story: He said that once a dog, a goat and a sheep boarded a *matatu*<sup>53</sup>. Of the three, the dog had no fare. So the other two connived and agreed that they will pay their fare at the time they would alight from the *matatu* so that they would avoid paying for the dog. They did this and the dog was left stranded in the *matatu*. Now, we (the squatters at Mrima-Bwiti) are the dogs without fare!

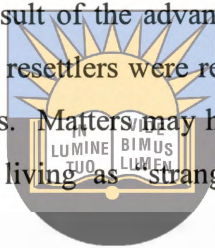
This was to say that the resettlement exercise was being used to benefit other people other than the squatters at Mrima, who would be left stranded. The tone at the focus group discussion left no doubt as to the emotive nature of the land struggle at the host site. There was heated debate on this matter with emotions running quite high and one group accusing

<sup>52</sup> Derogatory term for non-coastal indigenes.

<sup>53</sup> Local term for public transport vehicles.

the other of colluding with the government to deprive them of ‘their’ land. The researcher had to calm down tempers for discussions to continue. This demonstrated that the mining process had threatened social cohesion among neighbours and groups at this coastal region. What further irked both groups was the government’s disinterest in resolving the impasse between the two groups.

The above observation is contrary to Picciotto *et al.*’s (2001) findings, where in a comparative study of six dam-related displacement projects (in India, Thailand, Togo, China, Indonesia and Brazil), the authors noted that resettlers and host communities relations were, except in one project, found to be good. The host community welcomed the resettlers and sympathised with their plight. In addition, the host community showed no signs that they considered themselves left behind as a result of the advantages provided to resettlers. But this may be explained by the fact that the resettlers were relocated not far from their former lands but close to or among their relations. Matters may have been different had they been relocated where they found themselves living as “strangers”, as was the case with the displaced in Kwale.



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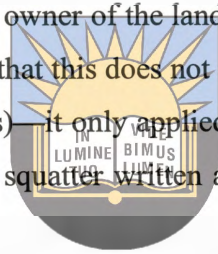
The government response to the previously mentioned impasse was to urge the affected individuals to sort these matters out amongst themselves.

The government took us to the host site and told us “that is your land”—and yet on that land someone is already farming on it, and that person’s coconut trees are spread all over that compound. How can you ask such a person to leave? That is a recipe for quarrels! And when we complained to the government about this, the government advised us to sort out the issue ourselves, between us the displaced and the squatters at the host site—how? The government further advised us to individually agree on the compensation rates for the crops and trees nurtured by the person occupying our allocated land—compensate with what? The money we were paid as compensation was long gone! And even if you do manage to resettle, won’t this man bring his kids to your place and tell them “that was my land that was taken away from me?” (said one displaced farmer, allocated land at Mrima-Bwiti, but now resident in Ukunda town, and who clicked his tongue in anger after the statement).

It seems as if the government had no further interest in this issue as it had done what was expected of it—provided alternative resettlement land and allocated it to the displaced.

The researcher enquired from the Ministry of Lands about the allegation that persons other than those affected by the mining project were being settled on the host site, and one representative clarified that the law on such resettlement exercises allowed for 20% settlement of persons other than those directly affected by the project. He stated that these were the people that the host population were claiming to be outsiders. He admitted, however, that there were times when this allowance was abused.

The Ministry of Lands official further stated that squatters were mostly unaware of their rights, as for instance, those who had settled on particular pieces of land for over 13 years had a right under the “adverse possession law” to claim ownership of the piece of land; such award was normally granted by the high court. However, to merit the award, one would have to have obtained written approval from the owner of the land prior to occupying the land. He put a twist on the matter when he clarified that this does not apply to government land (which was more likely to be invaded by squatters)—it only applied to private land. It was difficult to envisage a private land owner giving a squatter written approval to squat on his land for over 13 years.



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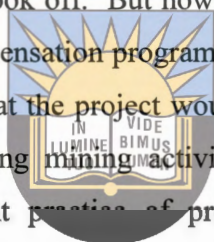
When the residents at the host site were asked to state who in their opinion had most contributed to the resettlement problem at Mrima-Bwiti, they were unanimous that it was the government that had “messed up” the whole exercise, as it is the government that allocates land, not the company. The respondents said that the government failed to settle them on the land they currently occupied, and asserted that the only way the government could make amends now was to fulfil its promise to resettle them on these lands. The remaining land could then be turned over to the displaced.

The foregoing findings underscore the need for resettlers to be meaningfully involved in discussions in the identification of a suitable host site—it is noted that community representatives in the DRCC were not meaningfully involved in the resettlement and compensation exercise. Asthana (1996) as well as Wadley and Ballock (1980) point out that such meaningful participation was the major factor that ensured successful relocation and satisfaction among the relocatees in Karelian (Finland) and Yallourn (Australia) projects. While Takesada (2009) had argued in favour of land-for-land compensation over cash-for-land compensation, the Kwale experience cast doubts on the viability of this option, for other than the difficulties associated with resettling in unfamiliar territory, the Kwale experience shows that resolving matters with host populations is an equally challenging task.

Asked what the government or the company could now do to mend the broken relations, one displaced resident summed up the community's feeling with the following declaration:

The milk has been spilled. I do not think that the relations can ever be mended. We made a mistake—we should never have given away our land so easily. But even monkeys fall from trees. The only way in which we can now be slightly appeased is for the project to take off, and our children be employed in the project. Short of that, I will always be bitter with the government for taking away my land for a song.

In an FGD held in Ukunda with the youth, the participants stressed that they had encouraged their parents to accept the compensation offered with the hope that they would be employed by the company once the mining project took off. But now that the project had stalled, they regretted that they had supported the compensation programme. It was clear that having lost 'their' land, the community's hope was that the project would commence so that they could perhaps obtain employment in the ensuing mining activities. Even then, the Mijkenda community were fearful that the current practice of providing employment mainly to members of the Kamba community would persist. Such was the mistrust between the two communities!

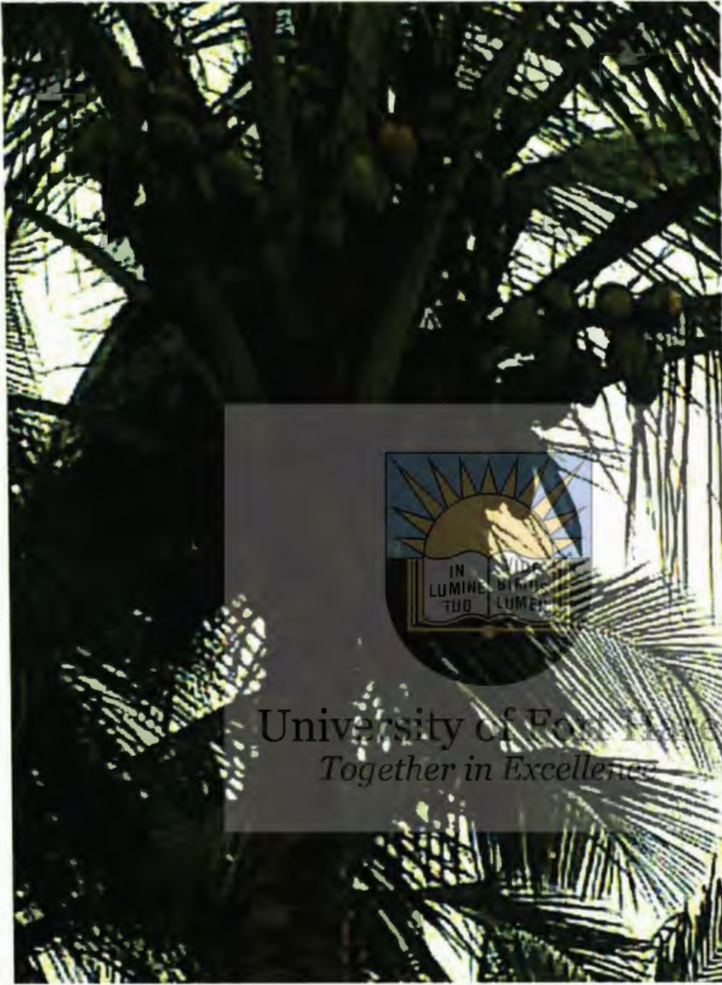


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### 8.3.1.2 Compensating for 'lost' coconut palm trees

Section 7.2.1 of Chapter Seven illustrates the compensation rates for various agricultural crops and trees. Readers will note that in the final figures approved by the Kenyan Cabinet, a coconut tree was valued at Ksh299 (approximately US\$4), which was the average obtained from the values of the 'young', 'medium' and 'old'. During the field work, the researcher found that nothing caused as much consternation as the compensation paid for the coconut palm tree.

Angry sentiments such as "no compensation was as bad as that of the coconut—the rates offered were very abusive", to "*malipo ya mnazi haikuridhisha kamwe* (compensation for the coconut was most unsatisfactory)!" were very common. Residents were incensed that their most valued tree was categorised into 'mature' and 'young' by Tiomin's consultants. The community rejected the categorisation and subsequently rejected the compensation rates.



Abuya, 2009

**Plate 8-1: A coconut palm tree**

In a subsequent valuation by the Resettlement and Compensation Committee (a committee in which they had representatives), the coconut tree was categorised into ‘young’, ‘medium’ and ‘old’. This categorisation made little sense to a community in which a coconut tree was a coconut tree. In their view, this categorisation was a ploy to undercompensate them for their trees. One displaced resident captured the mood of the community with the following remark:

A tree is a tree, and as such there was no reason for the government and the company to categorise our crops, especially the coconut tree, in the manner that they did. Since most of us had old coconut trees on account of the fact that we had lived in this environment for a long time, we obtained very little compensation as these old trees were given the lowest values. This categorisation meant that we therefore received pittance for our trees. I see this as just a grand plan by the government and the company to defraud us. Who says that an old tree produces less coconut yield? In fact, the older the tree, the better the *mnazi* it produces! The government and the company used semantics to con us of our rightful dues. This was just a ploy to pay us less money!



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Abuya, 2009

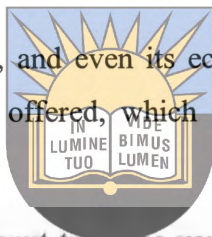
**Plate 8-2: Coconut fruits (in a reed tray, locally known as *uteo* or *ungo*)**

Another respondent, a 52-year-old farmer, made the following comments:

The manner in which they categorised coconuts into ‘young’, ‘medium’ and ‘old’ was akin to categorising one’s own children. Would anyone in his proper mind undervalue his last born [child] on the basis of his young age? Certainly not! Wouldn’t that last born not also grow up and be productive? That is what they did to our coconut trees.

In other words, in the eyes of the community, the tree is a ‘being’, one that has to be nurtured and respected; and in cases of compensation, it must be given its true value. In their view, the categorisation was only done to ensure the company made a saving on compensation, and since most of them had old trees, they received very little in terms of compensation.

Given its numerous ethno-ecological uses, and even its economic use in the open market, many were baffled by the compensation offered, which they felt was unfair. Said one resident:



The compensation rate for the coconut tree was very bad! Ksh299 per tree? That was very bad. This is an intergenerational plant and it can grow for up to a hundred years! And look here, one can get Ksh300<sup>54</sup> per tree every three weeks from the sale of its fruits alone. How can one then peg a one time payment at Ksh299 per tree? Wasn't this madness? If they were to be fair, they should actually have paid us at the minimum, Ksh3,000<sup>55</sup> per tree!

Another resident, a displaced 49-year-old woman lamented that the compensation for the coconut was very “annoying”:

Compensation for coconut was very annoying! We all had these trees but we received very little money as compensation. The coconut has many uses...how then can one determine that it is only worth Ksh400 as its maximum offer? Now that I have to purchase coconuts at Ksh20 per fruit, I feel very infuriated because my own coconuts were poorly paid. If I had been fairly paid I would not be feeling as bad as I now do. I now have to wait for 5 years before I can have my own coconuts.

The displaced residents indicated that they were very amazed at the compensation paid for the coconut, and wondered whether government valuers were indeed qualified—“where were these people ‘picked’ from?”, one respondent asked incredulously. The resident

<sup>54</sup> Approximately US\$4.

<sup>55</sup> Approximately US\$38 (readers may convert the other rates using the exchange rate of 1US\$=Ksh79).

asserted that even when one simply chops the branches of the coconut tree and converts them to charcoal, he would earn much more than the Ksh299 paid out as compensation. Indeed, the undervaluation of the coconut tree was surprising given that in its own assessment, the Forest Department had indicated that its value would be based on its numerous uses.

Members of the Kwale community further contended that as an intergenerational plant, the coconut tree plant should have been awarded a reasonably higher value; then that ought to have then been multiplied by the lifetime of the tree to obtain a realistic compensation. This was because in losing the tree, they would be losing a lifetime of sustenance from it. One resident declared that the compensation paid was “a day’s income from the tree”. Residents were unanimous that the compensation paid for crops, and in particular for *mnazi*, was “very unfair”.

Indeed in one FGD, participants initially angrily remarked that we could talk about everything and anything else but ‘the coconut compensation’. One participant afterwards wondered aloud how a government could pay Ksh400 (the highest amount recommended for the categories given) for a tree that feeds an entire family, and one which has immense cultural values. This echoed Akpan’s (2009:114) argument that:

[A]lthough people drink pami (the wine tapped from raffia or oil palms) for pleasure, the wine has no substitute when demanded as part of bride wealth. It is also used as ‘incantation drink’ and as a social beverage at funerals, initiation rituals and indigeneous festivals...[its] economic worth is tied to [its] cultural values.

From an economic perspective, it was doubtful if the culturally ‘insensitive’ rates did satisfy market value (see Nosal, 2001) and if it did “counterbalance” the loss suffered, which Goodin (1989) argues is the main aim of compensation.

Another interesting finding was that although community members were equally discontented with the compensation rates paid for other crops/trees, such as mangoes, oranges and passion fruits among others, they wondered why these “less essential” crops fetched a higher value than the coconut tree. For instance, exotic mangoes were valued at Ksh2,919 (approximately US\$37) per tree, while a coconut tree was valued at Ksh299 (approximately US\$4). Respondents said they were at a loss to understand how these rates were arrived at. The only explanation they could come up with was that the company and the government were out to

unfairly compensate them for the coconut, as they stood the risk of running out of money were they to offer competitive rates for the coconut trees which dotted every homestead. One 47-year-old displaced farmer reasoned as follows:

The company and the government are not stupid. During the time that we were haggling over appropriate compensation, they flew all over our farms in their helicopters and I believe all they saw were coconut trees. They therefore figured out that if they were to compensate us fairly for this, this would 'finish' their money—hence their decision to pay us ridiculously low rates for our coconut trees. What they did not see in plenty were other crops such as oranges, for which they decided to give premium value. I wish I knew this would happen. I would then have only cultivated mangoes and oranges on my farm. Had I done that, I would now still be collecting my compensation money from the bank in a wheel-barrow.

The above was not to say that they were satisfied with the rates paid for cashew nuts, mangoes, passion fruits, oranges and others. Though most of these crops were compensated at a higher rate than the coconut, 92% of those interviewed were of the view that these crops were equally under-compensated. Compensation for these crops met with an almost equal measure of indignation. One 65-year-old displaced resident, and a community leader during the time of the displacement, made these remarks:



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The company and the government paid us very poorly for our coconut trees. This mistreatment was extended to other crops. Look at the payment for cashew nuts for instance, which they approved at Ksh118<sup>56</sup>. Yet from November to March of every year, one can get Ksh1,000<sup>57</sup> per tree every month. Why then should one compensate it at Ksh118 per tree? Same with oranges which was approved at Ksh1,854<sup>58</sup> per tree and yet yearly one can get Ksh5,000<sup>59</sup> per tree. The compensation paid out was simply fraudulent.

Another resident commented that:

Just like coconuts, everyone had cashew nuts and we were similarly paid very low rates for this. But oranges and mangoes, which only a few people had, were compensated at higher rates. It seems that the Ministry of Agriculture conspired to pay us little compensation for the crops that everyone possessed, and pay somewhat improved rates for crops that only a few had. But even then, the mangoes and oranges were paid below market rates—but when we

<sup>56</sup> Approximately US\$1.50.

<sup>57</sup> Approximately US\$13.

<sup>58</sup> Approximately US\$23.

<sup>59</sup> Approximately US\$63.

heard that the rates were from [Ministry of] Agriculture, we kept quiet because, aren't they the experts?

As in the case of the coconut, they were again irked by the manner in which these crops were categorised into 'young', 'medium' and 'old'. This categorisation made little sense to a community where a mango was a mango.

Categorisation of mangoes into 'young', 'medium' and 'old', didn't make sense to us. Isn't a mango a mango? If you now go to our abandoned fields you will find that what they called 'young' is now big and heavy with huge fruits (claimed one displaced resident).

Another respondent questioned the decision for compensating below market value:

Look at the compensation for mangoes. They paid us Ksh300<sup>60</sup> for "local" mangoes and yet in a year one can collect Ksh3,000<sup>61</sup> from that same tree. This categorisation of mangoes into "improved" mangoes and "local" mangoes was just another way of cheating us from obtaining a fair compensation for our crops. A mango is a mango! Why did they place a higher value on "improved" mangoes while it is the "local" mango that fetches a higher price in the market? Why wasn't this categorisation not extended to other crops? Wasn't this because everyone had mangoes and only a few people had these other varieties?

Another respondent argued that compensation should not be pegged at market value:

There must be a difference between compensating at market rate, that is, the price I would get when I sell my goods for profit, and compensating because you are evicting me from my land! This is because when I sell for profit I retain my trees, but when you evict me from my land, I lose not only the fruits, but the entire tree. You are therefore driving me into poverty and because of that, you need to pay me more!

The community read mischief into the entire compensation process. Another point of contention was that most of the rates (for the category 'old') indicated in the approved document by Cabinet reflected the same rates that the community had earlier rejected in the

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<sup>60</sup> Approximately US\$4.

<sup>61</sup> Approximately US\$38.

initial offer floated by Tiomin's consultants. The residents wondered how these rates found their way back into the final document.

The researcher sought to know from the company representatives why these crops were undervalued. Their response was that they paid rates as presented to them by the government, and according to the valuation carried out by professionals in government Ministries in line with existing law(s). They maintained that they had no role in the determination of these rates. Subsequent interviews with residents revealed that they were particularly unhappy with the government on the matter of compensation for crops as it was, indeed, true that it was the government that had recommended the rates. Most of the displaced residents believed that the company was willing to pay a higher compensation rate but that it was instructed not to do so by the government. The residents wondered why the government was out to undercompensate them while the cost was being borne by the company.

They were also unhappy with the government because it was the government that had come up with the tact of alienating local mangoes from exotic (improved) mangoes in its valuation. In the initial proposal put forward by Tiomin consultants, mangoes were simply referred to as "mangoes" though they were categorised as "young" and "old". But government separated the two and further introduced three categories ("young", "medium", and "old").

One official in the Ministry of Lands, disclosed to the researcher that the agriculture rates employed in the Kwale compensation programme were admittedly low, and should have been first revised before compensation was determined. The official explained that the revision, however, only took place every five years, and as such, correct values were at times not achieved. The official further pointed out that there were times when certain crops would fail to appear on the revision schedule, thereby rates as old as ten years would be used. According to the official, the idea of valuing crops differently depended on the region it was grown; this also caused conflict when it came to working out compensation rates. For instance, a pawpaw tree would be valued much higher in Eastern Province (where the land is semi-arid, which would necessitate more effort in cultivating the crop) than in Coast Province (where the plant grew effortlessly due to the good climatic conditions), hence the two would be priced differently in the open market. Prices of food crops could also vary in one province based on differing climatic conditions. And explaining this to the locals, the official admitted, was not an easy task. However, the official did not seem to recognise the fact that the Minister had

the power to increase the rates in between the five year schedule should there be need for this. Clearly, the government did not see the need for this.

Though noting that the government was largely to blame for the “unfair” rates, the displaced were also quick to blame the company for paying rates which they claimed they (the company) were obviously aware were faulty. The community acknowledged that the company was a business enterprise whose duty was first to its shareholders and as such, the company would be quick to welcome any suggestion that would make it save on expenses. Many respondents wondered what the government had to gain by undercutting its own people, bearing in mind that the compensation would be at no cost to them. The compensation paid in respect of the coconut or the cashew nut neither fulfilled the “fair market value” principle, nor was it in compliance with government’s recommendation that it would be compensated in accordance to its ethno-ecological uses, clearly vindicating the community’s assertion that they were deliberately undercompensated.

The above field findings suggest that the titanium conflict in Kwale has more to do with compensation than with “uprooting” people from their cultural abodes (land, crops, and—as we will later observe—graves and residential structures). The field findings so far indicate that the community in Kwale are attached to “nature” and to their cultural artefacts as these provide meanings to their lives. However, the foregoing field findings appear to indicate that at a fair cost, people are willing to be “uprooted” from their cultural attachments. This contradiction points to the earlier implied sentiment that people may be cultural animals, but that they are also economic beings. It appears that at the right price, everything, including things sacred or culturally revered, are compensatable, albeit for only a brief period. Weighed again against cultural attachment and loss of their coconuts without compensation, many ‘accepted’ the compensation. This again shows the contradictions that arise when people who uphold or proclaim certain cultural values and attachments are faced with specific economic choices under particular circumstances. However, the farmers were now agitating for more compensation, which again raises the issue of incommensurability of certain tangible items that bear non-pecuniary harm. For fear of losing it all, residents accepted compensation, but assent (as defined by Goodin, 1989) was never fully present. In any case, fair market value was in the first place never met, hence compensation at Radin’s (1993) “noncommodification” level was never met. Residents are therefore bound to go on demanding for fair compensation, which will be difficult to achieve.

Following the displacement, many of those interviewed stated that their now abandoned crops wasting away in the fields served as a source of anguish to them. This was the new meaning that now replaced the previous meanings attached to these trees and crops. They were unhappy that although the mangoes, the oranges, the coconuts and cashew nuts were ripe in their abandoned fields, they were barred from harvesting these fruits. This caused them anguish, especially now that famine was beginning to ravage the countryside (during the field work, Kenya was experiencing its seventh year of inadequate rainfall, and famine was beginning to bite).

Why can't we be allowed to harvest our crops? What harm would that bring? It really pains me to see my oranges and mangoes ripen till they drop on the ground, while my family is almost starving. They should at least let us harvest our trees until the project effectively commences (voiced one distraught respondent).



The company's response to the above was that:

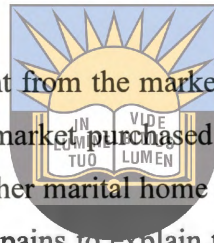
The farmers were compensated for their crops hence they have no claim on those trees. Our fear is that if we allow them to harvest they will soon squat on this land and getting them off the land when we are ready to commence our mining operations will cause us unnecessary headache.

The residents were asked to indicate how, if at all, the displacement affected their socio-cultural practices. With regard to their now abandoned coconuts, many were plainly dismayed—as they now had to wait for five years for their young coconut seedlings to mature. In the meantime, they were forced to buy coconuts at the market and this was culturally “shameful”. Some even alleged that they were actually purchasing coconuts harvested from their former farms by unscrupulous individuals, who, when asked about this, maliciously chided them telling them that they had been compensated for their fruits so they need not raise such issues. Whereas in the past they would tap their trees and make *mnazi* to meet cultural needs, they were now forced to buy the same *mnazi* from the market as if they were tourists in the area. Not only was this shameful, but it also made the particular solemn cultural occasion lose much of its colour. This negatively affected their social status as they were now referred to as “those who bought *mnazi* [at the market].”

Now that their social status had diminished, they had to take a back seat in such ceremonies (as they were unable to provide *mnazi* and other coconut products from their own trees as

tradition demanded). One resident remarked that although his daughter had now come of age (eligible for marriage), he was forced to keep postponing the bridewealth discussions as he waited for his trees to mature.

This titanium project has really strained relations between me and my daughter and her in-laws. As per our Mijikenda tradition, I am expected to serve foodstuff made from coconut products and serve *mnazi* tapped from my own trees to my in-laws. Afterwards, I am expected to give them fruits from my farm as presents. Now, with this displacement, I cannot provide these things and am forced to postpone bridewealth discussions as I wait for my trees to mature—which will take five years! My daughter does not talk to me anymore because of this; but how can I go against tradition and serve *mnazi* bought at Ukunda [shopping centre]? Do you know what that will do to my social status? What about that of my daughter?



He could not envisage serving wine bought from the market to his future in-laws as this was against tradition. The impact of serving market-purchased *mnazi* to his prospective in-laws would also diminish his daughter's status in her marital home and his conscience could not bear this. The displaced residents were also at pains to explain their inability to offer agricultural presents (at weddings, funerals, or to visiting relations) consisting of bananas, local mangoes, and coconut fruits, from their fields as they had none of these at their present areas of residence. As a result, they felt completely vulnerable not only physically in terms of unavailability of food, but socially as well. For as Downing (2002) argued, displaced persons slip into a lower socio-economic status.

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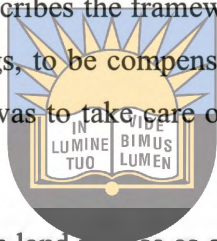
Commenting on how the compensation framework affected community-state/company relations, one interviewee remarked as follows:

Look, in the past when I would go home after a long day, I would settle down under the shade of the coconut tree and drink *madafu* to quench my thirst. This action would take me to another state of being—to a higher level of being. Next I would eat its white meat and wouldn't I now be well nourished? Now with this displacement I will never again enjoy this! And then the government came along and rubbished this tree and paid us coins for it. Do you think I will ever be happy again?! (bangs his fist on the table)

It was evident that the residents harboured immense animosity against the company, and against the government.

### 8.3.1.3 Compensating for graves

In its resettlement action plan, Tiomin recognised the fact that graves were a “potentially emotive issue” around which opposition to a project could be mobilised. The company acknowledged that the relocation of graves was a “traumatic affair” with the added burden of “potentially upsetting the ancestors” (Coastal and Environmental Services, 2005a:28). Angry ancestors were often regarded as responsible for misfortunes such as illness, drought, cattle death, crop failure, and loss of employment among other misfortunes. The company noted that disturbance of graves was a serious matter and that beliefs dictated that when graves were disturbed certain rites must be observed to appease the ancestral spirits. It was in light of this that the company and the government agreed to compensate for disturbed graves as indicated in Chapter Seven, Section 7.2.1, which describes the framework for compensation for graves. Excavated graves were, among other things, to be compensated for at the rate of Ksh10,000 (approximately US\$127) per grave—this was to take care of the traditional rites with regard to reburial activities.



The company also agreed to set aside some land for use as a cemetery at the resettlement site (at Mrima-Bwiti) for those who would prefer reburial and burial there. This was in addition to agreeing to put up a shrine at the Municipal Cemetery which would be used to inter unidentified excavated remains. A church and a mosque would also be constructed to enable observance of religious rituals. In the meantime, a burial moratorium was placed among those who were yet to be displaced in Mivumoni and Kinondo.

By the end of June, 2005, 162 gravesites (containing 384 bodies—of which only 56 were considered “fresh” graves<sup>62</sup>) had been identified at the mining site (Coastal and Environmental Services, 2005b). Field interviews revealed that most of the displaced were yet to be compensated for their graves, and were therefore awaiting the promised payment that would facilitate the reburial of the remains of their relatives. Interviews with company representatives revealed that the government was yet to issue the requisite grave excavation permits and reburial permits owing to bureaucratic delays. It is only upon the issuance of this document that the company would be able to effect the payment and subsequently move the graves. The situation at the time of the field work was that although the displaced had moved out of the condemned land (save for those in Mivumoni and Kinondo who were awaiting land compensation and displacement), they had been forced to leave their graves behind.

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<sup>62</sup> “Fresh” graves are those in which bodies were buried after December, 2002.

One elderly displaced resident explained that moving a grave was not a simple matter; it involves observance of certain traditional rites which include (among others): the slaughter of cows and goats as offerings; provision of *mnazi* for visitors and also as an offering to the dead persons' spirits; observance of special traditional prayers and rites; further, relatives from both sides of the family have to be invited for the occasion, and upon arrival, they have to be taken care of in terms of accommodation and feeding. All this involves a substantial sum of money, he said, which the displaced were incapable of financing by themselves, especially when it was something they had not anticipated or planned for.

It was for this reason that the company had agreed to fund these reburial activities by offering Ksh10,000 per grave. However, government bureaucracy had delayed this process inordinately, such that three years after the mass displacement, graves were yet to be compensated and moved. Contrary to tradition, the living had moved without their graves and it was unclear when funds would be available to facilitate the reburial of the remains of their relatives. It was found that this delay had caused much anxiety among the residents. A few had, however, been compensated, especially those whose graves were situated on land that the company had immediate use for.

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One interesting event, however, occurred during the exhumation and reburial of such remains for those who were compensated. A company representative informed the researcher that residents at the core mining site (where the company had established its experimental office), who were the first to be displaced and had been compensated for their land and graves, had on the day of exhumation, declined to move their graves, citing the fact that the Ksh10,000 paid was insufficient to finance the necessary rites to appease the dead. To avoid "falling under curses", many chose to abandon these graves rather than face the unknown consequences of "waking up the dead" and failing to appease them! Come the time for exhumation of bodies, none of those affected were on hand to see the exercise through:

Reburying the dead brings about much disturbance, as you are waking up what had almost been forgotten. One has to re-live the pain all over again and this is emotionally draining. Again, one will be waking up the dead from their sleep. This can bring about disastrous consequences if proper rites are not observed. *Some dead people may even refuse to go back to sleep and will haunt their relatives forever* (said a 57-year-old displaced person).

They therefore chose to leave this headache to Tiomin. Indeed, Akpan (2009) argues that compensating for graves is not a straightforward matter. This is because once constructed, a tombstone will have no clear market-related price and cannot be ‘paid for’ at will. Akpan emphasised that it cannot be valued in terms of the amount of cement and steel rods used in its construction, but has to be valued according to its cultural and spiritual significance. Why the displaced persons accepted the reburial compensation in the first place can only be attributed to the economic attitude that both parties initially attached to the exercise. But come the day of reckoning, it dawned on the displaced that culture does not provide for payment for reburial of ancestral remains under these circumstances. Humans are indeed cultural beings as well as economic animals and the emergence of each attribute depends largely on the present circumstances.

Brown (1980) explains the complexity of Mijikenda graves. He argues that there are three types of Mijikenda graves, each bearing a grave post to signify the social status of the person buried there. Prominent Mijikenda people were (and still are) buried in the *kayas*, and *akigango* (plural, *vigango*—these are elaborated wooden grave posts—see Plate 8-3) placed over the grave. Where these prominent personalities cannot be buried within the *kayas*, they were/are buried in their homesteads where *kigango* are placed over their graves or, more frequently, in spiritual houses built especially for them.

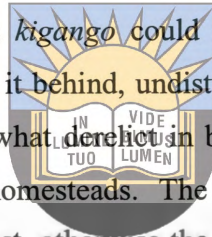
Next in importance is the *mbao* grave, followed by the *koma* grave, each with a grave post depicting its status. *Mbao* grave posts, a simplified version of the *kigango*, are placed alongside a *kigango*; both are flanked by *koma*. These grave posts are crafted from coconut tree trunks, which further demonstrate the interwoven relationship between the coconut tree, the Mijikenda and their graves. Brown (1980) notes that in Kenya, apart from the Luo community who erect crude examples of grave posts, this tradition was solely practiced by the Mijikenda.

The grave posts therefore signified the great importance attached to graves in the community. Grave posts were not merely memorials for the dead—they were the means through which the dead were propitiated, so as to avoid an ancestor causing trouble to the living. A grave post was erected when there was belief that all traditional death rites, ceremonies, generous funeral feasts and periods of mourning were not fully observed, hence dissatisfied with this, the spirit of the dead would ‘refuse’ to rest in peace thereby causing trouble to the living. An installed

kigango was revered and interpreted as the incarnation of the deceased, is spoken to directly, and propitiated with palm wine and libations (Udvasdy, 2003)

Interviews with the residents revealed that some people erected grave posts for avoidance of doubt. Brown (1980) further found that burial ceremonies were held in at least two stages, the first lasting seven days, and the second taking place four months later and lasting four days. Sickness or misfortune in the family would be attributed to the malevolence of a neglected ancestor and this called for the need to erect a grave post. A diviner would advise on whether a grave post was necessary or not. The circumstances arising for exhumation and reburial (titanium mining-related social displacement) were clearly not among those that were culturally anticipated.

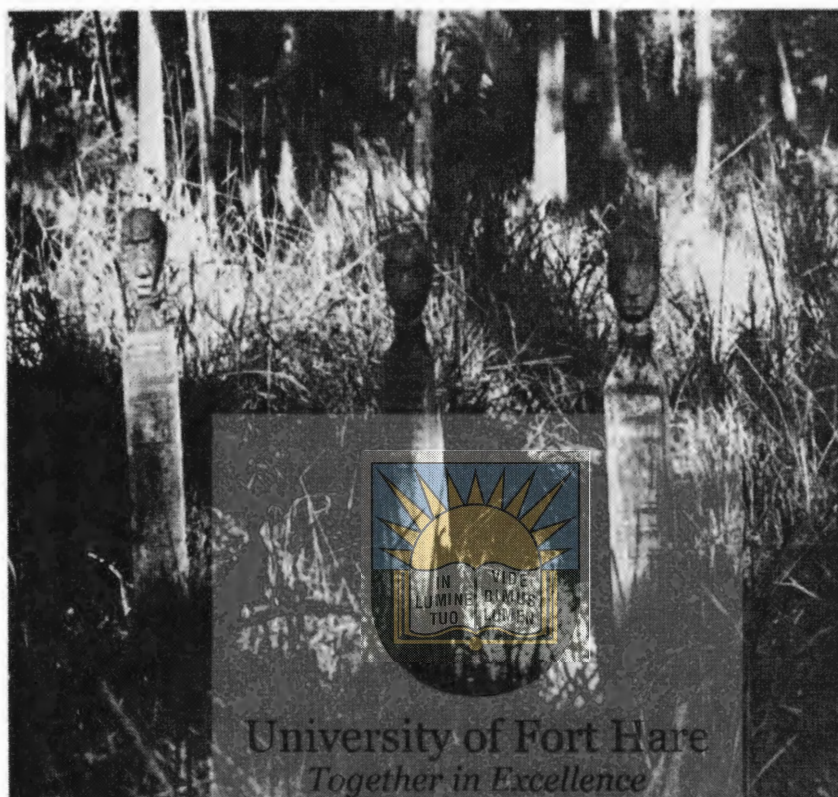
Brown further observed that removing a *kigango* could cause misfortune, hence when a family migrates, it was advisable to leave it behind, undisturbed. It was for this reason that *vigango* were often found standing somewhat derelict in bushes or in cultivated fields (see plate 8-3), or on grounds that were once homesteads. The family must nonetheless continue to take care of the grave and the grave post, otherwise the dead was bound to cause trouble. Brown notes that ancestral spirits acted as intermediaries between God and man, and that they were often petitioned for help in times of trouble.



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As Udvasdy *et al* (2003:567) observes, ancestral spirits continue to play an important role in Mijikenda culture, and were believed to influence the activities of the living. The authors add that to uproot a *kigango* (and for that matter, exhumation of a grave) for the purpose of profit is a particularly flagrant affront to the ancestral spirits, likely to result in such serious supernatural sanctions as infliction of sanity, or death to the offender and other family members. This was one of the focal reasons why graves were revered and faithfully maintained.

This discussion shows that the residents have to observe stringent reburial ceremonies were they to exhume their graves. As observed earlier, the initial group to be displaced left this 'headache' to Tiomin to deal with as none wanted the wrath of their ancestors on their head, given that the circumstances warranting exhumation and reburial were entirely unheralded and the compensation inadequate.



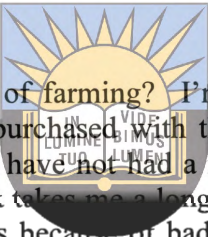
**Plate 8-3: Vigango in a kaya (right)**

It was found that the displaced in East Timor carried out rituals to appease the ancestral spirits perceived to have been angered when the community abandoned graves following displacement carried out by the East Timor army during the country's civil war, as failure to do this would cause harm to befall the community (Bovensiepen, 2009). Residents in Kwale considered that they also had to carry out such activities in the interim period pending reburial, and also during the reburial period as they had abandoned their graves in the condemned land.

As explained earlier, the need to be with one's grave was part of culture and hence the separation caused by the displacement was a serious violation of cultural norms. This abandonment caused much anxiety among the community, as one resident explained:

Some of us cannot sleep. We are 'beaten' everyday by our dead, asking us why we have abandoned them. But what can we do? If we wake them up from their sleep, they will haunt us as the Ksh10,000 provided is not sufficient to observe all the reburial rites that are traditionally required. Let whoever disturbs their sleep be responsible for the consequences (interview with one displaced resident).

The community members considered the compensation offered as inadequate to carry out a successful reburial. But since most moved out without their graves on account of the fact that compensation was yet to be paid, many felt pained as they were now separated from their graves, and some believed that bad luck was now dogging their lives. When asked how being separated from his mother's grave had affected his life, a 37-year-old now living in Mrima-Bwiti responded as follows:



What am I doing right now instead of farming? I'm here at this workshop trying to fix this power saw that I purchased with the compensation money paid to me. Ever since I bought it I have not had a moment's peace! Every other day, it keeps breaking down. It takes me a long time before these hands of mine touches money. And this is because of bad luck occasioned by my having abandoned my mother's grave. I will not preside until my mother's grave is with me. But how can I move my mother's grave when I don't have money and when Tiomin has to date not fulfilled its promise of relocating her remains? I am now just here, bewitched!

Another respondent, a widow who was among those compensated for her grave, but was among those who refused to participate in the exhumation exercise, responded as follows:

I feel very pained that I left my husband's grave over 'there'. The grave served as a place of remembrance, so now how am I supposed to remember my husband? I feel very pained. They gave me only Ksh10,000 for the grave which was not enough to cover the reburial expenses, and hence to date, my husband's grave is yet to be exhumed so that he could be brought home. I want my grave so that I can remember him, and the company must find a way of making this possible. As it is now, I'm separated from my grave and the memory of my husband is slowly fading away and this is not good.

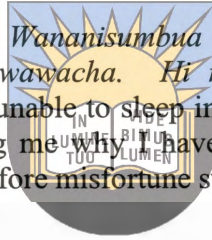
This feeling was shared by many interviewees. They were concerned that the non-observance of culture was irritating the dead, who may decide to strike back.

The researcher encountered tales of such attacks.

I know of a family that is constantly harassed by their dead. The dead keep visiting them at night asking them why they have been abandoned. You know, reburial is not a simple matter—it is not just a matter of shifting bones from one place to another. You know, even the ground around that grave is sacred and has to be reburied as well, but I don't know how this can be successfully achieved. Then there are those rites that have to be performed. But because the family hasn't been compensated, they are unable to exhume and rebury their dead. You know that the dead are not actually dead and if abandoned, they get angry and end up haunting the living (remarked one participant in an FGD).

Another 60-year-old respondent made the following comments:

*Hata mimi silali pale nyumbani! Wananisumbua kabisa! Waliotuwacha wananiuliza kila siku kwanini niliwawacha. Hi mambo inavaa itatuliwa haraka kabla mkasaa inipate* (I am unable to sleep in my house. Am haunted by the dead. My dead keep asking me why I have abandoned them. This matter should be resolved soonest before misfortune strikes me!)



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The above echoes Schmidt-Soltau's (1999) findings that indigenes consider graves as places of worship, and that abandoned graves invite the wrath of the ancestors.

On the delayed compensation for graves, the researcher found that the displaced residents were very displeased.

We got letters telling us that compensation for the graves has been delayed. The letter read in part "...that the Board regrets blah blah blah...". Now who or what is this Board? Do we know them? Did we elect them? We don't want to hear this nonsense any more. They should pay us our money, we take our graves and go! We no longer want to hear this "we regret". When they were taking our land they never introduced us to this Board, so why introduce them to us now? We are not interested! (interview with a 59-year-old displaced male).

Another respondent remarked that the delay in compensating for the graves to facilitate reburial was disabling them from carrying out certain important socio-cultural functions, which he elaborated as follows:

I feel very bad about the delayed compensation. In fact my brother keeps asking me why the payment has delayed because he wants to be re-united with his dead wife and kid. Without them, it is as if he was never once married. Without them near him, he cannot remarry, as certain rites have to be performed by the graveside so as to enable him remarry. Right now he is living like a bachelor; cooking his own food and washing his own clothes, which at his age is culturally unacceptable. I am also personally affected—I left my child’s grave in that land. Now it is as if I never had a child in this life and yet he is my child. We Africans have a relationship with our dead, and so the relationship I had with my dead is now severed. I feel as if I have lost my child. Ever since we moved my wife has been unable to conceive because the other (the dead child) has tied her womb because we have abandoned him over there. We feel quite helpless about this.

He was categorical that this matter of compensation must be dealt with as a matter of urgency before further calamities befall them. This view was shared by many whom the researcher interviewed on the same subject.

The “losses” were multiple—the sense of anguish mutually reinforcing. Loss of coconut trees was compounded by separation from graves—both worsened by an inability to make palm wine to propitiate angry ancestors. Many respondents felt that they were now at the mercy of ancestral spirits gone rogue as a result of non-appeasement. The feeling of vulnerability could be felt throughout the community.

As to the idea that the company would set aside a special cemetery to inter unidentified bodies, or for those who would choose this cemetery as their place of interment, residents remarked that they were not a people who throw their dead in the ‘bush’, given that the cemetery was located several kilometres away from their homes. One displaced resident remarked sarcastically that he was not going to be party to a move that gives legitimacy to the establishment of a museum where tourists will be ushered to and told that “this is where relatives of those displaced in the Tiomin project were buried”.

As for the residents at Mivumoni and Kinondo (who were awaiting compensation and displacement), the situation was no better. If anything, it appeared as though they were much more affected by the delay in payment of the compensation. Since the end of June 2008, a burial moratorium had been in effect, which meant that they were not to bury their dead relatives on the condemned land. The options left to them were to bury their dead in the Municipal cemetery, or in the burial site set aside for them at Mrima Bwiti. Neither of these options was acceptable:

This displacement has turned me into an animal—for what kind of a human being am I when I cannot bury my own child on the land that I occupy? Am told that if I bury my dead here then I will not be compensated for my land, neither will I be compensated for the reburial of my child. Who in his right mind buries his dead in a municipal cemetery? We know that that place is reserved for those who have no families, for those whose bodies have not been identified, or those who have been shunned by their own community. Is that what my child is? No! Can you imagine that I am now forced to plead with my neighbour to allow me temporarily bury my child on his land in this interim period? This is very shameful indeed. This has reduced my value as a human being (interview with an adult male who recently lost his child).

The researcher found that this group of people would rather bury their dead in their neighbour's land (a neighbour who was not affected by the mining project), rather than bury their dead in the municipal cemetery. Burial at Mrima-Bwiti was shunned outright as this was akin to throwing one's dead in the bush (given that those displaced were not willing to settle here due to the reasons discussed earlier). The delay in the payment of compensation was a major cause of concern to this group, who felt that their lives were at a standstill. Many, in fact, were of the opinion that they should also be compensated for lost time and for lost opportunities. For instance, they argued that the cost of land was now much higher than at the time the other displaced persons were resettled. Although Section 16 (1) of the Land Acquisition Act (Cap 295) provided for a 6% interest per annum on delayed compensation, the runaway double-digit inflation appeared to make nonsense of this interest. This was an issue they were intent on raising with the company at an appropriate time.

As to how the matter of non-compensation for graves had affected community-company relations, most of the respondents interviewed asserted that unless the promised payment was made, unless their dead were reburied and all cultural rites observed, and unless the company met all the expenses related to this, then there was no way that the relationship would ever be mended. Many claimed that the reburial exercise would also cause a lot of emotional disturbance and asserted that this too must be compensated (in the form of a disturbance allowance).

With these feelings, it was doubtful whether relations will be easy to mend. Compensation at whatever rate and in whatever form may be insufficient to appease the community. One farmer who was among those that had vehemently resisted the displacement acknowledged that it was the abandonment of their graves that had made them resist for so long. Clearly, abandonment of graves contributed significantly to the witnessed conflict.

It seems, that like in the way that the community hoodwinked the company into paying them compensatory land at Bwiti, and going by the experience of the first group who were compensated but then abandoned the graves (and the cultural ‘headache’ of reburial to Tiomin), it is unlikely that the displaced will carry with them their graves once they are compensated. It appears that of all the ‘assets’ that are to be compensated, graves appear to be the one where meeting its “market” value may be unattainable. So as an economic animal, the residents will take the compensation, but as a cultural animal, they will not exhume their graves as tradition does not provide for such instance for payment.

#### 8.3.1.4 Compensating for residential structures

The researcher found out that four separate valuations were carried out before a final rate was announced by the government. The first valuation was carried out by Tiomin (the mining firm) through a private valuer. These rates were rejected by the farmers who considered them very low. The second valuation was undertaken by the government Provincial Valuer whose rates, though viewed as moderately fairer than the first one, were rejected by the farmers who still considered them low. This then prompted the farmers to engage their own valuer whose findings were forwarded to Tiomin. However, through the now constituted District Resettlement and Compensation Committee (DRCC), a fourth valuation was carried out, this time by the District Valuer.

The difference between the rates arrived at by the farmers’ valuer and those arrived at by the DRCC were said to be of such great variance that the displaced wondered whether there were different standards applicable for different valuers in Kenya. In the end, the rates obtained by the farmers were put aside. Those obtained by Tiomin and those obtained by the government through the DRCC were harmonised and payment was effected based on these two documents.

Unlike the compensation for land, graves and coconuts, where there was clear unanimity that compensation was “unfair”, there was mixed reaction regarding the compensation paid out for physical structures. While 43% of those interviewed stated that they were dissatisfied with the compensation paid out, 57% maintained that they were satisfied. The researcher found that there were three categories of dissatisfied persons: (a) those dissatisfied not with the compensation offered *per se*, but with the evident discrepancy between the payments—one would find structures of similar size, design and make (made of similar material) valued completely differently; (b) those who were dissatisfied with the compensation paid; and (c)

those who were dissatisfied with the manner in which the compensation process was conducted.

Fifty-seven percent (57%) of those displaced (including some of the fiercest opponents of the displacement—one of whom was among the nine farmers who instituted legal challenges and suffered the indignity of being bulldozed off his land in the end) admitted that the compensation paid out on physical structures was adequate, pointing out that it was enough to construct a replacement house of similar or better value; but only if one did not divert it to other uses.



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Abuya, 2009

**Plate 8-4: A demolished residential structure**

Yet since land prices had gone up, and bearing in mind that farms had been taken away, some of this money was used to subsidize expenses such as food and school fees. As Nayak (2000) and Mburugu (1994) found, the trouble of reconstructing homes is usually exacerbated by the many demands that rural folk are faced with such as payment of fees, debts, assistance to relatives and purchase of livestock. As such, as happened in the case of Kwale, only a few residents used the money to put up commercial residential houses or beautiful maisonettes in Ukunda. One of these was a 46-year-old female relocatee, who used her compensation money to build a beautiful five bedroom maisonette in Diani.

A 47-year-old displaced resident, who was at the time of the field work was employed by Tiomin, stated that the valuation was fairly carried out. He said:

I was satisfied with the compensation paid out on my house. People were paid according to the status of their house. I am a builder (mason) so I do know how houses are valued. A house might be big but it was poorly planned causing its value to be low. Another house might be small but well planned and therefore will be valued much higher. Local people don't know about this and that's why some complain about the valuation of their houses. Actually, let me tell you something: if our houses were valued strictly by the building codes, we would have obtained very little compensation. This is because our houses are constructed out of cheap, local material. I must admit that the valuation was carried out sympathetically.

This view was shared by many other displaced residents who were in the employ of Tiomin at that time, and by other displaced persons as well, and these constituted the 57% who were satisfied with the compensation. Most displaced persons were able to put up some semblance of their former houses. But let us now consider the 43% who were dissatisfied.

Some of those affected were not so fortunate to reconstruct their spacious houses as the compensation received was 'inadequate'; they ended up with shacks (see Plate 8-5—a relocatee who settled in Mrima Bwiti). The mentioned 37-year-old relocatee who settled in Mrima-Bwiti bitterly complained about the payment:

One of the problem with the compensation for residential houses was that it was paid to heads of households, who in my case meant my father. Now he had to divide the compensation received equally among his eight sons to enable each re-build his house somewhere else as we could not all resettle at the 5.5 acre at Mrima-Bwiti. I was only given Ksh40,000<sup>63</sup>—what can one do with Ksh40,000? I had no alternative but to move to Mrima-Bwiti with

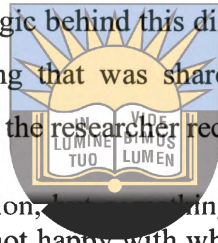
<sup>63</sup> Approximately US\$506.

my father because I could not afford to buy land anywhere else. He gave me a small portion of the 5.5 acres. With the little compensation that I received, after subsidising other expenses such as school fees and food, I could only afford to put up this shack (see Plate 8-5).

Another relocatee complained about the “unfair” valuation of his house at the condemned site.

I had a five bed roomed house which was valued at Ksh30,000<sup>64</sup>, while my neighbour’s two bed roomed house, made of the same material, was valued at Ksh300,000<sup>65</sup>—I don’t know much about valuating houses, but surely, how can such a disparity come about?

The respondent was unable to grasp the logic behind this disparity. He could only attribute it to corruption and incompetence, a feeling that was shared by many who felt they were unfairly treated, such as the complaint that the researcher received from another respondent:



I am not an expert on house valuation, but something doesn’t ring right with what I received. I am not content, not happy with what I received. My house had solar power, five bedrooms, plus a toilet, and it was only paid Ksh197,000<sup>66</sup>—*na hile kibanda pale uliipwa Ksh300,000*<sup>67</sup>. *Hi ilikua magendo ama nini?* (and another shed was paid Ksh300,000; wasn’t this corruption or what?).

Others alleged that the valuer was not ‘schooled’ in the art of valuating traditional houses:

This man was a ‘town valuer’ who did not know how to value traditional houses. Does he know how long it takes to mould mud to be ready for use for plastering a house? Does he know that we use different soil types for building? He only knows what he learnt in school and I don’t think they were taught anything about traditional houses. Look, he didn’t even know how to value a toilet as he only valued the upper structure and not the pit below which is the most difficult part of the construction.

Another resident complained that his house was undervalued as he was only paid Ksh107,000 for his 6 bed-roomed residential house and attributed this to the corrupt character and

<sup>64</sup> Approximately US\$380.

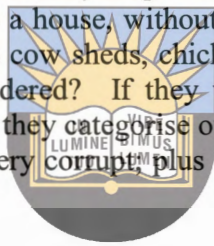
<sup>65</sup> Approximately US\$3,797.

<sup>66</sup> Approximately US\$2,494.

<sup>67</sup> Approximately US\$3,797.

incompetence of the valuer who, he alleged, valued houses while heavily intoxicated. The 60-year-old farmer, now living in Kinondo, made the following comments:

I did not agree with the valuation figures for my house at all. I totally disagreed with the fellow [the government valuer] who was carrying out this valuation. He came to my place drunk, sat under the coconut tree to rest allegedly because he was tired from walking up and down in the sun; but the truth was that he was intoxicated. When he finally woke up much later he simply picked up his bag and disappeared without having valued my house! And when I caught up with him later he claimed that he had valued my house. How could he have done that while sleeping under the coconut tree? When I confronted him with this he retorted that he was a professional and he could value a house without necessarily inspecting its interior. In the end my structure was valued simply as a house, without being broken down into the various dwelling units, such as cow sheds, chicken shade, etc. How sure was I that these were even considered? If they went into the trouble of categorising our plants, why didn't they categorise our structures as well? But this fellow was incompetent and very corrupt; plus I believe this was part of government ploy to fleece us!



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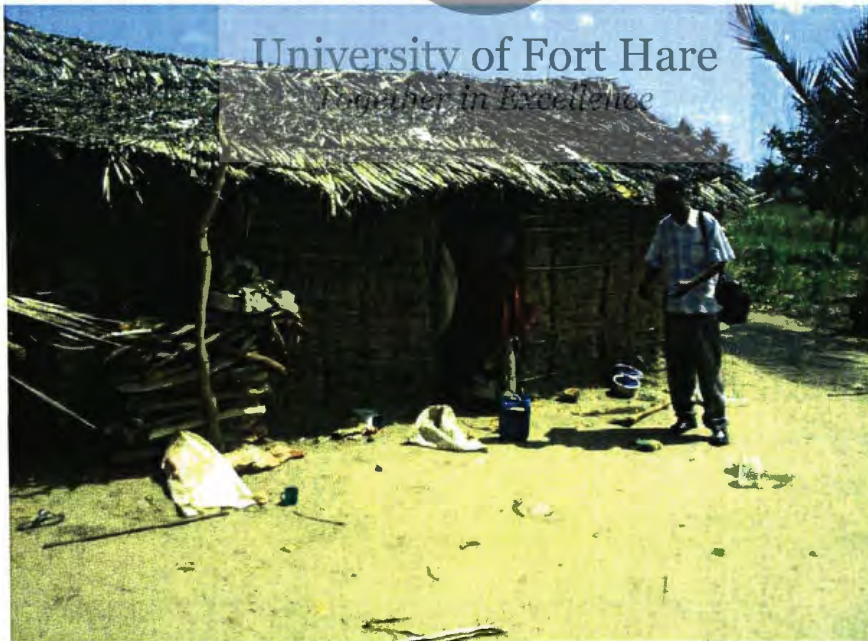
A 32-year-old widow (whose husband passed on in the course of stress related to displacement<sup>1</sup>) now residing in Ukunda corroborated these views. According to this respondent “the valuer rated houses as he wished, and did this without any reference to the owner of the house. If one talked to him ‘properly’, then he would give him/her a better valuation. That’s how sub-standard houses ended up fetching more money”.

Other respondents alleged that it was common for the valuer to lose his own valuation notes, and resort to “doing valuations” from the “comfort of his office”:

Valuation of houses was poorly and unfairly carried out. How could they send us a drunkard to carry out the valuation? This fellow was always drunk. For instance, he came to my farm, but first settled under a coconut tree in the guise that he was resting; but we could tell that he was detoxicating. When we later came to find out if he had ‘rested’ enough, we were surprised to find him gone! Later there were documents stating that my house was valued—I ask you, when did he carry out this evaluation?

The respondent continued:

The valuer sometimes lost his valuation notes. He then resorted to listen to people describe their homes while in the comfort of his (the Valuer's) office; he would then pick a figure from the air and that would be the valuation for your house. This resulted in some smaller houses being valued higher than other bigger houses. The trick however, was that since there was a cap on the money that was set aside for the compensation of structures, the valuer would in his harmonisation first undervalue your house to say Ksh900,000 if the initial figure was Ksh1.5 million. But if you paid him "something small" (the colloquial term for a bribe) he would top it to Ksh1.6 million but deduct the overhead amount from someone else's assessment—so that the cap was maintained.

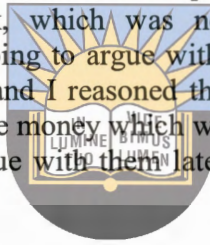


Abuya, 2009

Plate 8-5: Mixed fortunes: a relocatee's house in Bwiti

A 65-year-old man who served in the DRCC as one of the farmers' representatives seemed particularly upset about the compensation paid. According to him, he was told that he was not the genuine owner of the land on which his house stood, despite the fact that his grandfather and father were buried on the same land (readers will recall the argument that graves often serve as proof of land ownership). He was only compensated for his house:

I never wanted to leave my land at all. My house was quite lovely. It was very big, and it overlooked the ocean, and was built on a hill. I could see the beach from my window. I watched ships sail by, and I could also view the islands of Chale, Msambweni, and Funzi from my sitting lounge. I could even see Tanzania in the distance. They took away my very important asset, but since the weak have no voice, I was forced to leave. They never valued my house, but I just received a letter in my post office box informing me that my house had been valued at Ksh80,000<sup>68</sup>. A cheque was attached to it made out to Standard Chartered Bank, which was not even located in our administrative Division. Was I going to argue with them about this? They had already taken away my land and I reasoned that if I continued arguing with them I may even lose this little money which was all I had left. I had no alternative but to bank it, and argue with them later (stated the 65-year-old displaced male).



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This respondent was convinced that he was punished for his confrontational politics of opposing the mining project.

When the researcher raised the matter with officials in the Ministry of Land who were in charge of the overall programme, they maintained that the valuation was done according to existing laws and in line with professional standards. They stated that where issues of “unfair” valuation and compensation were brought to their attention through the DRCC, re-evaluation was carried out. The officials went on to mention instances when this was done. Back in the community, however, respondents maintained that the DRCC only acted in the interest of a few farmers. They alleged that their representatives in the DRCC had been compromised and that many of their complaints were never actually raised. It was for this reason that they referred to this committee as “Tiomin’s DRCC”.

Key informants on the DRCC countered that they were never involved in decision making in the committee, but rather that when they attended the committee’s meetings, they were simply informed on what had been decided, with their role being merely reduced to relaying to the farmers whatever decisions had been taken by the government. While it was difficult to

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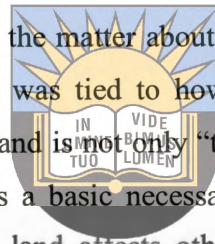
<sup>68</sup> Approximately US\$1,013.

establish the real truth about these issues, the researcher did gain insight into the depth of mutual animosity that the titanium mining project had stoked in the study community.

Regarding the offer that the displaced were allowed time to salvage material from their condemned structures, none of those interviewed said that they were able to do this. The researcher learnt that since Tiomin had not offered transport to facilitate this, the farmers were reluctant to incur this cost. The company had felt that since most structures had been put up using locally available environmental material, the displaced would find similar material where they were migrating to. However, this was not to be. It turned out, however, that the material which the resettlers had taken for granted in their former land were not available in their new surroundings.

Since houses were intricately tied to land, the matter about how this particular compensation affected people's socio-cultural practices was tied to how land deprivation affected these practices. As Kilson (1955:109) argues, land is not only "the basic source of subsistence for most African people, but also [serves] as a basic necessary factor in [their] socio-cultural systems". In other words, what affects land affects other socio-cultural processes. The respondents said that although they were able to reconstruct their houses they were unable to entertain visitors to the extent that they previously did, because they were now poorer, having lost their farms. The residents had no coconut dishes or *mnazi* to serve to their guests. After entertaining the visitors, they were also unable to present farm produce as parting gifts. They therefore could not readily invite in-laws and relations for visits. Because their new houses were relatively small, they were now unable to accommodate a large number of visitors as they were accustomed to. The researcher felt that these changes might have a profound impact on social relations in the community. As one relocatee from Mrima-Bwiti put it:

I previously owned a five bedroomed house, but am now living in this shack as I was unable to reconstruct a better house with the limited compensation that I received. Although my daughter has come of age, I am shy to invite my in-laws to this house for bride-price negotiations. I fear that with one look at his dilapidated structure (see Figure 8.3), they will propose a ridiculously low bride price as they would consider that she is marrying from a very poor family. My daughter would lose status in her new marital home while I am also bound to lose mine as well. Now I am forced to keep postponing the bride price negotiation till such a time that he was able to construct a better house. My in-laws are becoming impatient by the day, but what can I do? In the meantime, my daughter's age-mates are marrying off while my own daughter grows old in my house. There is still the matter of

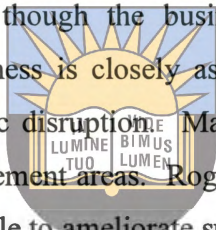


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serving coconut dishes and coconut wine, for as you know, I no longer possess coconut trees of my own. I am really stressed about this

He was equally anxious at the effect this would have on his daughter.

An interesting finding pertaining to the issue of compensation was that people could claim for “lost business”. The researcher found that while community members were eager to lodge such claims, they were unable to meet the one important condition: submission of statements on “audited accounts”. The main reason for this handicap was not simply because the majority of businesses were informal, but also because the business generated proceeds that were “too little to be banked”. For most small business owners therefore, the question of “audited accounts” did not arise, even though the businesses were a major source of livelihood. In a community where business is closely associated with personal relations, social displacement meant socio-economic disruption. Many relocatees were struggling to revive their businesses in their new resettlement areas. Rogers and Wang (2006) argue that a displaced community in Mongolia were able to ameliorate such effects as they were relocated to one common site and as such, their social networks were retained.



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### 8.3.2 The “joys” and “follies” of cash compensation

As the above findings have shown, social displacement and cash compensation had a major disruptive impact on the study community. The researcher encountered stories of how beneficiaries of the cash compensation “wasted money” on luxury goods such as big plasma television sets (even in instances where they had no electricity in their locality), mobile telephone handsets (even in instances where there was no GSM network coverage), new clothes, new shoes, jewellery and other precious ornaments, among other things. According to one respondent:

Residents refused to be educated on how to use the compensation money. They asked if the government had advised them when they first purchased their farms. Residents refused because part of their [compensation] money was to be used to fund the educational activities. We just wanted our money! Another said that they do not want to waste their time sitting in classrooms while they need to go out and quickly spend or invest their money. So when the money came, most people first used part of the money to remove *kutu* (rust) from their bodies. It is said that even dogs eat some of their puppies, you know? So residents spent money on expensive mobile handsets,

expensive clothes, drink, good food, furniture and the like. But by the time we finished removing *kutu* from our bodies, all the money was finished! A good number of beneficiaries therefore ended up constructing shacks or buying cheaper land in faraway forested places where they are now living with monkeys.

Gyuse and Gyuse (2008), Fernandes (2000) and Mburugu (1994) observed the same wastage of compensation money by relocatees. Picciotto *et al.* (2001) also observed the same wastage and argued that inadequate and delayed compensation added to the woes of the displaced as it undermined the ability of resettlers to acquire alternative land and housing.

Other areas of “waste”, according to some respondents, included “upgrading” from drinking local liquor to indulging in refined beer and expensive wines and cigarettes, and booking into five-star beach front tourist hotels.

A local idiom known as “compensation wives” was quite popular. This referred to the “wasteful indulgence” among compensation beneficiaries of marrying second, third, or fourth wives—wives who would soon afterwards “disappear” because the compensation money ran out. There were also stories of beneficiaries adopting cab services as their new preferred mode of transportation.



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Look at ‘Shariff’; he so badly wanted the compensation money because he said that he wanted it known that he was once a millionaire. When he received his compensation, ‘Shariff’ would summon cab services from Ukunda to pick him from his rural home and take him to [the tourist town of] Diani beach. Here he would drink beer and fine wine, after which he would be driven back to his home by the same cab. En route from his drinking spree, he would offer “lifts” to those he met on the way and chastise them for not enjoying the good life while it lasted. He is now very poor, unable even to buy his own shoe laces (narrated a participant in a FGD discussion).

The community was awash with anecdotes of profligacy. The subject of one anecdote was a gentleman who reportedly lived a very “good” life during the period immediately following the payment of compensation.

‘Musa’ would withdraw Ksh20,000<sup>69</sup> almost every day from the ATM until one day the machine returned an error message to his request for funds. He stood by the ATM for a very long time as he could not understand what was

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<sup>69</sup> Approximately US\$253.

wrong. He had to be forcefully removed from the ATM booth by other customers, who advised him that he had insufficient funds in his account. He stormed the banking hall and asked to see the manager, whom he informed that their ATM was spoilt and yet he needed Ksh20,000 to quench his thirst. When the manager informed him that he only had Ksh500<sup>70</sup> in his account, he screamed, accusing the manager of colluding with Tiomin to access and deplete his account. Despite being presented with his withdrawal statement, ‘Musa’ went ahead and stormed Tiomin offices demanding return of his ‘stolen’ funds (narrated an FGD participant).

As to whether those yet to be compensated would learn from such experiences, this was how one resident explained this:

Look here, a stray dog, even if you cage it in a nice clean kennel and feed it on steak, the day it will break loose from that kennel, it will run straight to the garbage site; because this is what it is used to. So village drunkards will not change. Womanisers will not change. Take for example ‘Omar’ who was paid Ksh1m<sup>71</sup>, and is now sleeping in people’s cars by virtue of being their mechanic; and in the event steals and sells away his clients’ relays and electrical wires—he will never change. Give him another Ksh1m and he will ‘behave’ in the same way.

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In an FGD, the residents were unanimous that of the over 400 compensated families, not more than 15 had started projects that were now benefitting them. Many of those who were paid ended up visiting Dondo (a local drinking den) and wasted their money on drink, women, and drugs or on luxury goods. In the end, they were only able to buy land in barren and/or forested areas such as Mikoma, where they now lived with monkeys, with whom they wage daily battles over their farm produce.

One elderly FGD participant, a lady, at Shimba Hills summed it up thus:

People here were given money that they had never ‘seen’ before. These people had never handled Ksh10,000<sup>72</sup> in one go. They were used to intermittently handling Ksh100<sup>73</sup>, 20, or 50 such that by the end of the month they could count that they have made Ksh3,000<sup>74</sup>. Now you come here and give this man Ksh4m<sup>75</sup>—aren’t you endangering his life? Aren’t you ‘killing’ this man?

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<sup>70</sup> Approximately US\$6.

<sup>71</sup> Approximately US\$12,658.

<sup>72</sup> Approximately US\$127.

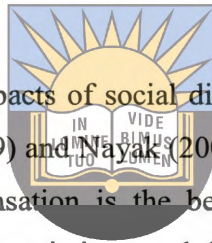
<sup>73</sup> Just over US\$1.

<sup>74</sup> Approximately US\$38.

<sup>75</sup> Approximately US\$50,632.

This elicited much laughter among the members of the FGD, but one could tell that she had struck an uncomfortable truth. She continued:

The best thing that the government should have done is to identify suitable land for these people, then built them houses there. They should also have been assisted to grow crops, and with this, many would have succeeded in life. But giving him Ksh4m is simply ‘killing’ him. Look at ‘Kaluku’, ‘James’ and ‘Nzioka’—they have nothing to show for the money they were given. I have told my sons that as soon as we are paid our money, the first thing we must do is to migrate to Bwiti. One can die anywhere, even in [the capital city of] Nairobi, so if we are to die in Bwiti at the hands of the hostile host community, so be it!



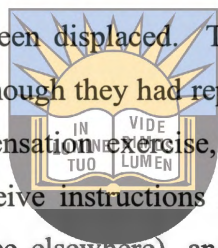
The above were some of the negative impacts of social displacement, which Safdie (2005), Ahmad and Lahiri-dutt (2006), Bisht (2009) and Nayak (2000) similarly identified. It goes to the question as to whether cash compensation is the best way to compensate displaced persons, for as evidenced in this section, the victims are left the poorer at the end of the day. As demonstrated, throwing huge amounts of money at poor people, now displaced, and who are yet to get over the shock of this displacement, only ends up making them more vulnerable. As narrated by the residents, suddenly turning into millionaires over-night, excites them to the point of spending their precious compensation on luxury goods, and in the end, they are without their land, without their coconut trees, without their graves, without their physical structures, and without any money to cushion them against the shock of displacement. This discussion is continued in section 8.4 below.

#### **8.4 Ethno-ecology, Displacement and Vulnerability**

Instances of vulnerability have been mentioned in various sections of this theory, but the purpose of this section is to provide a concise demonstration of the relation between ethno-ecology, displacement and vulnerability. In other words, this section demonstrates the applicability of the ethno-ecology and vulnerability (the political ecology and the constructive perspectives) theories to social displacement.

The pressure and release model (mentioned in section 4.3.5) explains the progression of vulnerability and argues that the further one is from access to power and resources, the more

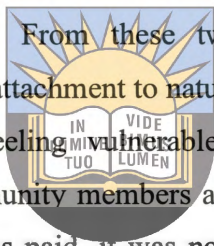
vulnerable one becomes (Riet, 2009:197). In the case of the Kwale community, the relocatees find themselves without access to resources when they are suddenly displaced. These are the resources that they have for a long time used to face up to 'disasters'. Through long relationship and use of these resources, they have developed intricate ties, to the extent that these resources have been bestowed with meanings (this is the ethno-ecology that this thesis examined). Land and coconut trees become the very essence of life, and that which connects them with their past, present and future. Graves became the media for communication with the supernatural world. These constructed meanings (and here is where the constructivist perspective comes in—but we will further explore this later on) became the “root causes” of community vulnerability. The community find themselves powerless, and hence vulnerable, as they are unable to face up to the perturbation within their social system as they are unable to call to these resources as they have been displaced. The community lack of access to power is demonstrated by the fact that although they had representatives in the body that was co-ordinating the resettlement and compensation exercise, the members admitted that they were merely in these committees to receive instructions (or be informed about decisions already made in other superior committee elsewhere), and their role was simply to relay messages back to the farmers. The model identifies step two of the progression as including lack of local institutions, training, appropriate skills, local investment among others), which are the model terms “dynamic pressures”. The displaced, mainly poor, semi-literate subsistence farmers and who in addition lack access to local investment or credit, are weighed down by these dynamic pressure and are unable to absorb the stress that their social system is now faced with. This the progresses to step three, “unsafe conditions” which is associated with, fragile local economy (livelihoods at risk, low income levels—factors associated with displaced and which are identified in Downing’s and Cernea’s displacement models), vulnerable society (special group risk, lack of local institutions—the community is now vulnerable as they have lost their assets) and public action (lack of disaster preparedness—having lost their assets the relocatees are unprepared to face the disaster that is facing them, that is displacement and the life thereafter). Through the local narratives obtained in the field, this progression and eventual vulnerability can be observed in the community.



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As for the constructive perspective, Greider and Garkovich (1994:1) state that landscapes are “the symbolic environments created by human acts of conferring meaning to nature and environment, of giving the environment definition and form from a particular angle and vision

and through a special filter of values and belief”. The field results demonstrate how the community has giving meaning to ‘nature’ and cultural artefacts through the management and use of these assets (which is defined as ethno-ecology). Murphy (2001) demonstrated how a community attached to its landscape becomes vulnerable when this landscape is suddenly absent (see section 4.3.6). Similarly, the deep attachment that the Kwale community has with its environment (in our case, the community’s attachment to the land, trees, graves and physical structures), is what leads to their vulnerability. The sudden absence of this landscape which bore meanings to the community, leaves them disoriented and hence vulnerable, and thus barely able to face up to the perturbation (social displacement and the reconstruction of their life). We have observed how community separation with their land and graves has caused them much anguish. Similarly, we have observed how the lack of coconut trees was a cause of concern to the community. From these two theories (ethno-ecology and vulnerability) we are able to observe how attachment to nature, and sudden displacement from these landscape, leave a community feeling vulnerable. Compensation, as has been demonstrated, failed to cushion the community members against the effect of displacement, because it was not paid, and where it was paid, it was not adequate. And since Goodin’s “assent” was missing, “fair” compensation could not be achieved. Further, as demonstrated, compensation was “structurally” unable to resolve the task of restoring incomes and livelihoods (see Cernea, 2002:28, on elaboration on this).



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### **8.5 Tiomin’s Corporate Social Responsibility programme**

Given that the mining project had created tension between the mining company and the local residents, the researcher was interested in finding out if the company had put in place any mechanism for pacifying the community, such as CSR activities as Imbun (2007) suggests. The researcher learnt from interviews with Tiomin management that as part of its CSR activities, and perhaps in an attempt to obtain the social license to operate (Humphreys, 2000; Hutchins *et al.*, 2007), Tiomin had promised to provide some amenities, one each, at the host site and at the mining site. These included:

- Two primary schools,
- Two secondary schools;
- Two dispensaries,

- One health clinic (at the mining site),
- Provision of water supplies at each resettlement village,
- Construction of two social halls and,
- Construction of churches and mosques upon consultation with the local community to replace those that they had demolished during the displacement exercise.

The researcher learnt that most of these CSR programmes had not taken off. Only one primary school (at the mining site) and one secondary school (at the host site) had been put up. This reflected Akpan's (2008) and Szegedy-Maszák's (2008) findings in which they observed that the impressive array of CSR projects listed in extractive companies' portfolio are often not implemented, and where completed, were not operational. In the case of Kwale, most relocatees were not beneficiaries of the secondary school as only four of the over four hundred households had resettled at the host site.



The researcher sought to know how the community members felt about the amenities, and what socio-cultural concerns, if any, had been brought to the fore on account of the projects. A 60-year-old male farmer's representative summed up the community's feeling regarding the company's CSR activities:

Tiomin promised to provide many things such as piped water, water boreholes, schools, dispensaries, social halls, and churches among other things. Of these, only a secondary and the primary school have been constructed. The other promises remain just that: promises. What has been constructed is also not satisfactory. The secondary school for instance has no laboratories, and both schools have no staffroom neither do they have chairs, desks or dining halls for the students' use. Even teachers are yet to be posted to the schools. And when we ask the company about this, they retort that their responsibility is only to construct the schools, but not equip them as this was [Kenya] government's responsibility. Surely, how else does one build a school? Isn't one expected to include a laboratory and equip it and also provide chairs and desks for the students? Tiomin should hand over a complete school.

The researcher found that the CSR programme was fraught with problems. For instance, no one clearly seemed to know who was responsible for what. At the opening function of the secondary school at Mrima-Bwiti, the researcher took advantage of the delayed arrival of the guest of honour (the area member of parliament) to inspect the school and talk to the locals.

A quick check revealed that indeed, the school lacked chairs and desks, and that there was no play ground, neither was there a dining hall. Residents also complained about the poor design of the toilets which allowed for boys' and girls' toilets to be under one roof which went against local customs—see Plate 8-7. In addition, the teachers' toilets were also in full view of the students' toilets and classrooms—see Plate 8-6—which was also culturally not appropriate.

When the researcher posed these concerns to the company representatives present at the function, the representative maintained that they had constructed the school in accordance with the plans presented to them by the government.

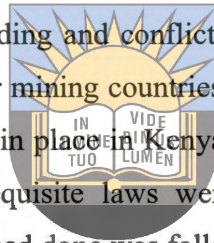
Yes, I hear that the people are complaining about the design of the school that we put up. I mean, how do we design a government school? We put up what was designed and given to us by the government; and we placed the structures as we were instructed by the government. But we hear a lot of complaints regarding the school. Although they like the school, they are asking “where is the library, where are the dormitories, why isn't the school equipped, where is this, where is that”. We are not the government. We cannot do everything. And if we are now asked to do all this, how can we when the project hasn't even taken off, despite the many millions that we have already pumped in? (remarks by company representative)

In the continuing discussion with the company representative, the representative added that “an investor is not a social provider; they need to make profits as well”, but in the case of the Kwale project, they had nothing to show for despite having spent over Ksh500m on compensation alone. These sentiments echo the words made by Akpan (2009) in an article “When corporate citizens ‘second-class’ national citizens: the antinomies of corporate mediated social provisioning in Nigeria’s oil province” where he observed that governments sometimes tend to abandon social provisioning to mining companies.

When the researcher asked the residents to state whose responsibility it was to provide such services, 82% of the respondents said that it was the company’s duty to provide social provisioning as they were seen as the direct beneficiaries of the mining project, while 8% stated that it was the government’s role, as the projects ‘belonged’ to the government and not

to Tiomin. The remaining 10% contended that CSR should be a joint effort between the government and the company as both were profiting from the venture.

A Tiomin representative remarked that corporate-community conflict could also be minimised by complying with the principles of Extractive Industries Transparency Initiative (EITI), which Tiomin intends to implement. He then pulled out the EITI document and took the researcher through it, arguing that the document was capable of minimising community-investor conflict. According to him, if its underlying principles were followed, which benchmarked transparency regarding payment of royalties, after which a certain percentage of the royalties and profits are ploughed back to the community thereby ensuring that all stakeholders benefited, then misunderstanding and conflict would be minimised. He noted that this was what was being done in other mining countries such as South Africa, and added that unfortunately, such systems were not in place in Kenya. The company therefore cannot implement such a programme as the requisite laws were not in place. The company representative emphasised that what they had done was follow the AfDB policy document on resettlement to the letter.



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The above illustrates some of the difficulties associated with CSR programmes as no one seems to know clearly who is responsible for what. As Dahlsrud (2006) and Idemudia (2009) suggest, this may be due to lack of adequate definition and scope of CSR. In the end, enterprises use CSR activities simply to further their own interests, as Hilson (2007) offers, or simply as a “social licence” to enable them mine; for as Imbun (2007) asserts, communities expect extractive companies to engage in CSR activities, for failing to do so would be at their own peril. So companies would be tempted to carry out cosmetic CSR activities, which in the end, as Hilson (2007) asserts, end up having little impact in uplifting the lives of rural folk.



Abuya, 2009

**Plate 8-8: The secondary school at Mrima-Bwiti**

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Abuya, 2009

**Plate 8-9: The ‘offending’ toilets in Mrima-Bwiti: on the left are the teachers’ toiles, and on the right are the students’ toilets**

Imbun (2007) argues that CSR can be used as a vehicle to pacify mining communities, who in any case, expect extractive companies to engage in these activities. As observed in this thesis, 82% of those interviewed were of the opinion that it was the company that should provide

CSR services as they were benefiting directly from the project. But then again, as Hamann and Kapelus (2004) argue, extractive companies can engage in CSR activities simply to project a suitable image in order to placate critics and ensure 'business as usual'. This therefore calls for the need to develop a policy framework within which CSR activities can be regulated. As it currently stands, no such framework exists in Kenya. In all sectors of the economy companies in Kenya engage in CSR activities and carry out whatever projects they want and however they want, because CSR is still considered as a voluntary undertaking. Regulating CSR activities can be carried out through what Amao (2008) defines as meta-regulation (that is where governments monitor the self-monitoring of corporations—this process seeks a middle ground between positive law and self-regulation: this is what DITI strives to achieve), or through the use of the reflexive law approach (which applies procedures to procedures—hence the reflexivity—steering and fostering self-regulation within institutions). This approach focuses on procedural norms (auxiliary legislation) as opposed to formalised rules. On the other hand, governments can opt for direct legislation of explicit guidelines on CSR activities. South Africa has implemented such guidelines (at least in the mining industry) where to make CSR be more than just voluntary and to ensure accountability, the government has instituted regulatory policies through the South African Mining Charter and the Mineral and Petroleum Resources Development Act (Cronjé and Chenga, 2009).



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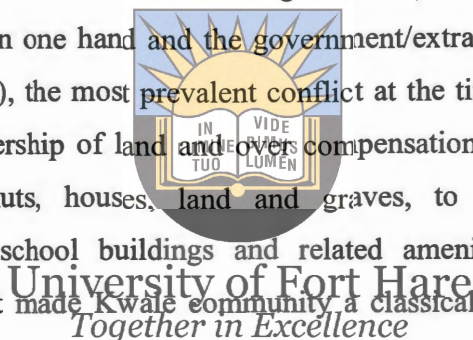
There is, however, a new call for a shift in thinking from “corporate responsibility” to “reciprocal responsibility” (Idemudia, 2009). Idemudia argues that there has been an over emphasis on “corporate responsibility” to the detriment of “reciprocal responsibility”, and argues that “analysts therefore often seem to fail to realise that insisting on the social responsibilities of business in no way replaces the social responsibilities of other stakeholders” (Idemudia, 2009:96). The writer argues that to comprehensively develop a theory of CSR, it is necessary to determine the appropriate reciprocal duties that exist among stakeholders. In the case of Kwale, this means that social responsibility should be borne by the extractive company, the Kenyan government, the local community and other interested stakeholders, such as non-governmental organisations within the locality.

It remains to be seen how Tiomin’s CSR activities will shape out once the actual mining commences. But as Hilson (2007) reminds us, extractive companies are incapable of alleviating rural hardship, they rather exacerbate it by coordinating destructive displacement exercises. He argues that from his research in Ghana, evidence points out that mining

companies only engage with African countries for strictly commercial purposes. In light of Soares' (2004) assertion that extractive companies are unlikely to behave responsibly in countries with weak governments where the rule of law is ignored (Kenya being one such country), or as Aman (2001) previously advanced, that governments will ignore corporate irresponsibility or fail to enforce labour or environmental standards in the law as an inducement to foreign investment, Tiomin's future performance in this regard is therefore of much interest.

## 8.6 Conclusion

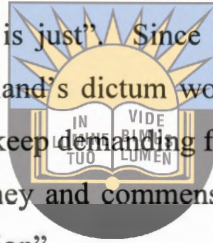
Of the five issues (land ownership, compensational practices, inequitable resource distribution, environmental degradation and human rights abuse) that seem to spur conflict between mining communities on one hand and the government/extractive companies on the other (see Martinez-Alier, 2001), the most prevalent conflict at the time of the field work in Kwale seemed to be over ownership of land and over compensational practices. From the compensation paid for coconuts, houses, land and graves, to corporate-aided social provisioning in the form of school buildings and related amenities, titanium mining-engendered social displacement made Kwale community a classical example of a socially disrupted locale.



The findings in this chapter bring into focus the meanings that communities attach to “nature” and cultural artefacts and how such meanings become shaken and distorted in the face of: (a) the ‘inadequacy’ of compensation pay-out (ostensibly paid out to ameliorate relocatees against the negative effects of social displacement and mining), (b) the cultural ‘insensitivity’ of compensation calculation, (c) the economic ‘motivations’ and ‘opportunism’ on the part of community members—many of whom accepted compensation before raising issues of cultural inappropriateness, (d) the resultant ‘profligacy’ in the face of sudden, albeit momentary, monetary ‘enrichment’, and (e) the potential, but often poorly co-ordinated, use of CSR activities to pacify and benefit mining communities.

The findings highlight that although had cultural attachments to the land, economic benefits seem to have outweighed certain decisions. This was more-so given the feeling that they were powerless against a government that was set to acquire their land. Weighed against cultural attachment and loss of the land without compensation (as happened in the nearby

agricultural displacement in Ramisi for large scale farming of sugar), many opted to first pocket the compensation, before raising matters of cultural appropriateness of the compensation offered. This shows the contradictions that arise when people who uphold or proclaim certain cultural values and attachments are faced with specific economic choices under particular circumstances. Compensating for assets bearing subjective values and aspirations was clearly bore great difficulty. For as Goodin (1989) argued, assets defined under non-pecuniary harm (such as land, plants, graves and physical structures, for which meanings have been attached) have no substitutes. The findings further attests that “fair market value” cannot be achieved given the absence of assent in instances of displacement. For as Brätland (2006:19) argues, “compensation cannot be just until it is voluntarily accepted by the property owner without coercion...[T]he absence of assent bars any conceivable inference that compensation is just”. Since assent was absent in the Kwale “taking”, ‘just’ compensation as per Brätland’s dictum would be difficult to achieve. The displaced residents are therefore bound to keep demanding for more compensation regardless of the amount paid. This is because money and commensurability are incompatible at the level of Radin’s (1993) “noncommodification”.



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Displacement also appears to have altered the meanings that were initially attached to ‘nature’ and to cultural artefacts. Previous meanings were now replaced with meanings of “anguish” and “reminders” of a good life now lost. The changed meanings now appear to illicit more animosity and emotionally distress to the residents, resulting to demands for more compensation or a return of ‘their’ land.

In the next chapter, the researcher expands on this outline and relates the findings of the study to the research questions, the theoretical framework and the core debate in the literature highlighted in the first three chapters of this work. Thereafter, some conclusions are drawn and recommendations made. It is also on the basis of the findings presented in the present chapter and the discussion which followed in Chapter Nine that the researcher proffers some ideas for future research—an agenda that is bound to frame his postdoctoral research career.

## CHAPTER NINE

### SUMMARY, DISCUSSION AND CONCLUSION

#### 9.1 Introduction

In Chapter One of this thesis, the researcher introduced the need for research to go beyond the notions of “equity”, “compensation” and “environmental degradation” that dominate literature and instead to tackle the “roots” of community-enterprise conflict in the mining sector by examining the meanings that the community attach to “nature” and cultural artefacts. The researcher will now present a summary of the key findings of this thesis, discuss these findings and thereafter present the recommendations arising from these discussions.

#### 9.2 Summary of key findings

1. To begin with, the thesis addresses the findings related to the first objective/research question of this thesis which sought to examine the social construction of “nature” and cultural artefacts in the titanium-rich community in Kenya Coastal Province by highlighting their ethno-ecological uses.

a) Land was found to be not merely a piece of earth, but a place loaded with meanings. It was equated with human life, for being without it was akin to being incomplete as a human being. It was described as the source of all sustenance as it was from land that people obtained most, if not all, of their needs. It was revered as the “final resting place” for human beings, and as the abode for ancestral spirits. Land was also crucial as it was used for inheritance purposes which were a crucial cultural requirement. Land enabled one to trace one’s lineage/history (hence a ‘book’ of community history) and therefore provides one with identity. Land was described as the place where one practices one’s culture, which was also described as a crucial element in one’s life. Land was identified as an important source and symbol of wealth and was crucial in old age as it acted as one’s “pension scheme”. A large track of land was a blessing and a ‘sign of good luck’. Indeed, Mburugu (1994) mentions that people’s identity is often tied to land and culture, hence possession of land was crucial to the community found in Kwale.

b) With regard to the social construction of the coconut tree, this tree was described as the “father” and “mother” and as “the giver of life” of the community as it had numerous ethno-ecological uses (see Section 8.2.3.). The coconut was identified as an intergenerational tree serving important cultural needs such as the production of the traditional wine *mnazi*, which was used in several cultural functions such as marriages, births and burials.

c) As cultural artefacts, graves serve crucial social needs to the community. They not only serve as places of remembrance, but also as ‘gateways’ to the supernatural world. Graves are considered as sacred places, because they serve as ‘final resting places’ for ancestors who were not ‘dead’ but are still ‘around’. Graves also enable clan members to trace their lineage and establish important kinship patterns. Graves provide one with identity. They are a form of blessing as having graves around assures one that one has people who one loves and who love one and who are now watching over one. Graves are important places of worship as they serve as shrines. Graves assume the position of “land titles” and signify land ownership.

d) Residential houses were also found to be important cultural artefacts. To begin with, one can only change his civil status (from being a bachelor to a married person) if he has a house. A house therefore accords one the means to change his social status to a higher social status. Houses are used for inheritance purposes, as they are passed on from father to son. Without a house, certain social activities such as welcoming visitors and carrying out dowry negotiations cannot be carried out. In other words, without a house one cannot perform certain social obligations. Downing (2002) argues that loss of a house was often associated with a profound loss of identity and culture impoverishment as the structure bears certain symbolic importance. To some extent, this was observed in Kwale.

2. The study also aimed at assessing the impact of titanium related social displacement on the relationship between the community and nature and cultural artefacts. The findings in relation to this are summarised below.

a) With regard to land, much of the meanings and ethno-ecological importance of the land were lost with the displacement. For instance the displaced lost much of their means of sustenance as they lost their farms, and with it lost their former lifestyles. To the displaced, the condemned land now served as a source of anguish and frustration, or at best, as a reminder of the ‘good life’ once lived. The displaced residents viewed the lost land as a ‘lost life’ and as “cursed land” on account of the fact that ancestors had been abandoned on the condemned land, and the now angry spirits were bound to harm passers-by on the land.

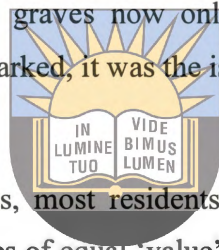
b) As for the loss of their coconut trees, most of the displaced believed that their life was now at a standstill for the next five years or so, as this was the length of time that it would take them to nurture new coconut trees. In the meantime, all meanings attached to their lost trees were also lost, and life appeared dim as the 'giver of life' had been "stolen" from their midst. The residents stated that all they felt now with regard to their abandoned trees were feelings of "envy" and "jealousy" towards the new owner of the coconut trees.

c) The residents equally felt that the meanings and functions bestowed on the graves were all but lost following the displacement. The graves for instance lost their meaning as symbols of "remembrance", while the "blessings" associated with these graves were also lost. Instead, they were now experiencing the "bad luck" and "curses" that come with the abandonment of one's ancestral graves. The abandoned graves now only symbolised anguish, fear and frustration. As one displaced resident remarked, it was the issue of the graves that made them 'fight' for their land for so long.

d) With regard to the residential houses, most residents felt that their social status had diminished as they no longer owned houses of equal 'value' or 'status' as those that they had lost, although most accepted that the compensation paid out with regard to this had been 'fair'. But due to the many demands on the compensation money, while some 'wasted' their money, others ended up having worse structures than they previously owned, to the extent that they were now unable to carry out other social obligations (for instance, inviting potential in-laws over for bride price negotiations); this had negative impacts on their social lives.

3. This study also sought to examine the dominant community-targeted titanium related compensational practices in Kenyan's mining industry, and to assess how these practices intersected with socio-cultural practices and ethno-ecological narratives in the displaced communities. A summary of the findings are presented below.

a) With regard to land, the study found that the dominant compensation practice was the award of Ksh80,000 per acre plus additional compensatory land of 5.5 acres at the host site (Mrima-Bwiti). This award went one better than the law required which was settlement of only one of the two alternatives. Narratives emanating from the community revealed that while still questioning the right of the government to take 'their' land, the community were upset by the compensation offered which they found to be "unfair" and "inadequate" given



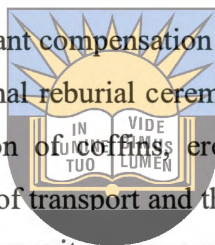
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their long ties to and reliance on the land. The local Digo community were also upset that as the 'original owners' of the condemned land, they had not been compensated.

b) The plant/tree with the most ethno-ecological uses, the coconut tree, was compensated at Ksh299 per tree, while other less valuable plants such as the orange were compensated at a higher rate. Local narratives in response to this indicated that the community were utterly dissatisfied with this compensation. Most residents viewed the offer as a deliberate ploy by the government/company to defraud them of their 'wealth' and as a move to actually impoverish them. This was based on the fact that even in the open market, the tree would, as mercantile wood alone (through the sale of its trunks), fetch a higher price than that offered by the government/company.

c) The study further found that the dominant compensation package for graves consisted of a payment of Ksh9,000 to cater for traditional reburial ceremonies, with the company picking up the tab for the exhumation, provision of coffins, erection of tombstones, and other associated works, together with provision of transport and the establishment of a shrine at the Municipality graveyard. The community's response to this was that the government/company had not paid due attention to the ethno-ecological importance of graves, otherwise the compensation offered would have been much higher than the Ksh9,000 paid. Reburial of ancestral remains was a very sober event which involved numerous traditional rites and sacrifices for which the compensation offered was quite inadequate. The community were also opposed to the construction of shrines for such reburials as it flew in the face of tradition which demanded that relations be buried within the homestead. However, the findings also showed that some respondents who were compensated accepted the money, but come the time for reburial, they failed to appear, raising the issue that the money paid out was too little to carry out all the necessary rites to appease the dead

d) With regard to the compensation of structures, which were paid according to reconciled values obtained by the government valuer and those obtained by the company valuers, the narratives from the community indicated that the residents were not dissatisfied with the payment *per se* (which they actually viewed as generous), but that they were dissatisfied with the glaring disparity of the values obtained for structures of similar size, similar building materials, and of similar ages. They attributed this to the corrupt nature of the exercise.



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4. This study also sought to examine grassroots sentiments about titanium mining-induced social displacement and how these affect corporate- and state-community relations. The research revealed that:

a) Residents were disgruntled that their displacement arose out of the solid mineral exploitation by the government and the extractive company. The general feeling was that displacement on account of any other development, for instance, for agricultural development as observed in the neighbouring Kwale International Sugar Company in Msambweni Location (Kwale District), was a better evil than being driven out to allow for mineral extraction. One resident, indeed, wondered whether all Kenyans would be displaced should minerals be found in the entire territory of Kenya. The displacement had battered the relations between the community and the government/company. In relative terms, community members were more displeased with the government than with the company, for they felt that the company had been prepared to pay a 'higher' compensation but that the government had sabotaged this. As one resident put it, the milk was spilt and the only way that the relations could to some extent be amended was, for some, the return of their land, for others the renegotiation of the compensation, while for others, the immediate commencement of the mining activity with preferential employment for those displaced.

One other general finding that emerged was the economic 'motivations' and 'opportunism' on the part of community members—many of whom accepted the compensation before raising issues of cultural inappropriateness. Resettlers accepted the Ksh9,000 awarded for reburial activities, but come the time to exhume the remains of their relatives, none was present for the event, citing concerns that the compensation was too little to adequately pay for the cultural rites related to this. Those who have not yet been compensated were actively engaged in demanding the Ksh9,000 compensation and it would not be a surprise if the same boycott is again seen. The same opportunism can be seen when the community accepted land at Mrima Bwiti while knowing very well that they had no intention of resettling on this host site. They equally banked the money paid out for compensation of trees and crops. This shows that whereas humans are cultural beings, they are also economic animals. The research also demonstrated the resultant 'profligacy' in the face of sudden, albeit momentary, monetary 'enrichment'. Beneficiaries opted to remove 'rust' from their body with purchases of expensive consumer goods and the lure of a good life, to the detriment of their future lives. Soon they were penniless and now are deep in poverty.

The research questions and the objectives for this thesis, as spelt out in Chapter One of this thesis, were therefore met. The import of the findings will now be discussed in Section 9.3.

### 9.3 Discussion of findings

The above findings provide useful insights on matters touching on attachment to “nature” and cultural artefacts, ethno-ecology, mineral extraction, social displacement and resource conflict.

First, the results highlight the realisation that indigenous communities develop and maintain close ties with the environment within which they subsist, and in so doing, develop an intricate web of relationships, ties and attachment that, in the words of Pedroso and Sato (2005), characterise them as a component of a dynamic and socio-cultural and environmental system. As observed, the study community had developed close ties with the environment and now depended largely on it for sustenance. The land was their wealth from which they derived oranges, mangoes, maize, pawpaw and especially the coconut on which they became heavily dependent. The coconut tree was referred to as the “mother” and “father” of the community, and as “the giver of life”. The community also relied on the wild animals found in the forest for their supplementary diet. Downing (2002) argues that in the long run, mining activities are short-lived with shorter lifespan compared to the lifespan of the sustainable economy that it dismantles—for instance, a coconut tree, as one respondent said, could last for over a thousand years, while the titanium project is scheduled for 21 years. But since governments will go on mining, there is a need to draw a delicate balance between the two economies.

The community had also developed strong ties to their cultural artefacts which became part and parcel of the communities’ social fabric. Graves, for example, served several ethno-ecological purposes ranging from being places of remembrance, to being sources of blessing and serving as shrines. Shipton (1995) describes graves as “sacred places”, especially among African communities, a definition which resonates with the traditions of the Kwale community. This cultural artefact was found to have been so intricately constructed that it now served several ethno-ecological functions. These constructions were almost entirely lost following titanium-related social displacement, and the community were left feeling helpless, fearful and vulnerable. This state of vulnerability stagnated community social progress, leaving the affected community playing ‘catch up’ with other members of society. Indeed,

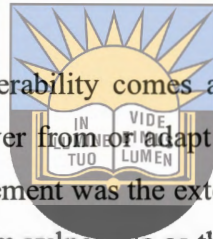
Daley and Hobley (2005) indicate that loss of land, poverty and vulnerability are closely associated.

Murphy (2001) demonstrates how the social construction of one's environment can lead to states of vulnerability, which is what the constructivist strand of the vulnerability theory explains. The community in the St Lawrence valley in North America were found to have become quite ensnared in material infrastructure that largely depended on electricity upon which they now became dependent, so much so that when prolonged winter knocked down the power stations, this community became vulnerable and many died as the systems that they had constructed their lives on, such as central heating, had collapsed. On the other hand, the Amish families that had eschewed modern technology were almost unaffected by the storm.

As Kelly and Adger (2006) argue, vulnerability comes about when individuals or social groupings are unable to respond to, recover from or adapt to external stress placed on their livelihood and well-being. Social displacement was the external stress that was placed on the communities of Kwale, and this made them vulnerable as they were now unable to cope with the attendant stress. The loss of their land, their crops (especially the coconut trees), and their graves through the act of eminent domain left them helpless and almost unable to overcome the 'shock'. Many were now living in poverty following their inability to adapt to the new circumstances in which they now found themselves. The 'pressure and release model' of the political ecology perspective of the vulnerability theory, also demonstrates how societal structures may deny some, especially the poor, from accessing power, structures, resources, and economic and political systems, which would have otherwise enabled them to fend off the unsafe conditions brought about by the displacement.

When 'disaster' struck, community members, already vulnerable from the loss of their resources, were unable to fend off its harmful effects. In the previous chapter, it was observed how powerless the community of Kwale were in negotiating for reasonable compensation rates. They had limited access to power and other support structures that would have enabled them negotiate for better compensation. Consequently, when disaster (social displacement) did strike, they found themselves unable to respond appropriately, or recover or adapt quickly, and many were now living in poverty.

Thirdly, this study offers insights in community-enterprise/state resource conflict. In Chapter Three of this study the researcher indicated that conflict between mining communities and



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extractive enterprises/governments revolve around five issues, that is, “unfair” compensation practices, land ownership, inequitable resource distribution or in other words the unequal sharing of benefits, environmental degradation and abuse of human rights.

This thesis aimed at going beyond these prevailing notions to examine the roots of such conflict, by highlighting the meanings attached to what was being ‘fought’ over. Akpan (2008, 2009) recommends that that research should go beyond the economic considerations that dominate such studies and take into account the idiographic narratives of the affected communities, an approach that this thesis adopted. Local narratives revealed that indeed, the ethno-ecological meanings that are attached to “nature” and to cultural artefacts do play a crucial role in these conflicts. As observed in the Kwale titanium related mining conflict the community failed to see the correlation between the compensation offered by the company/government and the ethno-ecological value of the social reality being compensated. This disconnect stoked the conflict.

Fourth, the study observed that the meanings attached to the various representations of “nature” and cultural artefacts makes compensation quite troublesome. Any compensation programme that does not take into cognisance a community’s perception of what is being compensated is bound to fail. It is important to take into account the lost subjective value. As Syagga and Olima (1996) found out, the overarching protest of the displaced community in Muranga in Kenya’s Central Province was the fact that non-quantifiable or intangible assets were not compensated. As Haarstad and Floysand (2007:304) point out, “current struggles are increasingly over meanings”. Having observed, for instance, the ethno-ecological uses of graves, it is difficult to see how the lost meanings attached to graves would be compensated. It is difficult to see how the economists’ argument that “non-monetary losses should be translatable into equivalent cash flows since money and non-money assets are substitutable” (Pearce and Swanson, 2008:114) would successfully play out here—Akpan (2009), as reviewed in Chapter Three, argues that even a tombstone cannot be substituted at will. Hence, conflicting meanings embraced by opposing parties fuel this conflict.

Compensation in Kwale appears to have failed to satisfy Goodin’s (1989) threshold, which dictated that compensation should provide a person with full and perfect equivalent for what s/he has lost. The cash award for land (and the additional compensatory land at Mrima-Bwiti), and the cash award for loss of coconut trees failed to “counter-balance”, “neutralise” or “offset” the loss suffered. The cash award for loss of graves met the same fate, for as

Radin (1993) argues, dollars and commensurability (which compensation aims to achieve) are often incompatible. Many individuals were left worse off, which meant that Kanbur's (2002) "Pareto efficiency" (which suggested that if at least one individual benefits and none are made worse off then compensation will be considered to have been successful) was not met.

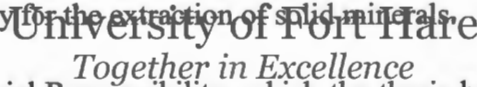
But as Fujikira *et al.* (2009) argue, cash-for-land or land-for-land, or even a combination of both as observed in the Kwale case, is insufficient. In addition, Gyuse and Gyuse (2008) argue that cash compensation is inadequate as it is soon spent, leaving people expecting additional compensation or some other intervention. As observed in the case of Kwale, the relocates were agitating for additional compensation or were simply hanging around waiting for commencement of mining operations and the subsequent employment opportunities that would come with it. As for land-for-land compensation, as Cowell (1997) pointed out, this is a complex matter as it is often difficult for relocates to adapt to a new environment given the meanings attached to their former environment, hence they remain victims as Price (2009) asserts. The Shuikou dam displacement experience in China offers a critical lesson: that resettlement programmes stand a higher chance of success if, in addition to the cash and land-for-land compensation, trees and crops are planted in the resettlement site years before the displacement occurs. In this case the relocates found themselves in a more or less similar environment and hence their adaptation was easier (Cernea, 2000b). Hence cash and land-for-land compensation on its own is insufficient.

Brätland (2006) argued that without assent, compensation can never be just. McLeod's (2000) principle of Compensation Surplus can also only succeed in instances where such assent is willingly given. It was therefore unlikely that the compensation offered in the Kwale case would be considered "just" and acceptable to the community as assent was absent, evidenced by the fact that the locals 'fought' the government and the extractive company to the bitter end. Their indignation can be best understood if one pursues an ethno-ecological approach to the conflict as this enables one to understand the "roots" of the conflict which lies in the meanings that communities attach to the matters being considered for compensation.

Social displacement in Kwale also demonstrated the negative effects of social displacement as elucidated by Downing (2002) and Cernea (2000a), which identified landlessness, joblessness, homelessness, marginalisation, health risk, disruptive of formal educational

activities, loss of access to public services, increased food insecurity, the loss of common property, social disarticulation, the loss of civil and human rights, loss of educational opportunities, differential risk intensities and risk to the host population as among the risks likely to be suffered by those affected by displacement programmes. All these were evident in the Kwale experience, hence the veracity of the IRR models continues to be observed.

Previous findings indicate that mining related conflicts are usually more intense than those involving other forms of displacement, say for instance those involving infrastructural development. Compared to the Third Nairobi Water project (see Syagga and Olima, 1996) or the Kiambere Dam Project (see Mburugu, 1994) which led to social displacements, the Kwale case appears to have elicited more tension as evidenced by the several court cases lodged and the length of time it has taken to implement the project. Perhaps this was due to the symbolism that comes with mining-related displacement. Narratives from Kwale showed that the residents were of the view that it was more 'dignifying' to be displaced in favour of an agricultural project (such as the neighbouring Kwale International Sugar project) or infrastructural project (such as the Sondu Miru project in Western Province of Kenya), than to be displaced to make way for the extraction of solid minerals.



On the matter of Corporate Social Responsibility, which the thesis briefly looked at, it was found that the affected community expects to benefit from the mining project by way of social provisioning. They actually considered this as part and parcel of the compensation package. But while they welcomed the construction of schools, clinics, churches and the like, the study showed that there was a need to clearly demarcate who is responsible for what between the government and the company, otherwise such projects are doomed to fail or stall as no one entity would be held accountable for certain aspects of the programme. As observed in this study, the company was of the view that their responsibility terminated when they completed the physical structures of the schools, as staffing and equipping the school was the government's responsibility. But the community were of the opposing view as they expected the company to hand over a complete (fully equipped) school.

Meaningful involvement of the community in the design of the structures was crucial as the community's social values have to be respected. For instance, in this research it was observed that the community were displeased by the way the school toilets were constructed, and this required redesign and reconstruction of these facilities. It is, however, noted that the

new thinking is now from 'corporate responsibility' to 'reciprocal responsibility' where all stakeholders are involved in the development of the mining community.

#### 9.4 Recommendations

From the above findings, the following recommendations are made:

##### 1) 'Fair' compensation

'Fair' or 'just' compensation may not be possible as Goodin (1989), Radin (1993) and Fernandes (2000) argue, due to the complexity revolving around pecuniary and non-pecuniary losses. Nonetheless, reasonable efforts ought to be made to ensure that the vast majority of the displaced community are not left worse off. Thus, in order to make compensation meaningful, compensation criteria should recognise lost subjective values and aspirations by taking into cognisance the intergenerational economic and cultural importance of the socio-ecological resources for which compensation is paid. This would ensure that compensation for ethno-ecologically important items such as coconut trees and graves, for instance, are meaningfully compensated. Compensation should therefore be pegged on, among other things, the ethno-ecological value of properties. Taking into cognisance these values would go a long way in quelling community-enterprise/state conflict. Already at the host site (Mrima-Bwiti) the squatters who were recently allocated land, plus the four displaced 'victims' of the titanium project, face possible displacement as a South African local subsidiary firm, Cortee Mining Kenya, has been granted a prospecting licence for high grade niobium and other rare earth metals on Mrima-Hill. Locals are reported to be against the project, citing fears over displacement, exposure to radiation and interference with sacred forests: the locals claim that Mrima Hill is sacred to them and that during the second world war, a virgin was slaughtered at the top of the hill to stop the war between the Germans and British. They also claim that their gods are resident on the hill (Jenje, 2011). It is noted that in the 1989 Nairobi Water Project, only the condemned land was compensated for. In the 1984 Kiambere Dam Project, plants and structures were compensated for, while in the Sondu Miriu Project, trees and even the natural grass were compensated. This shows that there is an improvement in the compensation process in Kenya with each incident of displacement. What now remains is the consideration and appropriate compensation of lost subjective values of the items being compensated.

## 2) Review of the Mining Act, the Land Acquisition Act and other relevant Acts

For recommendation 2 above to work, legal backing is necessary and as such, appropriate laws should be implemented. This study recommends that the Mining Act, the Land Acquisition Act and other relevant Acts be appropriately amended/ revised. It is worth noting that the Mining Act is currently under review (as a representative of the Mines Department admitted), and one of the recommendations being considered is to ensure that the affected community benefits from the mining project by way of royalties or through ownership of shares in the extractive company. Scholars such as Fernandes (2000) and Cernea (2003(a)) have routed for this option. Another recommendation is that minerals extracted in the country should be processed in Kenya so as to ensure that jobs emanating from this are not exported. This latter recommendation is of course what the Kwale community have been agitating for. The laws also ought to be amended in such a manner that they facilitate mining by doing away with the cumbersome regime of fulfilling a plethora of laws in several government ministries. How about a single Mining Act that fulfils all the other functions spread over the nine or so ministries?

There is nothing on the ground yet to suggest that revision of the other Acts is under way. But the proposal to set up a Land Commission as provided for in the new Constitution (to look into land related matters in the Kenya, such as 'historical injustices') is a good sign. Hopefully, the Commission will see the need for a review of the laws that touch on forceful acquisition of private land for developmental purposes and compensation arising therefrom.

To lessen ecological and social trauma on the affected community, the Acts should provide for advance preparation of the selected host sites by placing the needed social services such as health clinics, schools, houses (though compensated, it is noted that those affected still become homeless or will be found in poorer homes. Therefore, houses should simply be constructed for them), running water and even going beyond this and nurturing perennial crops that communities depend on well in advance of their resettlement. This will be in tandem with what Fernandes (2000) refers to as "replacement value" which argues for compensation to go beyond simple cash/land compensation, and to focus on rebuilding of livelihoods. In view of the finding that resettlement leaves most of those affected poorer, it is further recommended that the revised laws should include provisions for after-resettlement programmes to monitor the livelihood of those affected years after their resettlement. For as

Kothari (1996) argues, the effects of displacement last many years beyond the actual displacement (what he terms “trauma of displacement”).

### **3) Minimising community-enterprise/state conflict**

Though Sociologists recognise the necessity of conflict as an engine for progress, conflict still ought to be minimised as it can be disruptive. This study recommends that to minimise community-enterprise/state conflict, the affected community should be meaningfully consulted and allowed to meaningfully participate in the displacement process. In the present study, narratives coming from the grass-roots indicated that most decisions were imposed on the community and ‘agreements’ coming from the Committees that were set up to look into the compensation matters were more or less the will of the company or the state.

Farmers’ representatives were reduced to ‘carriers of information rather than being in the deliberations. In the end, the compensation offered was rejected, resulting in several court cases being filed against the project eventually grinding the project to a halt, albeit temporarily. This also soured relations between the community and the company/state. Intense participation in decision-making by relocatees in Yallourn, Australia, was found to have been key in the successful relocation of residents (Wadley and Ballock, 1980). It is therefore recommended that such practices as those found in developed countries be institutionalised in developing countries so that community participation becomes more involving and more genuine. Perhaps decisions reached in resettlement Committees should be ratified by the community to begin with.

### **4) Corporate Social Responsibility**

CSR activities, if well tailored, have the potential to mend community-enterprise/government relations. It is therefore recommended that as far as possible, these activities should be undertaken with full consultation and support of the affected community, otherwise all the effort invested in such projects may come to naught. To avoid ambiguity about who is responsible for what programme(s), these activities must be clearly spelt out from the word go and be shared with the community. It is also important that players in the mining industry, especially the dominant extractive companies, should come together and define clearly their role in community development. As argued by Whitehouse (2003), this will assist in streamlining matters, and will also ensure that governments do not abandon their

responsibilities (to their citizens) as found in the case of Nigeria where the government abandoned development activities to extractive companies (see Akpan, 2009).

## 9.5 Conclusion, contribution to knowledge and suggestion for further research

This thesis has demonstrated that community construction of “nature” and of cultural artefacts are some of the “roots” of community-enterprise/state conflict. Communities attach meaning to “nature” and to cultural artefacts because of the ethno-ecological uses and importance attached to them. So when the state comes in and takes possession of ‘their’ property, community resistance will be matched by the ethno-ecological value attached to what is being possessed, especially in instances where local communities consider themselves as the real owners of the land because they were the first occupants on the land (what Shipton (1994) calls “pioneer primacy”), and then compensation becomes troublesome. Compensation practices that do not take into account the lost subjective value or the ethno-ecological losses suffered only worsen matters. In the representations of “nature” and cultural artefacts discussed, it was found that the community placed a very high premium on land, on which all their other socio-economic life was based. It is essential therefore that when acts of eminent domain are administered over this, due consideration should be given to how communities value land.

As for the coconut tree, the community constructed and equated this tree to be the provider of life in the community. The tree has several uses, some of which are documented in this study, and its loss has been shown to considerably hurt the community. When the government/enterprise ignores its ethno-ecological values and even goes ahead and compensates the trees below the market value, it should not be surprising that the community would protest against the “unfair” compensation paid. This study therefore provides a glimpse into the reason why the compensation becomes “unfair”.

Graves were found to serve crucial cultural functions. Their loss was traumatic and emotionally draining to members of the displaced community. When their compensation is hurriedly carried out without due regard to the cultural values that they provide, conflict becomes particularly intense. No monetary value can be attached to graves, and hence their compensation should be looked at differently. Careful deliberation on this could perhaps considerably lessen conflict.

Corrupt practices with regard to the compensation of physical structures (residential houses) were a notable point of contention when looking at compensation. When structures of similar sizes, age, design, function(s) and made of same material and found within the same locality were differently compensated, then one is surely courting trouble.

This study therefore concludes that community-enterprise/state conflict emerges out of disregard by governments and extractive enterprises on the value that communities place on “nature” and on cultural artefacts. Corrupt activities during the compensation process only exacerbate matters. This in turn sours relations between the community and the state/enterprise. The affected community economic ‘motivation’ and ‘opportunism’ (of accepting the compensation paid before raising issues of cultural inappropriateness) also contributes to the problem.

It can be deduced from the above discussion that socially constructed meanings are lost in instances of social displacement and mining, and since “nature” and “culture” are embedded in community constructed meanings, socio-environmental remediation practices that fail to take cognizance of them run the risk of not having the desired effect. This then negatively impacts on the relations between the mining community and the government/extractive company.

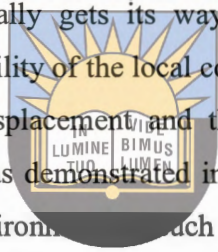


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Based on these insights, this study therefore contributes to knowledge in the following way. First, the study provides an important theoretical contribution to the discourse on community-enterprise and community-state conflict and to the broader subject of community-state/enterprise relations by highlighting and placing the “roots” of the conflict in the manner in which communities socially construct their environment and how “takings” and compensation that fail to take cognizance of this run the risk of not meeting the intended objective. The attachment and ties that communities have with the environment where in the end environmental items are endowed with symbolic meanings based on their ethno-ecological uses/importance, makes social displacement quite difficult to accept. This then translates into conflict. The disconnect between the ethno-ecological values attached to “nature” and to cultural artefacts and the compensation paid, which normally fails to satisfy the affected community, then triggers this conflict. The study therefore demonstrates that government action can lead to states of vulnerability among rural communities, necessitating appropriate mining policy frameworks that would minimise such conflict.

One other important finding that emerged from the study was that whereas humans are cultural beings, they are also economic animals is also crucial. Resettlers accepted the compensation paid out with regard to land, crops and especially graves, before raising issues of cultural inappropriateness. The study thus highlights that humans should be viewed through these two lenses if future resettlement programmes are to succeed.

The study also makes an important theoretical contribution to the vulnerability theory by demonstrating that the theory can be used beyond the dominating natural disaster viewpoint, and highlighting the relevance of the political economy stand and the constructivist strand. The political ecology strand has been used in this study to show that where local indigenes are subordinate in the arrangement of power structure, they end up the worse as the dominating force (the government) usually gets its way. Hence it demonstrates how government action can lead to the vulnerability of the local community who lack the resources to withstand the “shock” (i.e. social displacement and the consequences thereof). The constructivist strand, on the other hand, as demonstrated in this study, illustrates that when communities socially construct their environment in such a way that they become totally reliant on this environment, alienation from these spaces (through social displacement) renders them vulnerable.



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It is now possible, on the basis of the findings of this study, to argue with greater confidence that vulnerability is as much an objective reality as it is constructed experience that is mediated by socially held meanings. Specific development interventions can eventuate vulnerability in local communities in so far as such interventions impinge upon “nature” and specific cultural objects that communities hold dear. However, the experience of vulnerability is dependent on the subjective meanings attached to such assets.

The above conclusions bear important suggestion for further research. Most important is that with the realisation that “takings” in pursuit of economic development based on mineral resources will continue to take place, it is essential that research should focus on the development of a policy and legal framework that will bring into focus the ethno-ecological importance of what is being compensated as well as the consideration of lost intangible subjective values. McLeod’s (2000) Compensation Surplus, Nosal’s (2001) model on compensating at market value and Lehari and Licht’s (2007) Special Purpose Development Corporation (see Chapter 3, Section 3.8 on discussion of these models) could be useful starting resources, which can be remodelled or combined to come up with a more viable

model, one that factors in the ethno-ecological, and often times lost, subjective values—an agenda that will frame the researcher’s postdoctoral research career.

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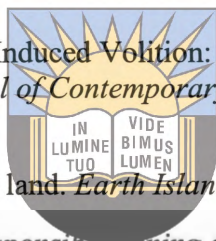


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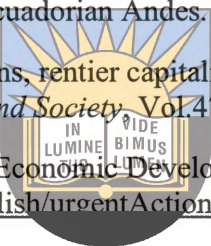
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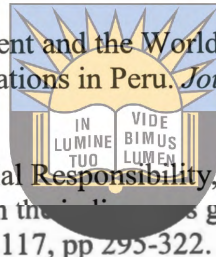
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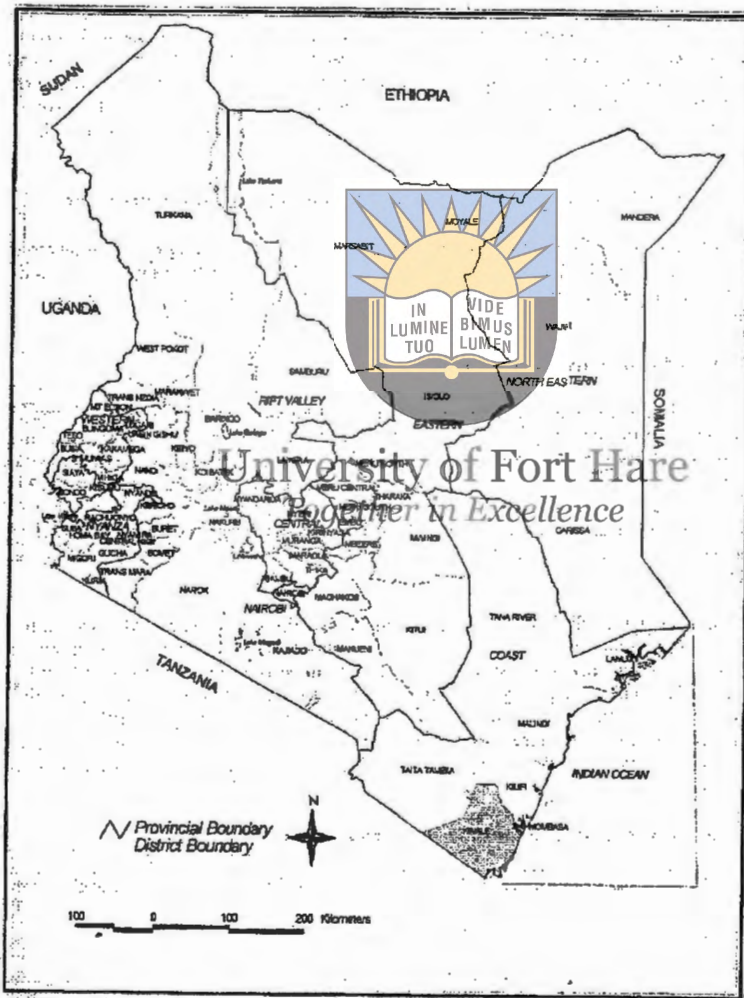
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# APPENDIX I- LOCATION OF KWALE DISTRICT IN KENYA

LOCATION OF KWALE IN KENYA

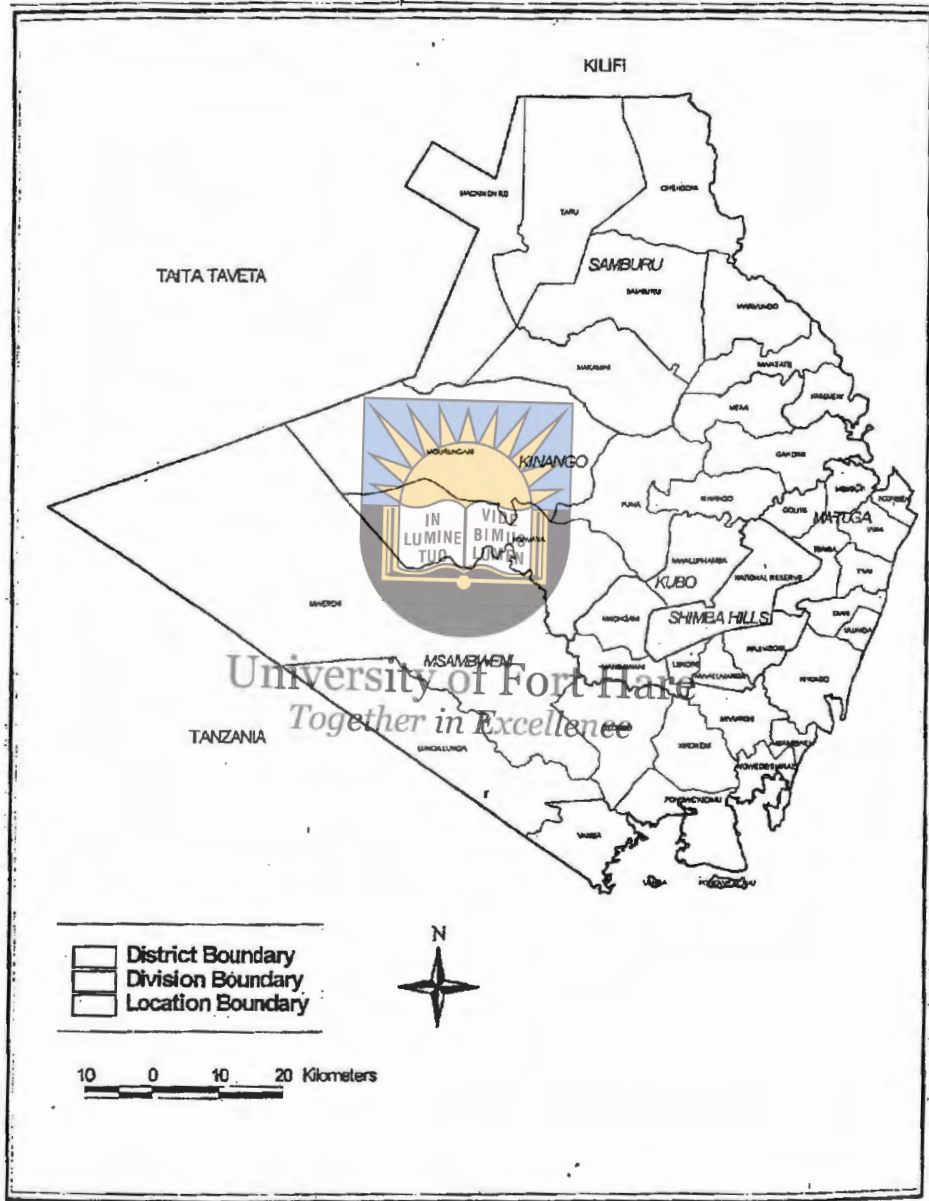


Prepared by CBS, 1929 Pop Census

This map is not an authority over administrative boundaries

# APPENDIX 11- KWALE ADMINISTRATIVE UNITS

KWALE DISTRICT (Administrative Boundaries)



Prepared by Central Bureau of Statistics

This map is not an authority over administrative boundaries

## APPENDIX III- RESEARCH AUTHORIZATION/PERMIT

REPUBLIC OF KENYA



### NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY

Telegrams: "SCINTECH", Nairobi  
Telephones: 254-020-241349, 2213102  
254-020-310571, 2213123  
Fax: 254-020-2213215, 318245, 318249  
When replying please quote:

P.O. Box 30633-00100  
NAIROBI-KENYA  
Website: www.ncst.go.ke

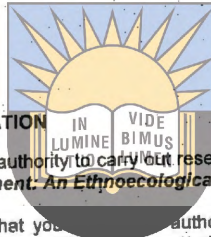
Our Ref:

Date:

NCST/5/002/R/268/4

11<sup>th</sup> May 2009

Mr. Abuya Willice Onyango  
University of Fort Hare  
SOUTH AFRICA



#### RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on, **'Titanium Mining and Social Displacement: An Ethnoecological Study'**

I am pleased to inform you that you are authorized to carry out research in Ramisi Division in Kwale District for a period ending 30<sup>th</sup> March 2012.

**University of Fort Hare**

You are advised to report to the District Commissioner and the District Education Officer Kwale District before embarking on your research.



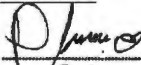
On completion of your research, you are expected to submit two copies of your research report to this office.

PROF. S. A. ABDULRAZAK Ph.D,MBS  
SECRETARY

Copy to:

The District Commissioner  
Kwale District

The District Education Officer  
Kwale District

<p style="text-align: center;">Page 1</p> <p><b>THIS IS TO CERTIFY THAT:</b></p> <p><b>Prof./Dr./Mr./Mrs./Miss</b> <u>ABUYA WILLICE</u> <u>ONYANGO</u></p> <p><b>of (Address)</b> <u>UNIVERSITY OF PORT HARE,</u> <u>SOUTH AFRICA</u></p> <p><b>has been permitted to conduct research in</b> _____ <u>RAMISI</u> <small>Location,</small> <u>KWALE</u> <small>District,</small> <u>COAST</u> <small>Province,</small></p> <p><b>on the topic:</b> <u>TITANIUM MINING AND SOCIAL</u> <u>DISPLACEMENT: AN ETHNOECOLOGICAL</u> <u>STUDY</u></p> <p>_____</p> <p><b>for a period ending</b> <u>30TH MARCH</u> <u>12</u> <u>, 20</u></p>	<p style="text-align: center;">Page 2</p> <p><b>Research Permit No.</b> <u>NCST/5/002/R/268</u></p> <p><b>Date of issue</b> <u>11.5.2009</u></p> <p><b>Fee received</b> <u>SHS. 2000.00</u></p> <div style="text-align: center; margin: 10px 0;">  </div> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">   <small>Applicant's Signature</small> </div> <div style="text-align: center;">   <small>Secretary National Council for Science and Technology</small> </div> </div>
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# APPENDIX IV- MAP OF KENYA



# APPENDIX V- KEFRI COMPENSATION RATES FOR TREES

Table 1. Category 1: Valuable indigenous tree species

Tree species	Local name	Standard name	User	Estimated value (KSh/ m <sup>3</sup> )
<i>Azela gnazensis</i>	Mhambakofi	Lucky bean tree	Carving/floor tile/furniture	4681
<i>Albizia globerrima</i>	Mkamba mbaga	Peacock flower	Timber/ veneer	2969
<i>Albizia gummifera</i>	Mchagi Mbaa	East Indian walnut	Timber/ veneer	2969
<i>Albizia lebbek</i>	Mchagi	East Indian walnut	Timber/ veneer	2969
<i>Asadtrachta indica</i>	Mwarubaga	Neem	Medicinal/carving	3605
<i>Bomax rhodognaphalon</i>	Mauhi Mwitu	E. African bombax	Timber/ canoe making	2969
<i>Brachystegia spiciformis</i>	Murithi	Beau-poul tree	Timber/canoe building	2969
<i>Dalbergia melanocylon</i>	Mbingo	African ebony	Carving/musical instruments	4681
<i>Erythrophloeum guineensis</i>	Mikelekele	Ordeal tree	Timber/furniture	2969
<i>Mompha zanzibarensis</i>	Maambo, Mgyvi		Boats/furniture/oinery	3889
<i>Alizia esculata</i>	Mvule	Mvule	Timber/furniture/floor	4681
<i>Pachystela bracteata</i>	Mvamvip		Construction	2969
<i>Syrocarya birrea</i>	Mwanga (Sya)	Elephant tree	Timber/boats	2969
<i>Senna siamea</i>	Mwobari		Construction/timber	2969
<i>Sigmaria guineense</i>	Zambano	Waterberry, water pear	Timber	2969
<i>Tamarindus indica</i>	Mkwaju	Tamarind	Timber/boats/boat building/walking stick	3605
<i>Trochilobium verrucosum</i>	Mwandari		Timber/furniture/ boat making	2969
<i>Twea daniata</i>	Mfudu	Black plum	Timber/furniture	2969

**Justification**

It was not possible to attach values of trees at the various stages of growth because of the following reasons:

- Most of large trees with good form have been harvested leaving remain trees of poor form and quality. Realistically these trees would not command any monetary value beyond use as fuelwood.
- Presently farmers sell most, if not all the trees as standing volume, i.e. whole tree sold including branches.
- There was no capital outlay or significant investment by farmers on production of these trees.

In this category, trees are mainly valued on the basis of their value is a factor of the three-dimensional attribute of the tree, including the general shape of the tree, i.e. the straightness of the bole, the length of the straight bole and the mean diameter. It is thus only prudent to provide values based on the merchantable volume.

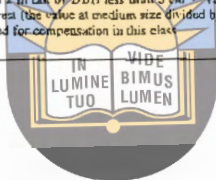
From the above, it is not possible to place trees in simple categories of "young", "medium" and "old" or "Small", "medium" "large" as has been done for the planted exotics (Table 2). The value of a tree is also affected by its form and size. For example, a tree of a particular species that can be obtained from it due to poor shape and branching habit. On the other hand, a tree of the same species could be only 10 m tall but of good shape and straight bole, hence of high value.

Species	Local name	Standard name	Uses	Estimated value according to size		
				Young (planted within the past 2 years)	Medium (Pole size, 5cm - 10cm DBH and up to 9.9 m height)	Mature (Over 10 m tall, DBH > 10 cm)
<i>Casuarina equisetifolia</i>		Casuarina		154	700	1075
<i>Eucalyptus spp</i>		Blue gum		146	664	1455
<i>Pinus spp</i>		Pine		146	664	1075
<i>Grevillea robusta</i>		Silver oak		131	684	1335
<i>Guettarda arborea</i>				131	684	1335

**Justification**

Unlike agricultural crops whose returns are obtainable over most of their life cycles, returns from single trees/woodlots planted on farm in most cases is a one-off affair. Computations of present value of agricultural crops are therefore, relatively easy. Basically the Net Present Value (NPV) of agricultural crops is a function of costs (initial and subsequent) and projected revenue calculated against some discount rate, normally the inflation rate or the interest rate, over a period of time. This process allows valuation at different points in time. Whereas this approach is possible for large-scale forest plantations, it is very difficult to apply on trees on individual farmers holdings especially when the trees are few and the farms small. Since the initial investment and subsequent costs are low, attempted valuation of trees based on standard NPV methodology gave abnormally high values for saplings and young trees. We therefore decided to apply the Forest Department royalty rates as follows:

- **Mature** - Trees of DBH greater than 10 cm - Adopted the FD royalty rates for rippled clearfall logs of over 24 cm diameter. We adopted this higher FD diameter class to get closer to the prevailing local market prices of trees that fall into this first category.
- **Medium** - Trees and saplings of DBH greater than 5 cm but less than 10 cm - Used FD royalty rates for thinnings sold as unripped logs from clearfalls. These thinnings closely describe trees within this category.
- **Young** - Saplings and young trees of at least 2 m tall of DBH less than 5 cm - Values were computed based on mean yearly income for the first five years to the first possible harvest (the value at medium size divided by the years to reach this stage). The value of the first year or one year after planting was adopted for compensation in this class.



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Table 3. Category 2: Palms and related species

Species	Local name	Standard name	Uses	Estimated value according to size (height): (KSh.)		
				Young 2-5 m	Medium 5-8 m	Old >8 m
<i>Bambusa vulgaris</i>	Mianzi	Damboo	Construction, fencing, weaving	6 (per culm)	10 (per culm)	17 (per culm)
<i>Bambusa compressa</i>	Mkoma	Daum palm	Furniture, weaving, fruits	97	160	102
<i>Acrotychum guineense</i>	Mchiladi	Wild oil palm	Weaving, thatching	48	-	-
<i>Acrotychum palmatum</i>	Mkanda	Wild date palm	Basketry, weaving, construction	97	160	-
<i>Sarcosus anthiophorum</i>	Mvumo	African fan palm	Basketry, weaving, wine	48	80	-
<i>Sparganium angustifolium</i>	Makongu	Sisal	Weaving, mats, ropes, boundary marking	30	-	-

**Justification**

Apart from bamboo, products from members of this class of indigenous species are valued locally as sources of poles and fruits (in some), roofing materials and basketry. Again, these species are naturally growing implying no farmers' input either in financial terms or through labour. At the same time, we recognize that there is a high possibility of liberating these plants in the new settlements by the farmers. We thus estimated the values of these plants as follows:

- Bamboo (*Bambusa vulgaris*, Mianzi) - Values adopted from that provided by the Forestry Department, but modified for the smaller sizes as follows: Medium size culms - 60% and young culms (2.5 m tall) - 40% of value of mature (Old > 8 m tall) culm as provided by FD, respectively.
- The palm group (Daum palm, Wild oil palm, wild date palm and African fan palm) =  
From the agricultural crop valuation estimates, young coconut palms (1-3 years) are valued at Sh. 242.00, medium (5-10 years) at Sh. 400.00 and old at Sh. 255.00. Estimations of the value of indigenous palms were based on these estimated values (Ministry of Agric. Report 2003).
  - i. For Wild oil palm and African fan palm: These are indigenous and naturally growing. Values were estimated at 20% of the computed NPV of coconut as an agricultural crop. The rationale was that materials obtainable from these indigenous palms are restricted to thatch, basketry and mats. These same materials are also obtainable from coconut tree foliage as secondary products, and thus estimated at 20% of the value of the coconut tree.
  - ii. For Daum palm and Wild date palm: They provide more diverse uses. Their stems are used as poles in construction, fruits are also obtained from Daum palm. For this group, we estimated the value at 40% of the value of coconut tree.
- Sisal - These values are adopted from the compensation rates of the Sunda-Muru Hydro-Electric project (Mwawaghaanga Park estate).



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Table 4. Category 3. Other vegetation

Species	Local
<i>Arcydia streptolenta</i>	Mutomboko (Swa.)
<i>Smilax prodegeroniensis</i>	Mulewaka (Swa.)
<i>Campidano africana</i>	Mututu (Ka.) Mbarara (Swa.)
<i>Ficus spp</i>	Mukony (Swa.)
<i>Grewia hobbiti</i>	Mukome (Digo) Mucobe (Swa.)
<i>Crucianum bursi</i>	Mukoni (Swa.) Mutindi (Ka.)
<i>Eragrostis chloropyrum</i>	Mujari (Swa.) Makena (Ka.)
<i>Lycopodium obscurum</i>	Mvua (Swa.) Kikomaa (Ka.)
<i>Alvonia digitata</i>	Mvua (Swa.)
<i>Lampyris xanthopus</i>	Mkolobara (Swa.)
<i>Bidella macrantha</i>	Mshu (Digo)
<i>Liviana amara</i>	Makomoro

As mentioned earlier, plants that fall in this category are of low value, growing wildly and are abundant. It is assumed that the farmers will inherit a similar range of species in their new settlements and in comparable abundance.



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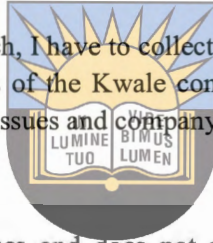
## APPENDIX VI- DISCUSSION GUIDES

### (1) IN-DEPTH INTERVIEW - DISCUSSION GUIDE

Dear Respondent

My name is Willice O. Abuya, a doctoral student of University of Fort Hare, RSA. I belong to the research group – African Resources and Comparative Sustainability Research, Dept. of Sociology. I am currently on fieldwork in Kwale, Coast Province. My research focus is on titanium mining and social displacement in rural Kenya.

My study is by research and thesis, and as such, I have to collect primary data from the field, with the aim of understanding the views of indigenes of the Kwale community on the question of titanium mining, social displacement, compensational issues and company/state-community relations.



The research is purely for academic purposes and does not represent any other interest such as government, NGO, company etc. Your opinion will be treated with utmost confidentiality.

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Thank you.

Willice Abuya

## IN-DEPTH INTERVIEW GUIDE

### BIO-DATA

1. Age
2. Sex
3. Religion
4. Ethnic group
5. Area of residence before displacement
6. Area of residence after displacement

### SECTION ONE: SOCIAL CONSTRUCTION OF NATURE

7. How long had you lived in your former area of residence?
8. What was your relationship with “nature” and cultural artefacts in your previous area of residence?
9. What use(s) did you put to the below listed representations of “nature” and cultural artefacts to and what meaning did you attach to these representations:



Land

Trees

Ponds

Mountains/hills

Graves

Rivers

Plants (commercial and Traditional)

Animals

Landscape

Houses/built structures

Insects

Birds

Etc

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10. How were each involved in your socio-cultural practices/identity?

## **SECTION TWO: IMPACT OF TITANIUM INDUCED SOCIAL DISPLACEMENT ON THE ABOVE MEANINGS**

11. In view of Social displacement, how has this impacted on the above meanings (consider all the representations of “nature” and cultural artefacts indicated in (9) above.
12. How has titanium mining impacted on the above meanings (consider each representation of “nature” and cultural artefact indicated in (9) above)?
13. How has alienation from the representations of “nature” and cultural artefacts in (9) above affected your socio-cultural practices?
14. How else have you been affected (socially, economically and politically)?
15. How has this (alienation) affected your relations with the mining company and state?
16. In your view, what should the company/state have done to lessen the impact of titanium induced displacement, with specific reference to the impact of the meanings attached to the environment? And what can the state/company now do to improve relations?

## **SECTION THREE: COMMUNITY TARGETTED MINING COMPENSATION PRACTICES (FOR HEADS OF HOUSEHOLDS ONLY)**

17. What was the nature of compensation in relation to:

Land- describe size and compensation paid

Crops- describe type of crops, both commercial and foodcrops, and compensation paid

Trees- describe type of trees, both commercial and otherwise, and compensation paid

Structures- describe type, size and nature of structure and compensation paid

Communally owned facilities-state the facility and compensation paid

Others

18. What is your view on the compensation paid for each item, and why do you hold that view?
19. In your opinion, what factors should have been considered in compensation matters?
20. To what extent is your relationship/affinity with the environment (“nature” and cultural artefact) a factor in your opinion described in (18) and (19) above?
21. How does each compensation measure for each representation of “nature” and cultural artefact intersect with community socio-cultural practices?
22. How has your relations with the company and with the state been affected by the compensation practise (either negatively or positively)?
23. What measures should the company/state have taken before, during and after the titanium induced displacement to have improved compensation (if the view with relation to this is negative), and how can the company/state now improve relations (that is if they have been negatively affected)?

24. In your view, who should provide social provisioning in cases of mining activities, and why?

#### **SECTION FOUR: OTHER QUESTIONS**

25. What do you consider as some of the unique problems facing indigenes in coast province, and in your view, how can such problems be adequately resolved?

26. In what ways do you think that titanium mining will develop/un-develop Kwale?

THANK YOU



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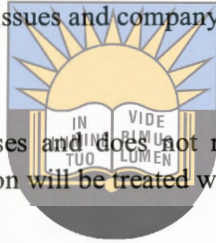
## (2) FOCUS GROUP DISCUSSION GUIDE

Dear Participants

My name is Willice O. Abuya, a doctoral student of University of Fort Hare, RSA. I belong to the research group – African Resources and Comparative Sustainability Research, Dept. of Sociology. I am currently on fieldwork in Kwale, Coast Province. My research focus is on titanium mining and social displacement in rural Kenya.

My study is by research and thesis, and as such, I have to collect primary data from the field, with the aim of understanding the views of indigenes of the Kwale community on the question of titanium mining, social displacement, compensational issues and company/state-community relations.

The research is purely for academic purposes and does not represent any other interest such as government, NGO, company etc. Your opinion will be treated with utmost confidentiality.



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Thank you.

Willice Abuya

# INTERVIEWS AND FGD DISCUSSION GUIDE

## BIO-DATA

(Obtain composition of the FGD)

### SECTION ONE: SOCIAL CONSTRUCTION OF NATURE

1. What was your relationship with “nature” in your previous area of residence?
2. What use(s) did you put to the below listed representations of “nature” and cultural artefacts and what meaning did you attach to these representations:

Land

Trees

Ponds

Mountains/hills

Graves

Rivers

Plants (commercial and Traditional)

Animals

Landscape

Houses/built structures

Insects

Birds

Etc



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3. How were each involved in your socio-cultural practices/identity?

### SECTION TWO: IMPACT OF TITANIUM INDUCED SOCIAL DISPLACEMENT ON THE ABOVE MEANINGS

4. In view of Social displacement, how has this impacted on the above meanings (consider all the representations of “nature” and cultural artefacts indicated in (9) above.
5. How has titanium mining impacted on the above meanings (consider each representation of “nature” and cultural artefact indicated in (9) above.
6. How has alienation from the representations of “nature” and cultural artefacts in (9) above affected your socio-cultural practices (as a community, as a man, as a woman, and as a youth)?

7. How else have you been affected (socially, economically and politically—as a community, as a man as a woman, and as a youth)?

8. How has this (alienation) affected your relations with the mining company and state?

9. In your view, what should the company/state have done to lessen the impact of titanium induced displacement, with specific reference to the impact of the meanings attached to the environment? And what can the state/company now do to improve relations?

### **SECTION THREE: COMMUNITY TARGETTED MINING COMPENSATION PRACTICES (FOR HEADS OF HOUSEHOLDS ONLY)**

10. What was the nature of compensation in relation to:

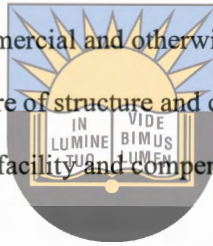
Land- describe size and compensation paid

Crops- describe type of crops, both commercial and foodcrops, and compensation paid

Trees- describe type of trees, both commercial and otherwise, and compensation paid

Structures- describe type, size and nature of structure and compensation paid

Communally owned facilities-state the facility and compensation paid



Others

11. What is your view on the compensation paid for each item, and why do you hold that view?

12. In your opinion, what factors should have been considered in compensation matters?

13. To what extent is your relationship/affinity with the environment a factor in your opinion described in (18) and (19) above?

14. How does each compensation measure for each representation of “nature” and cultural artefact intersect with community socio-cultural practices?

15. How has your relations with the company and with the state been affected by the compensation practise (either negatively or positively)?

16. What measures should the company/state have taken before, during and after the titanium induced displacement to have improved compensation (if the view with relation to this is negative), and how can the company/state now improve relations (that is if they have been negatively affected)?

17. In your view, who should provide social provisioning in cases of mining activities, and why?

### **SECTION FOUR: OTHER QUESTIONS**

18. What do you consider as some of the unique problems facing indigenes in coast province (as a community, man, woman and youth as the case might be), and in your view, how can such problems be adequately resolved?

19. In what ways do you think that titanium mining will develop/un-develop Kwale?

### (3) KEY INFORMANT INTERVIEW

#### COMPENSATORY PRACTICES

#### FOR GOVERNMENT AND MINING COMPANY

1. Which laws govern compensation matters in the Mining Industry? And in the case of Kwale, which sections of the laws (and any other international conventions, if any) were applied?

2. What were the government/company compensational practices with regard to the following as relates to titanium mining in Kwale :

Land

Trees

Communal property

Graves

Crop/Plants (commercial and Traditional)

Houses/built structures

Others



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3. In your view, are the present laws on mining related displacement adequate? Elaborate on answer. What needs to be amended, if any?

4. In your view was the compensation awarded to Kwale residents adequate? Elaborate on answer. Which compensation could have been improved upon, if any, and why?

5. In your view, what is the cause(s) of the continued agitation by the mining community in Kwale?

6. Was the process of compensation satisfactory? Elaborate on answer

7. How would you describe community-company/state relations at present? Elaborate on answer.

8. The residents are of the view that the relations are sour/cordial (whichever will apply). What is your opinion on this?

9. What action can the government/state now take to improve relations?

10. What action should the government/company have earlier taken to prevent souring of relations in view of social displacement?

11. In your view, what is the place of corporate social responsibility in the context of the Kwale matter? In your view, who should be responsible for what CSR activity, and why?

THANK YOU!

END