

# **EIB Conflict Sensitivity Helpdesk**

## **Community Perceptions of Freedom of Expression in Mombasa**

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### **B1: Summary**

#### **1. Background**

EIB is providing €50 million co-financing support for the Regional Mombasa Port Access Road project. This involves the rehabilitation and widening of roughly 41 km of the existing road that runs between Mombasa Port and the town of Mariakani in south-east Kenya. This road links the port of Mombasa with Nairobi, as well as the land-locked eastern and central African countries of Uganda, Rwanda, Burundi and Democratic Republic of Congo (DRC). The project aims to improve transport of import and export goods and passengers' traffic by decongesting the traffic to and from the port of Mombasa and will support the economic development and regional integration of the member countries of the East Africa Community. Additionally, the project will benefit from road safety measures as well as environmental and social safeguard measures.

In July 2015, the EIB was informed by a civil society organization that over the previous 3 months, roughly 300 people had been affected by forced evictions, leaving 180 businesses and households demolished. The EIB took immediate steps to prepare a Corrective Action Plan (CAP) to identify and compensate Project Affected Persons (PAPs) in line with EIB standards. The CAP was implemented in the course of 2016 and the cost of the compensations were covered by the Kenyan government.

Since setting up the Complaints Mechanism (CM) linked to this project, the EIB has received roughly 350 complaints. These most commonly relate to compensation amounts or lack of compensation. CM has started a mediation process in Kenya between the complainants and the promotor (KenHA).

#### **2. Purpose of this report and methodology**

This report has been commissioned by the EIB, through the EIB Conflict Sensitivity Helpdesk, with the objective of helping the institution better understand the issues that may encourage or inhibit community groups from engaging with the project's grievance redress mechanisms. It seeks to capture the perceptions of local people on the extent to which they feel safe and comfortable enough to access the project grievance mechanism, and engage with the project implementing entity (the promoter), authorities, CSOs and financiers on issues of concern. It also looks at existing formal and informal grievance redress mechanisms by assessing any actions that have been taken by relevant stakeholders in order to ensure safe spaces.

The findings are based on key informant interviews (with government, CSOs, religious leaders, and promoter staff) and 2 focus group discussions (with affected communities). The analysis was carried out in the beginning of October 2018, in Mombasa. The report captures community perceptions, but does not seek to provide a definitive assessment of freedom of expression within affected communities.

#### **3. Key findings**

Our overall assessment is that individuals, communities and CSOs are relatively free and able to express dissenting voices free from fear of intimidation in the Mombasa area. Freedom of expression is guaranteed within the Kenyan constitution, and the majority of the participants felt that citizens and CSOs are not actively prevented from expressing dissent. Many also cited

examples of times when they, or others have publicly expressed critical opinions (including in relation to this project) without threat or intimidation.

Furthermore, this assessment has not uncovered any evidence that the promoter, or others directly engaged in the delivery of this project, have engaged in threatening or intimidating actions towards individuals or CSOs seeking to voice critical issues of concern.

The assessment does however highlight a number of issues that do act to discourage some community members or CSO groups from freely, openly and effectively expressing dissent, or raising concerns with the promoter in relation to this project.

It is for example important to recognize that communities in Mombasa and the Coastal Region live in a context characterized by repeated and persistent security incidents. In recent years, the region has been the site of a number of high-profile killings and disappearances, many of which have been attributed to 'extremist' groups such as Al-Shabaab, while others have been linked to members of the national administration working with the police as part of interventions related to countering violent extremism (CVE). While it is not easy to substantiate the veracity of such claims, it is evident that communities *feel* insecure.

This has created an environment that can be perceived as restrictive even when no actual intimidation has occurred or force used. It is reasonable to assume that the more vulnerable members of the community are likely to feel particularly reluctant to be seen as confrontational in this environment.<sup>1</sup> This sense of fear and suspicion also contributes to an environment in which the actions and intentions of different groups can be perceived as threatening, irrespective of the true intentions. This has also eroded trust between different stakeholders involved in the project, particularly communities and administration and the security personnel, leading to a context in which actions can easily be misinterpreted, and small disagreements can escalate into significant issues. This fear and resultant self-censorship creates an environment that can be considered as at least partially restrictive.

The assessment also identified a number of challenges related to the wider context, as well as project implementation and stakeholder engagement practices that work to limit community opportunities to effectively voice dissent, and seek redress to grievances. These include:

- Lack of trust in Grievance Redress Mechanisms (GRM): There appear to be a number of (both formal, project established, and pre-existing informal / civil society managed) mechanisms available through which local people can raise grievances. However none can be said to be fully trusted by all groups in society. As such, people will use different channels of complaint raising and dialogue differently depending on the issues of concern.
  - Composition of the GRM: This was raised as a major concern by several respondents. There is a feeling that the GRM is dominated by governmental actors and interests, which impedes the likelihood that local people will make use of it to highlight issues in relation to the government.
  - Divisions within civil society: High levels of competition, both between and within civil society groups hinders the ability of civil society to collectively engage on difficult issues.
  - Limited access to information and participation: There is a widely held perception that the project has failed to adequately or effectively include local people in decision making processes on issues affecting their lives. Respondents reported that public forums were not well publicized, and poorly facilitated, resulting in confusion about outcomes and perception

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<sup>1</sup> Although further analysis would be needed to test this assumption and clearly identify which groups might be particularly vulnerable

that engagement was more tokenistic than genuine. These concerns were exacerbated by the stated inability of local groups to access information about the project when sought.

- Lack of responsiveness to community concerns: Respondents felt that the key institutions involved in the road construction process have failed to adequately respond to concerns raised, most notably with the National Land Commission. This is undermining trust in the mechanisms established to solicit community engagement.

In order to address and respond to the issues highlighted in this report, the EIB should work with the promoter to encourage and support the implementation of the following recommendations:

- Step up efforts to ensure that inclusive processes that allow for broader engagement and clarity of responsibilities and actions taken by different stakeholders engaged in the processes are designed and actioned at the community level;
- Invest in capacity building of PAP committees to more effectively handle grievances;
- Take active steps to build closer and more trusting relationships with local community groups;
- Clarity of roles of the different stakeholders involved in the project, particularly the role of the local administration and police;
- Devise techniques to manage community expectations in ways that provide consistent updates with clear and defined timelines, whilst avoiding meeting fatigue
- As part of collective efforts to address community grievances, there is need to work closely with those who have a significant foot print in the community and whose history reflect community interests.