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SCAMMED: DISSECTING CYBER SLAVERY IN SOUTH EAST ASIA

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Nairobi Westlands

The Nairobi Westlands toll station of the Nairobi Expressway, September 2022. Source: Vivian Wei Guo.

Engaging Civil Society in Chinese Overseas Infrastructure Projects: The Case of China Road and Bridge Corporation in Kenya

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Over the past two decades, Chinese companies have undertaken numerous infrastructure projects in Africa, contributing to local development while also facing criticism for environmental and social impacts. This essay examines the stakeholder engagement of China Road and Bridge Corporation (CRBC) in Kenya, focusing on the Nairobi–Mombasa Standard Gauge Railway and Nairobi Expressway projects. Despite CRBC's efforts to enhance its public relations and corporate social responsibility, local nongovernmental organisations continue to criticise the company. The study highlights the importance of public participation in decision-making processes, especially regarding issues of local governance and community dynamics. The findings reveal both challenges and opportunities for more effective collaboration with local stakeholders in Chinese overseas infrastructure projects.

Over the past two decades, Chinese companies have undertaken numerous infrastructure development projects across Africa, contributing to local development. However, these high-profile projects have often attracted significant criticism due to ecological and environmental concerns, local conflicts, and socioeconomic implications. Active engagement with the public and local stakeholders is crucial for mitigating adverse effects and addressing scepticism, which in turn facilitates smoother project execution. Scholars have observed that several large state-owned enterprises with extensive experience in long-term projects are moving in this direction (Tang-Lee 2016). These companies are increasingly adopting strategies and programs aimed at enhancing engagement with local communities and improving the public image of their projects—a shift from their traditional practices characterised by seclusion.

This essay explores this shift by examining the case of China Road and Bridge Corporation (CRBC) and its engagements with civil society organisations in Kenya. CRBC has been involved in two high-profile development projects in the country: the Nairobi–Mombasa Standard Gauge Railway (SGR) and the Nairobi Expressway (NEW). The SGR and the NEW are not the only CRBC signature projects in Kenya,

Next Stop, Mombasa

A train station along the Nairobi–Mombasa Standard Gauge Railway, September 2022. Source: Vivian Wei Guo.

but they are identified as two flagship projects in the country's 'Vision 2030', the national development agenda that aims to transform Kenya into a modern industrialising and middle-income country by 2030.

Both projects have attracted a lot of attention from civil society organisations. Examining CRBC's experience can thus illustrate the challenges that Chinese companies face in effectively engaging with the public and nongovernmental actors. As this essay will demonstrate, despite recent efforts to establish public engagement channels and invest in corporate social responsibility (CSR) and public relations (PR) activities, CRBC's stakeholder engagement and public participation strategies leave much room for improvement. Chinese companies should consider local power dynamics, traditions, and governance structures in their future engagement with civil society.

Project Implementation and Public Participation

Before diving into the two cases, it is useful to review some fundamental concepts of public participation. This involves including the public in decision-making processes—a practice that has become an important element of democratic governance. Public participation seeks to incorporate the concerns, needs, and values of nonstate actors—such as environmental and human rights groups, as well as representatives from local communities—into the decisions and actions of governmental organisations. This practice aims to ensure that decisions reflect local public interests and values, rather than only the perspectives of governments, project developers, and financiers. This contributes to better and more sustainable outcomes for local communities.

Arnstein's (1969) 'participation ladder' categorises levels of public participation from 'non-participation' to 'full managerial power', highlighting the redistribution of power necessary for genuine citizen participation. The lower and middle rungs of the ladder represent tokenistic participation, including informing and consultation. While these measures allow the public to gain knowledge about projects and offer their opinions, they often 'lack the power to insure [sic] that their views will be heeded by the powerful' (Arnstein 1969: 217).

This echoes what O'Faircheallaigh (2010) has demonstrated regarding public participation in environmental impact assessments (EIAs). EIAs sometimes act 'as an aid to decision making which remains separate from the participating public' (O'Faircheallaigh 2010: 20). The public might be included in the EIA process primarily as recipients of information, where decision-makers provide details about planned initiatives, schedules, and the anticipated effects on communities and regions. However, there is often minimal sharing of decision-making power. As a result, while the public may appear to have a voice during consultation, their concerns might not be genuinely prioritised in decision-making processes. In many cases, public participation clauses are buried in bureaucratic procedures, which undermines the purpose of involving the public (O'Faircheallaigh 2010).

CRBC in Kenya

CRBC, a subsidiary of China Communications Construction Company Limited, which is ranked in the Global Fortune 500, is a leading Chinese state-owned contracting company with a presence in about 60 countries across Asia, Africa, Europe, and the Americas. Its main operations involve project contracting, investment, and development. The Kenyan subsidiary of CRBC, CRBC Kenya, was established in 1984 and has completed several significant projects, including the construction of two ports, two railways, and 23 roads totalling more than 1,200 kilometres (CRBC Kenya 2023). In recent years, CRBC has made several advances in addressing environmental, social, and governance issues, including public outreach and local consultation initiatives. However, there remains room for improvement as illustrated by the cases of the SGR and the NEW.

The SGR project (2014–19) was financed primarily by the Export–Import Bank of China (Exim Bank of China) through concessional loans to the Kenyan Government and then contracted to CRBC. The idea of the SGR emerged in 2004 during the East African Community Summit and, in 2009, CRBC approached the Kenyan Government offering to perform a feasibility study for the project, conditionally 'free of charge' in exchange for the construction contract (Wang and Wissenbach 2019). CRBC brought the Exim Bank of China into this initiative and, in 2012, the bank agreed to fund the project (Public Investments Committee 2014: 4.8.2). The SGR project was implemented in two phases. Phase I was the Nairobi–Mombasa Railway (constructed between 2014 and 2017), which linked the Port of Mombasa to Nairobi. Requiring an investment of 3.8 billion USD, this line spans 485 kilometres and operates six passenger trains and 16 freight trains daily. Phase II (2016–19) expanded the SGR westward from Nairobi to the border with Uganda with an additional investment of 1.5 billion USD. After the completion of Phase I in 2017, the operation of the SGR was contracted to Africa Star Railway, CRBC's subsidiary.

In 2019, two years after the completion of the SGR's Mombasa–Nairobi section, CRBC initiated the NEW project under a public–private partnership (PPP) with the Kenyan Government. The expressway idea originated from a 2008 parliamentary approval for a road in Nairobi to be constructed under a 30-year build–operate–transfer (BOT) scheme to ease traffic in the city (Amadala 2019). The first attempt failed when the World Bank questioned the project's suitability and decided to cut its financing (World Bank 2011). CRBC picked up on the idea and developed it into the Nairobi Expressway. The company proposed the construction of the expressway during a meeting between then president Uhuru Kenyatta and President Xi Jinping at the China–Africa Cooperation Forum in 2018, and the contract was signed during the Second Belt and Road Forum for International Cooperation in 2019 (Interview with CRBC Kenya manager, September 2022). This 27.1-kilometre road was constructed from 2020 to 2022 and connected central Nairobi to Jomo Kenyatta International Airport at a cost of approximately 668 million USD. It reduced travel time from southern to western Nairobi from two hours to only 20 minutes. Employing the BOT model, CRBC is both the contractor and the investor of the NEW and, according to the PPP agreement, the company will operate the expressway for 27 years before transferring it to the Kenyan State. Moja Expressway, another CRBC subsidiary, manages the operation and maintenance of the road, including collecting the toll fees (Africanews 2022).

These two projects offer a valuable opportunity to study the challenges Chinese companies face in engaging with civil society abroad and how they develop effective mechanisms and strategies in this sense.

Adapting to Civil Society Concerns

CRBC has taken steps to improve transparency and increase media engagement. The SGR project played a pivotal role in CRBC's shift from the traditional closed-door approach to a more open one, as the company had to learn how to address negative news and criticism from local media. As a CRBC manager shared, they gradually learned to use local media rules, such as 'the right to reply', which ensures the freedom and independence of the media and the right to access information as stipulated by the *Constitution of Kenya 2010* (Li and Wang 2023). For example, when accusations about local staff mistreatment and racism arose in Kenyan media, CRBC publicly responded by explaining that the situation was mainly due to social, cultural, and language barriers, which led them to take some controversial decisions, such as separating their Chinese and Kenyan staff at dining tables (Li and Wang 2023). CRBC managers believed that, since the Kenyan Government sometimes did not actively respond to media queries, it was crucial for them to use social media to address criticisms of their projects and engage with citizens directly (Fieldnotes in Kenya, September 2022).

In addition, CRBC started to publish various reports, such as its *Social Responsibility Report in Kenya* and *Mombasa–Nairobi SGR Project CSR Report* (CRBC 2016, 2022). Its subsidiaries, Africa Star Railway and Moja Expressway, which operate the SGR and the NEW, respectively, established an in-house PR team and contracted a local PR company to help manage social media accounts (including X and Facebook) and CSR activities. This team has engaged in various activities, including inviting journalists to visit the project sites, distributing press releases, responding to media inquiries, and arranging social and cultural activities in connection with the company's projects. For example, the company hosted an 'expressway marathon' in 2022. Although CRBC seems to have developed effective PR strategies that account for local needs and sensitivities, several local nongovernmental organisations (NGOs) remain apprehensive and sceptical. In any case, CRBC's continued efforts are, to some degree, driven by continuing requests and pressure for information from local media—a culture that follows that of Western-style watchdog journalism (Li and Wang 2023).

While CRBC's initiatives demonstrated its efforts to enhance its corporate image and improve project implementation, some local NGOs claimed that these measures were rather superficial (Fieldnotes in Kenya, September 2022; Interview notes, 2023). They viewed these activities as a *tokenistic* approach that primarily served to disseminate project information to the public rather than fostering real consultation and dialogue. These reservations from local civil society stemmed from various events during the implementation of the SGR and the NEW projects, as the next section will explain.

Opposition and Grievances

Public participation in Kenya is a constitutional requirement. Article 69(d) of the Kenyan Constitution states: '[T]he State shall encourage public participation in the management, protection and conservation of the environment.' EIAs are also a legal requirement, mandated by the *Environmental Management and Coordination Act* and administered by the National Environment Management Authority (NEMA). EIAs serve as 'a critical examination of the effects of a project on the environment' to minimise risks and negative impacts (NEMA n.d.). During the EIA process, it is the licensee—in the two cases under scrutiny in this essay, the CRBC—that is expected to seek the views of various stakeholders and hold at least three public meetings with affected parties and communities (NEMA n.d.). However, some local NGOs criticised the way the public participation requirement was enforced. During the construction of both the SGR and the NEW, several NGOs filed complaints to the National Environmental Tribunal (NET) against NEMA, CRBC, and the Kenyan Government (Xia 2019; Muigua 2022). They complained not only about limited public participation, but also about licensing issues and inadequate EIA assessments.

Overall, there have been various disputes throughout the two projects' implementation. For instance, the route of SGR Phase I through Tsavo National Park raised public concerns as it was argued that it would disrupt the movement of elephants in the area. CRBC responded that they had cooperated with the Kenyan Wildlife Conservation Service, a state corporation managing national parks and wildlife conservation areas, to ensure effective protection of the environment and animals along the Mombasa–Nairobi Railway. They studied the migration paths and living habits of animals in Tsavo Zoo and set up animal passages in places where animals often migrate (CRBC 2022).

However, some NGOs found these efforts unsatisfactory, and they continued to criticise CRBC for insufficient consultation with local wildlife conservation groups and inadequate investigation of animal migration patterns during the construction (Jiang 2019). Conservationists argue that development could coexist with wildlife conservation only if conservation is integrated into the project planning and design. As pointed out by Save the Elephant, a local NGO, spatial planning should have been based on wildlife movement data, which they would have readily provided had CRBC approached them. They further cited an incident where an elephant damaged an expensive SGR fence in Tsavo, suggesting that early collaboration and better-informed project design could have prevented issues like this (Okita-Ouma 2017).

Disputes also arose during Phase II of the SGR, as its passage through Nairobi National Park sparked protests from local environmental groups and activists, resulting in legal battles at the NET and in court. Initial claims from NGOs contended that Phase II construction lacked NEMA's EIA licence, which were dismissed by the NET. After NEMA granted an EIA licence, NGOs took NEMA and CRBC again to the

NET, arguing that the EIA process lacked adequate public participation and failed to consider alternative routes to minimise environmental impacts on the national park. Yet, the NET dismissed these claims again (EJATLAS 2022; Xia 2019).

In response, CRBC acknowledged the SGR's passage through conservation and human settlement areas but argued that they had proactively engaged with the community and provided remedial measures, including rainwater harvesting pits for animals, prohibiting wildlife capture at CRBC sites, minimising land use for temporary facilities, and protecting water quality along the SGR route. CRBC and the Kenyan Government also insisted that the selected route through Nairobi National Park was the most economically efficient due to lower relocation and land compensation costs. The complaints by local environmental groups led to the NET and the court suspending the construction of Phase II; however, it resumed after about five months (EJATLAS 2019; Otieno 2017).

In the case of the NEW, complaints have also focused on public participation. CRBC initiated the EIA study in 2019 and obtained NEMA's EIA licence in 2020. Local NGOs were invited to attend public consultation meetings during the EIA process. Nevertheless, some NGOs which participated in the consultation meetings appealed to the NET to cancel NEMA's EIA licence and halt construction, citing limited public participation and inadequate assessment (Muigua 2022). Informants from local NGOs reported that the government had changed the venue and date for the stakeholder consultation meetings at the last minute, which restricted broad participation (Interview notes, 2023).

CRBC responded that their public engagement efforts were adequate, citing the use of posters, advertisements, radio broadcasts, and eight meetings held across Nairobi. The company added what it claimed to be the benefits of the project for Kenya's sustainable development, including alleviating severe traffic congestion. NEMA responded by stating that it had considered the stakeholders' views but, as it was not legally obligated to adhere to those views, it had prioritised its own technical evaluation (Muigua 2022; Wambulwa 2022). In the end, the NET largely approved the project, which was at the final stage of construction, but ordered CRBC to conduct an additional climate change analysis within 18 months (Muigua 2022; Wambulwa 2022). According to a local NGO staff member, their organisation had made another appeal to the court to challenge the NET's judgement (Interview notes, 2023).

Discussion

CRBC is a representative case of a state-owned Chinese company engaging in infrastructure projects overseas, while facing great challenges in handling with the public. It is essential to examine how their strategies for handling these have evolved.

While the issues are complex and subtle, experience suggests that increased transparency, proactively engaging local stakeholders, and respecting local norms and traditions can greatly improve the efficiency and performance of project implementation.

Examination of the CRBC case shows that the company is starting to adopt a more inclusive and open approach. However, in the examined projects, several local NGOs remain critical, citing a lack of transparency and limited opportunities to influence the projects' implementation. These criticisms were directed not necessarily only at CRBC but also at the Kenyan Government. Some even suggested possible collusion between the company and the local government, which may have contributed to the flaws in project implementation, including evasion of accountability (Interview notes, 2023; Onyango 2022).

Another dimension to consider is the perceived distinctive characteristics of Chinese companies, especially regarding culture and international business practices, which may introduce additional challenges (Liu 2021). For example, one NGO informant shared that it was difficult for them to engage in direct dialogue with Chinese companies because the companies seem to prefer interacting with the government, rather than civil society organisations. They seem to rely on the host government to handle many matters. The NGOs were left to wonder whether this approach was an order from the Kenyan Government or the Chinese contractors. Other informants opined that the real issue with the CRBC projects lies not with the Chinese contractor but mainly with the Kenyan Government's weak governance and lack of transparency (Interview notes, 2023). This was evidenced in the government's refusal to disclose the details of the SGR and NEW contracts despite requests from civil society actors (Aloo 2022; Muyanga 2022).

Such criticisms reflect several idiosyncratic elements that largely characterise the region—that is, weak local institutions and ineffective policy implementation, as well as issues with local governance and potential interference for political benefit (Xia 2019). Even though the legal framework has evolved over the years to include provisions for public participation, there is no substantive law that specifies exactly how this participation should be conducted (Kamau and Khsiebi 2022). These issues may not only hinder the effective implementation of development projects, but also undermine democratic governance.

The growing capabilities of local civil society organisations and communities to engage with large-scale infrastructure development projects should not be underestimated, as demonstrated by their involvement in the SGR and NEW projects. Local NGOs have gradually acquired experience and access to resources, enhancing their impact and influence. For instance, one environmental activist noted that while their effectiveness was limited during SGR Phase I through Tsavo National Park, they made significant improvements in Phase II near Nairobi National Park. They successfully persuaded the government and CRBC to use elevated railway designs to minimise impacts on animal migration (Xia 2019: 5). Another NGO informant noted that they learned from each project about pitfalls to avoid when dealing with the government and Chinese contractors. Issues overlooked in the SGR were later addressed in the NEW project (Interview notes, 2023), such as successfully influencing the NEW project's design to avoid cutting through Uhuru Park and success in conserving an ancient fig tree through demonstrations and campaigns (Africanews 2020). Even more impressive was the impact of local NGOs in another project not covered in this essay, the now cancelled Lamu coal power plant project, originally backed by the Industrial and Commercial Bank of China in 2019. The project's cancellation, following public pressure, marked a significant milestone for Kenyan civil society organisations (Yi 2021).

While companies may be inclined to view civil society organisations as a hindrance, such an assessment would be far from the truth. Local civil society organisations can help improve transparency, contribute to project implementation assessments, and bolster resources and support for law enforcement. They can help Chinese companies gain a better understanding of projects by addressing critical issues such as local sourcing, risk management, environmental compliance, social impacts, and public opinion (Brauteseth and Banik 2022; Jiang 2019). An honest and strong partnership with local NGOs can enhance Chinese companies' success in implementing development projects by providing valuable insights into community needs, fostering trust, and facilitating collaboration with local stakeholders. ●

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