Dear readers:

Many thanks for taking the time to look at this. I'm keen to learn from you, not least on the matter of 'trusts', which I have come to rather unexpectedly in the course of writing a book, with Emma Park, on Safaricom. This is a draft chapter for that project, but it originated in a special issue focused on the work of Michel Serres, so you'll see some references to his book The Parasite. *For the book, I'll lessen that, but I don't think it will get in the way of this draft. The material on the M-Pesa trust fund begins on p.9, with the prior pages discussing philanthropic initiatives linked to that trust fund.*

Please don't circulate this—I need to make sure all the details are correct before it moves more widely!

Best,
Kevin

Chapter 3
Held in Trust: Withholding-while-Giving in Parastatal Philanthropy

Introduction

In July 2011, the CEO of Safaricom joined the bosses of Kenya Commercial Bank, the Nation Media Group, and the Kenya Red Cross Society to launch an urgent appeal. Famine was spreading across northern Kenya, and it was necessary to mobilize money and support. Branded as "Kenyans for Kenya", they aimed to raise KSh.500 million within a month in order to help three million Kenyans facing starvation. "This is our country," said Safaricom's Bob Collymore, "these are our people; therefore, this is our problem" (quoted in ReliefWeb 2011).

The crisis was hardly unexpected: meteorologists had been warning for months, and the region is known to be vulnerable to climatic changes. Nevertheless, it was not until the titans of industry rang the alarm that it became a national issue and significant resources moved. Given the organizers' prominence, it is not surprising the campaign quickly came to dominate radio and television, with #KenyansForKenya cascading around social media. It became a phenomenon, even reaching distant shores as the EU, US government, and World Bank joined. But, as one of the main newspapers put it, "The heroes of the day were the ordinary Kenyans, regardless of ethnic or political affiliation, whose contributions by phone... pushed the overall figure to about KSh.20 million" (Orengo & Otieno 2011). Using Safaricom's mobile money services, Kenyans contributed as little as KSh.10 each. Eventually, more than KSh.700 million in cash (US$8 million) and Ksh.300 million in-kind was collected.

The entity presumably responsible for famine relief amongst its citizens – the government of Kenya – was absent from the dais announcing #KenyansForKenya. Indeed, from the perspective of some Kenyans, corporate actions stood in contrast to a government that either mismanaged or caused the situation. Safaricom's leadership was justified by the exigency -- an urgent compulsion to act in a state of emergency -- and its perceived ability to do so. One MP said the government was failing to help its people—instead using the crisis to fundraise abroad. Instead of government standing above the national population to define and pursue the public good and general welfare, it was an amalgam of humanitarian organizations and for-profit corporations that spoke on behalf of the nation and spurred compatriots to solidarity (Wright 2018).

In Kenya, the status of the nation is well known to be tenuous. Many believe ethnic affiliations trump patriotic fellow feeling (Ligaga 2009; Lynch 2006; Cheeseman et al. 2020). The north of the country is so marginalized as to often be considered beyond Kenya proper: "Welcome to Kenya," goes the joke when travelers return southward. Less well appreciated, though, is the role of Safaricom in constituting the nation and, as evident in #KenyansForKenya, mediating the public through a mix of philanthropic and commercial means (Park & Donovan 2016). While not its first foray into corporate social responsibility, the famine relief campaign inaugurated a more muscular philanthropic and patriotic self-fashioning by the corporation. That the government of Kenya would fail to provide for its citizens' basic needs was, by 2011, not newsworthy. In a situation of episodic crisis, it's long been the case that aid organizations like the Red Cross or World Food Program were expected to supplement, if not replace, the Government of Kenya (Bornstein & Redfield 2011). More novel by 2011, however, was the ready acceptance of corporate surrogacy--a common sense recognition of commercial beneficence and capability. Coupled with the acute need, Kenyans readily channeled their own charitable giving and aspirations for compatriots' wellbeing through ad hoc policy-making where Safaricom took center stage, followed by more traditional actors like the Red Cross and Government of Kenya.

In the past two decades, Safaricom has worked to not only position itself as the chief promulgator of Kenyan patriotic symbolism; it is also expected by a wide range of Kenyans to provide what, in another time and place, may have been considered 'public goods,' from famine relief to schooling and boreholes. Safaricom is a pioneer of corporate social responsibility (CSR). It established the Safaricom Foundation in 2003, and early initiatives included medical clinics, gender violence relief, educational initiatives, and wildlife conservation. In 2010, it was joined by the M-Pesa Foundation which has spent its funds in a variety of projects, from rehabilitating health facilities in Samburu to food security initiatives in Kwale. In each of these cases, "the corporate gift" (Cross 2014) finances and legitimates social services and developmental projects. More importantly, in each of these cases, the divisions between putatively distinct sectors erodes. As the Cabinet Secretary Judy Wakhungu said when launching one project, "As a government we are responsible for our people, [and] we are supposed to ensure that no Kenyan lacks the basic needs... However, we cannot do it alone, we need support from the private sector. We thank the M-Pesa Foundation and Kenya Red Cross for this initiative."[1]

This chapter focuses on the operations of the M-Pesa Foundation, using its flagship initiative, a boarding school outside Nairobi, to discuss how corporate philanthropy reworks "the public good" (Bear and Mathur 2015), reframing citizenship in terms of inegalitarian virtues like "world-class" leadership and entrepreneurship. In this, we follow important work on CSR. Linsey McGoey (2021) argues such "philanthrocapitalism" is eroding classical legal "separations of power" between "private enrichment and public welfare". Anthropologists of CSR have been particularly alert to how philanthropy's claims to reciprocity, partnership, and mutuality serve to secure corporate power, often building dependencies and clientelism (Rajak 2011) that may provide welcome resources but displace alternative ethical and productive regimes (Dolan & Rajak 2016). Ethnographies with workers and neighboring communities have demonstrated resistance to CSR and their limits (de Neve 2014), while ethnographies of CSR professionals have discussed the sorts of protocols, standards, and worldviews that shape their work (Welker 2014).

Much less has been said about the financing of corporate philanthropy. Anthropologists have, perhaps, taken for granted that large corporations are able to generate the cashflow for CSR. In contrast, this article foregrounds the specific financial and legal devices that fund the M-Pesa Foundation. The tens of millions of dollars it has spent arise not from generic corporate earnings but rather an arcane combination of fiduciary trusts and holding companies earning financial interest which Safaricom could not otherwise spend. A focus on these financial and legal devices also suggests that the M-Pesa Foundation's origins are distinct from other corporate

[1] "Kinango dam project launched," M-Pesa Foundation, available at: https://web.archive.org/web/20150807025850/http://www.m-pesafoundation.org/updates/news-item-one/

gifts which emerge as ameliorative efforts to manufacture consent. Instead, Safaricom's creation of a second foundation, distinct from the original Safaricom Foundation, reflected an effort to govern an unexpectedly lucrative source of financial interest. As discussed in detail below, the experimental design of M-Pesa led to billions of Kenyan shillings in interest earnings. A small circle of regulators, lawyers, and managers decided that philanthropic giving would serve as an escape valve for this lively production of money by means of money—thus the funding of the M-Pesa Foundation and its boarding school discussed below. Yet, even this official re-routing of financial earnings has not been sufficient, leading to an ongoing deferral by the Central Bank of Kenya and Safaricom wherein large sums are not distributed but instead continue to accumulate. We argue that both this deferral and the legal trust suggest that more than "the gift" alone, the anthropology of CSR must reckon with value *withheld* "in trust." The chapter turns to these details by providing a linked ethnographic case study of the M-Pesa Foundation Academy and the fiduciary devices which fund its operations.

The M-Pesa Foundation Academy

In May 2015, Deputy President William Ruto laid the foundation stone for the M-Pesa Foundation Academy in Kiambu, just an hour or so outside Nairobi. Shortly after ground was broken, the school began recruiting its "CEO" who would lead a "state of the art, mixed boarding high school that will provide a world class Kenyan education" in order to "develop transformational leaders through innovative approaches to education." While the curriculum would be the standard Kenyan structure, the "academic concepts shall be covered in exciting and innovative ways" with "great focus given to entrepreneurship and leadership". Students were to be "talented but economically disadvantaged... with demonstrated leadership potential" and the

Academy aimed to cultivate their "abilities to be innovative irrespective of their academic strengths or weaknesses." Advertisements in the newspapers solicited student applications: "A chance to stand out as a thinker, a doer and a leader." Graduates were promised the ability to "solve real world problems," and become "entrepreneurs and community leaders who will drive Kenya forward" (Daily Nation 2015). Classes would begin in 2016, and interested students could submit their applications at County Education Offices or any Safaricom retail shops—the two offices of this parastatal entity.

Alumni that we spoke to recalled their initial suspicion. When a teacher encouraged him to apply, Baraka remembers thinking, "I'm nobody's son." Growing up in what he called "Nairobi's slums," Baraka assumed you needed connections to get in. He was surprised when he was called for an interview at Safaricom HQ and nervous when he realized that even the clothes he borrowed from his elder brother did not match the suits other finalists were wearing: "I looked like a slum boy." Nevertheless, after a series of interviews, Baraka was admitted and excelled, eventually finding a place at a foreign university.

In addition to admitting needy but meritorious students, a focus on the nation is central to the M-Pesa Foundation Academy. In a newsletter about its inaugural cohort, the school emphasized that "96 brilliant students were selected from all 47 Counties." By 2019, the Academy had "about 700 learners, 14 from each of the 47 Counties" (Safaricom 2019). Such a vision was marketed heavily, including to students. "The idea is they want to make a change," explained Baraka, "all over the country, so they want to bring people from all over the country, you connect the country and development gets to happen." Another graduate, Beatrice, explained that the admissions policy was because "they want to make it a neutral ground." For her, this was welcome. Growing up with a single mother who worked as a hairdresser, Beatrice felt she knew only one corner of Kenya. But once she attended the Academy, she met people with different experiences and learned from them. "You get to learn so much more than yourself, your county, and your culture. You're like, I have a friend from Meru! Okay, that's interesting and all that."

In a country fragmented by ethno-regional rivalries and suspicions, few can reliably represent the nation. Politicians or companies speaking the idiom of the nation are constantly rebuffed as actually mobilizing more proximate affinities of kin, ethnicity, or location. Yet, Safaricom has been among the most consistent and, to a degree, successful enunciators of abstract nationalism. How this works is not through a mimetic transference of existing nationalism. Safaricom's ability to represent and further the general, public interest works, in part, through its purposeful engagement with the fractures internal to Kenya, including the 47 counties of Kenya. Introduced in the 2010 constitution in order to make government more proximate and accountable (D'Arcy and Cornell 2016), in ordinary speech, 'county' is often a euphemism for ethnicity--with 'Kiambu County' indexing Kikuyu land, 'Kisumu' Dholuo speakers, and 'Samburu' its eponymous sons of the soil. Indeed, Beatrice's language – her invocation of "county" and "culture" – is a similarly euphemistic gesture to ethnicity. The M-Pesa Foundation Academy's comprehensive county cohorts function as both a defense against accusations of preferential treatment and evidence of the corporation's nationalist bona fides.

Yet, there are limits to such a maneuver. One of them is the placement of the school: it is located in Kiambu County, nearly bordering the home of Jomo Kenyatta (the country's first president) and one of his family's major farms. Between 2013 and 2022, Kenyatta's son, Uhuru, was the President of Kenya, and both were widely seen as furthering not so much the interests of the nation as a whole but rather rewarding themselves and the Kikuyu-speaking denizens of central Kenya. That the M-Pesa Foundation put their flagship project not merely in central

Kenya but essentially on the President's doorstep was a potent sign. Baraka, for instance, told me that the Academy land came from the family of the then-president, the sort of evidence that led him to lament the state of Kenyan politics.

Education -- and its unequal extension -- has long served as a vehicle for class formation and elite reproduction in Kenya (Kipkorir 1969; Mutongi 2023). Colonial missionary schools reoriented young people away from existing forms of authority and knowledge, attaching them to new avenues for opportunity and patronage. The continuation of boarding schools after independence and the paucity of investment in public education reflected the postcolonial state's favoring of the few who would, through selective training and socialization, join a narrow ruling class. While the pan-territorial recruitment of M-Pesa Foundation Academy's "learners" positions its endeavors in contrast to ethnic preferentialism, it does not depart from a commitment to heavily investing in a narrow cadre of presumptive leaders.

In this way, corporate philanthropic schooling stands in contrast to state education provided to a national 'public'. Whether intended to produce moral citizens, build economically useful skills, or further democratic ideals, schooling has been closely tied to the formation of nation-states (Paglayan 2024). In contrast, the bifurcated body politic of (post)colonial Kenya (Mamdani 1996) always presented an affront to normative understandings of public education. Structural adjustment – with its introduction of user fees – further eroded it in practice. Yet, while the reality of public schooling is often disappointing, there does persist in Kenya a normative ideal in favor of a national education and citizen-formation: the former authoritarian president, Daniel arap Moi, is often fondly remembered for his provision of milk to all school children (Macharia 2018) and the government abolished fees for secondary school in 2008 (Ohba 2011).

The M-Pesa Foundation Academy represents a rejection of even this ideal of state provisioning in favor of a model in which corporate largess creates a different type of Kenyan. Its corporate nationalism does not intend to produce a uniform fraternity of equals. It selects members as representatives of constituent but distinctive components of Kenya: members of this county (and its ethnic denizens) or that. It does not intend to promote a uniquely Kenyan identity or culture; its references are not custom or history or national essence. Instead, it aims to produce exemplary Kenyans whose stature are defined by qualities that circulate widely across the world: entrepreneurialism, solution-orientation, and leadership. What is Kenyan about the school is always nestled next to what is imported: it promises a "world class Kenyan education," not blinking at the union of these scales of assessment. What is virtuous is not commonplace, nor is it accessible to all. While it recognises that promise and skill may be blocked by "economic disadvantage," the goals of the Academy are forthrightly elitist. Graduates will lead as others follow; they will push the nation into the future. It is not a vision of education that extends across the territory to turn all children into Kenyans. Rather, its extensions pull a select few toward its centralized resources in order to turn promising youth into leaders of other Kenyans. It produces leaders and followers, not fellow Kenyans.

The government of Kenya admires Safaricom's vision for education. Rather than being an aberration or an alternative, for the government of Kenya, the M-Pesa Foundation Academy is something of a model, indicative of how parastatal relations generate wider transformations. In July 2017, the Education Cabinet Secretary Fred Matiang'i visited the Academy's campus with Safaricom's CEO, the ICT Cabinet Secretary, and other education officials. "This is not an ordinary school," Matiang'i told the media that joined him, "There is no school like this in the whole country." His goal was to turn the unique case into an archetype for imitation. School principals from all 47 counties were admonished to visit the M-Pesa Foundation Academy and learn from its example (BT Correspondent 2017). Yet, without the resources Safaricom provides, emulation would always fall short.

M-Pesa Holding Company Limited

But what is the basis of this largess greeting the future leaders of Kenya? The M-Pesa Foundation has an unusual genesis, with few details publicly available. Our reconstruction – through legal documents, reporting, and interviews – suggests an unwieldy arrangement of corporate authority and regulatory permissiveness. At the core of this grey zone are particular legal devices – a "trust deed," a "holding company" – that redirect significant wealth away from M-Pesa users toward the discretionary spending of Safaricom executives and affiliates. Some of this funds the Academy. In Ballestero and Oyarzun's (2022) formulation, a "device" is a sociotechnical and legal apparatus to produce certain patterned regularities, including the distribution of wealth or racialized inequalities. What follows discusses the M-Pesa Holding Company and the trust deed that govern it as parastatal devices.

At its launch in 2007, Safaricom's mobile money service, M-Pesa, sat uneasily between regulatory frameworks (Maurer 2012). Despite efforts by Kenya's banks to have M-Pesa regulated according to existing banking laws, Safaricom successfully kept the new offering in a rather more indistinct setting. One of the key figures involved explained to us that his goal was to ensure bureaucrats did not have discretionary power to "destroy the market." Key regulators at the Treasury and Central Bank of Kenya (CBK) agreed with Safaricom's arguments that official regulations, including prudential banking law, would stymie a worthwhile novelty. Eventually, they prevailed over their more conservative colleagues, and M-Pesa was granted amphibian status, neither banking nor telephony. As a "payments" system, it was only subject to ad hoc measures (Tyce 2020). One of these was a "letter of no objection" issued by the Central Bank of Kenya. This did not explicitly authorize M-Pesa but rather worked through a negation of the state's right to intervene, a sort of liminal abeyance: neither approved nor proscribed.

Yet, if M-Pesa was not classified as a bank, it certainly seemed to have key elements of a bank. "The biggest problem we faced was deposit-taking," we were told by a former CBK official, because if M-Pesa was deemed to involve deposit-taking, it would most likely be regulated as a bank. "It appears like deposit-taking," he acknowledged. For users, there might seem to be no difference between depositing Kenya shillings notes at an M-Pesa agent or at a bank counter. After all, in each case, you receive an equivalent amount of shillings in your account balance. But, by defining M-Pesa balances as a novel sort of commodity, e-money, the corporate and government officials could distinguish it from the sort of conversion and equivalence that happens at a bank branch. For the industry, the e-money held by M-Pesa users is known as "float," but insofar as it was largely defined in opposition to banking, it might be better conceived as *non-deposits.*

M-Pesa's non-deposits presented risks the CBK was keen to avoid, including the possibility that M-Pesa customers would lose the Kenya shillings they handed over to Safaricom. Like banks, Safaricom would be a custodian for people's money, and like banking, this presented the risk of that asset disappearing. Working through improvised agreement rather than existing frameworks, parastatal elites decided on several technical and legal devices. One was to require every virtual shilling to have a corresponding fiat shilling; another was to require these underlying shillings to be held at a fully regulated bank. Unlike banks which only hold a fraction of customer deposits, M-Pesa would need to maintain a 100 percent reserve. Such a 1:1 backing ameliorated macroeconomic concerns that digital currency might contribute to monetary expansion. It also ameliorated concerns that M-Pesa depositors would be unable to convert their digital asset into fiat currency. It helped, in other words, guarantee liquidity, and as Roitman (2023: 8) notes, when digital money float is consolidated, it constitutes a "liquidity pool." From the perspective of M-Pesa's designers, this was a necessary component of building "trust" in mobile money. As one of the initial corporate designers put it, "If I put money into an account, there's no point in having it unless I can get money out."

This question of 'trust' was a major concern at the inauguration of M-Pesa (Nelms et al. 2017). To promote confidence, the designers agreed to use an eponymous device: a legal trust. In the English legal tradition imperially transplanted to Kenya, a trust is a legal form for the safeguarding of wealth by a custodian on behalf of a beneficiary. Most commonly associated with charitable giving and inheritance, trusts are threefold arrangements – between the establishing donor (known as the 'settlor'), the custodial trustee, and the receiving beneficiary – that endeavor to extend the temporal utility of a resource into the future (Vevaina 2023; Ballestero 2023). They are the basis for mutual and pension funds, as well as a means for the world's wealthy and their lawyers to protect money from unwanted deductions, such as taxes (Pistor 2019: 42-45). In other words, a legal trust projects a settlor's will into the future to insulate it from confiscation, taxation, or other redirection. In doing so, they limit the fungibility of money and try to fix its temporality. Trusts envelop property within moral obligations: assets (whether real estate or bank accounts) are attached to duties, most commonly the maintenance of that wealth and its distribution for certain causes. But trusts also detach wealth from other potential obligations, such a tax assessment or the claims of a divorced spouse. Because of their ability to selectively re-route wealth through moralized channels, trusts are also fundamental to modern philanthropy, as Birla (2018) shows in her genealogy of Indian charitable endowments. In her formulation, philanthropic trusts do not stand apart from the market nor state; rather, as a legal device a trust "selectively and expertly crochets non-market" mechanisms like "charity, *daan*, and *zakaat* into contemporary market society." Moreover, as custodians of capital – financial, fixed, and otherwise – they often undergird rentier economies, such as the urban improvement trusts in India whose operate lucrative real estate portfolios (Ghosh 2025) or the pools of capital reaping financial yield in offshore havens (e.g., Palan 1998).

The M-Pesa Trust Deed is an important, underappreciated component of parastatal regulation (MPHC 2007). It was signed on 23 February 2007 and worked to envelop the wealth deposited by M-Pesa users within strictures that maintained its value until those individuals choose to withdraw their M-Pesa value, converting it back into national currency. The declaration of trust was executed by a new entity, the M-Pesa Holding Company Ltd. (MPHC), established to steward M-Pesa funds. MPHC was owned initially by Safaricom. The combined structure of a holding company and legal trust were intended to remove the deposits from Safaricom's use (e.g., as a form of capital to be leveraged in its other endeavours, or as a resource to be seized in bankruptcy proceedings). To ensure the "safeguarding [of] customer funds" (Muthiora 2015: 11), no "co-mingling" of Safaricom money and M-Pesa users deposits would be allowed (Greenacre 2018: 11). MPHC would pool individual M-Pesa deposits and hold them "in trust" for the individual users. These pooled funds were to be held at a regulated bank or in highly liquid government securities. Furthermore, MPHC was officially meant to be controlled by directors independent of Safaricom. As a legally distinct entity with a narrow remit, MPHC would safeguard money in perpetuity.

“There’s a Lot of Interest in that Money”

The M-Pesa Holding Company, in other words, would host users’ money. Yet, a host may always slip into a parasite, asking too much of its guests, crossing the threshold from hospitable to demanding (Serres 2007). Whether MPHC has safeguarded or exploited the wealth under its stewardship is a matter of perspective. In the words of one Kenyan who sued over the matter, M-Pesa was a “fraud” and the workings of MPHC were critical to the deception. When we showed the MPHC articles of incorporation to a Kenyan friend, she immediately noticed the ethnic composition of its board of directors. “They’ve covered all the prominent communities,” she said wearily. For her and many other Kenyans, surnames can mark someone as not only the bearer of an ethnic identity but, in the case of high-level dealings, also suggest you are acting as a partisan, not an individual. For our friend, the directors’ names betrayed her confidence in the Holding Company and its trust fund.

Other observers feared the trust fund arrangements would become more than a banal accounting exercise: it could come to transform the whole financial system. At the *Financial Times,* Kaminska (2015) noted that as M-Pesa grew in popularity, so did the size of the trust fund. This raised the spectre of “turning Safaricom into a bank” that would “undermine the power of the central bank and lead to potentially depreciating effects for the Kenyan shilling.” The regulatory insiders we spoke to called these sums “residual balances.” Initially, it was assumed M-Pesa users would withdraw their mobile money rather quickly, but over time, M-Pesa users began using the “payments” product as a de facto savings account. “The residue became an issue,” we were told. “It is like water in a pipeline. What do you do with it? It gets stuck, what do you do with it?”

Kaminska's insights reflect an appreciation that the premise of strictly managing a hoard of deposits to ensure liquidity would confront other logics of capitalist finance (Peebles 2014). Recall, by corralling and pooling M-Pesa deposits into a trust account, MPHC was designed to immobilize those funds, removing any temptation to use those assets for purposes that might, in some way, interfere with the withdrawal of M-Pesa credit by customers who expected immediate liquidity. Yet, the funds in the Trust Account were not entirely inert: whether invested in government securities or held in commercial bank accounts, they earned interest. As M-Pesa grew in popularity and customers tended to leave larger balances on their accounts, the amount of interest earned by MPHC grew spectacularly. That money, the regulators agreed with me, was "lively," and the banks holding it passed (an unspecified amount of) the interest onto MPHC. By 2019, residual balances were reportedly more than €1 billion, rising to €1.25 billion by 2023 (Vodafone 2023: 35). If that earned 5% annually, MPHC would receive €62.5 million in interest payments annually. In the words of a senior regulator, the banks "have a mountain of deposits" from MPHC and they "can use that mountain to intermediate, to lend… And that provides income. They can [even] collateralise it." As another former official put it, while the MPHC must treat the trust funds in a custodial matter, their commercial bankers are under no requirement: "It is a deposit like any other."

None of that income is returned to the M-Pesa users whose money capitalized the fund. As Roitman (2023: 7) put it, "This is not necessarily 'banking the unbanked' – it's about generating the float." There is no *technical* impediment to paying users the interest their holdings generate; after all, in neighbouring Tanzania, M-Pesa users receive their share of the interest generated by that country's trust account (GSMA 2014). However, the 2007 Trust Deed establishing this device determined that "no interest or other income shall accrue to any

Beneficiary on any Credit Balances held for any Beneficiary's M-PESA Account." Rather, interest was to be spent to "defray the costs" of MPHC and "for such other purposes as the Trustee, [sic] may in its sole discretion determine" (MPHC 2007: 4). We were told the decision to not pay any financial yield to Safaricom users was part of an effort to disambiguate M-Pesa accounts from bank accounts, thereby making it less likely regulators would classify M-Pesa as a bank according to Kenyan law (see also Tarazi and Breloff 2010).[2] Another insider told me that paying individuals' interest would raise further questions and demands from customers: why this rate of interest? Why compounded or paid on this timeframe? Better, they thought, to short circuit that potential by enveloping it in a legal trust.

Rather unexpectedly, however, it became obvious in the years after 2007 that MPHC's hoard was generating considerable capital. In 2008, Safaricom and MPHC established an Amendment Deed to the original declaration of trust (MPHC 2008). It again proscribed paying financial yield to individuals; instead, the amended deed said earned interest "may be applied for such other purposes (whether charitable or not) as the Trustee, [sic] may in its sole discretion determine" (MPHC 2008: 4-5). The mention of charity was new, but by 2010, it became the official credo: apart from meeting its own costs, MPHC spent the Trust Account interest on charity.[3]

It was for *these* philanthropic purposes that the M-Pesa Foundation was established (McKay and Mazer 2014). The financial interest donated by MPHC was dispersed by the

[2] The banking lobby, for its part, may have been keen to avoid M-Pesa users earning the same sort of yield found in bank accounts.

[3] In 2014, this arrangement was folded into new state regulations, the National Payment Systems Regulations. In those, it was specified that "Any income generated from placement of these trust funds shall be— (a) used in accordance with Trust legislation and in consultation with the Bank. (b) donated to a public charitable organisation for use for public charitable purposes." As the Governor of the Central Bank at the time put it, this was "reverse engineering" (Ndung'u 2021: 18) of the parastatal status quo, or to use Maurer's (2016) terminology, a sort of "retrospective regulation" in which official attention to market and social behavior produces an "account of the past with an eye toward the future."

Foundation as donations to conservation areas, maternal health, and the flagship Academy. In other words, it was not returned to the users whose funds earned the interest; nor was it returned to M-Pesa depositors as a class (for instance, by subsidizing lower M-Pesa fees). Instead, it rewarded a new demographic: philanthropic recipients. While any individual M-Pesa user's lost income may be small, when accumulated into a large reserve, it represents a massive transfer of wealth. It also performs a sort of legal alchemy that redefines who has the authority to determine the allocation of this capital and who should benefit from the M-Pesa trust account (cf. McGoey 2021). Both the original and amended trust deeds agree that M-Pesa users are the "beneficiaries" of the legal device, but in proscribing their access to the interest accrued, the trust limits the extent of their benefit. What they gain is reliable liquidity, not interest payments.

And what was meant to be a rather restrained host – responsive to the needs of the guest alone – has become a means of enclosing wealth for use "in its sole discretion," to quote the amended deed. Others have worried that Safaricom does, in fact, have the power to intervene in the management of the putatively distinct trust fund investments.[4] One government official told me as much: "It is a fund managed by Safaricom." In practice, those familiar with the model generally concur that the trust has worked effectively to protect against the risk of M-Pesa users' non-deposits evaporating; however, perspectives on the refusal to pass along financial yield are more split. The *FT* journalist notes that M-Pesa deposits inevitably *lose* monetary value – what

[4] The 2008 Amendment Trust Deed granted Safaricom new authority over the putatively independent holding company. MPHC was to "enter into a management agreement with Safaricom" wherein the corporation would become the trustee's "agent" for purposes of operating the commercial bank accounts holding M-Pesa deposits. Further, "authorised Safaricom personnel" would be named signatories on the bank accounts of MPHC. Safaricom would also become the trustee's agent for the purposes of "selecting" and "causing the Trustee to invest the Trust Fund (including interest or income earned thereon)" in Kenyan government securities of Safaricom's choosing. While authorized to direct investments in such a manner, the amended deed disclaimed any liabilities Safaricom would have for losses to such invested trust money. In the view of Greenacre (2018: 37fn33; 2017: 74; 156), because Safaricom has been able to adopt rules "without government sanction or enforcement," there is a "non-trivial operational risk" that M-Pesa's trust devices "will not deliver on the holding company and trust commitments. This risk can create credit and liquidity risks to customers' funds, which in turn may cause a fundamentals or pure panic run".

she calls "monetary decay" – because of the transaction fees charged when they are withdrawn. As early as 2009, the World Bank official Michael Tarazi said mobile money services "should pass the earned interest on to their customers." He thought it was good policy, likely to boost popular savings without undue risk. But his objection was not merely technocratic: as he wrote, not doing so "strikes me as unfair. And maybe even a little mean."[5]

And in Kenya, although many are unfamiliar with these details, perspectives could also be quite critical. In 2019, it came up almost in passing, when a Safaricom employee who was not in a position to know with certainty raised her eyebrow, speculating rhetorically: did we think such a pile of cash would just sit there untouched? Years later, when trying to better understand Kenyan trust law, we spoke to three lawyers about this topic. They were floored: "that is my money," one exclaimed! They were sure Kenyan citizens would be similarly outraged if they knew about this. From their perspective, what was needed was public interest litigation, a sort of advocacy permitted under Kenya's progressive 2010 constitution. When we discussed the funding of the M-Pesa Foundation Academy with alumni, some were surprised about the specific mechanisms, having assumed the donations simply came from Safaricom's general revenue. One of them wondered aloud, "Are Kenyans getting the value of what they should be?" He had benefited personally, but he thought that the MPHC yield belonged, in some sense, to a much wider category of contributors—Kenyans writ large. The school is "not sufficient," he concluded.

A former Safaricom employee, Sammy, who was in a position to know and continues to work on the regulation of mobile money suggested a more ambiguous perspective. He explained how, in 2007, no one expected M-Pesa to grow as it did, including the size of residual balances.

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[5] https://web.archive.org/web/20110403080616/http:/technology.cgap.org/2009/03/17/e-money-accounts-should-pay-interest-so-why-dont-they/

As a result, corporate and state officials muddled through ways of governing and using the accumulating financial yield. Spending it on "charitable purpose" seemed appropriate – in Kenya, he explained, "we like charity" -- but the contours of "charity" were less clear. For many years, Sammy told us, "Vodafone people" were making decisions about the charitable donations, and preeminent was wildlife conservation. "They would spend KSh 100,000 on a single ablution block [for a safari campsite] or millions for a single, tarmacked and graded road that was better than government roads, and for drones and security fences," he marveled. "CBK and some of us," he said – implying Kenyan Safaricom employees – "were uncomfortable that this was not helping anyone except owners of conservancies." Gesturing to the fact that some of the most prominent Kenyan conservancies were privately owned, he asked rhetorically, "What if I turned my farm into a conservancy? Should that be a charitable purpose? What if I build a school?"

Thinly veiled here was a sense that the formation we are calling parastatal was divided between "Vodafone people" – presumptively bearers of whiteness – and black Kenyans who differed in their ethical commitments and authority. More specifically, he was gesturing to the fact that Safaricom's CEO between 2000-2010 lived at and served as the chairman of the board of Lewa Wildlife Conservancy, a luxury safari camp owned by the descendent of British settlers. Moreover, one of Safaricom's more prominent CSR initiatives during this time was the Safaricom Lewa Marathon, which raised funds for conservation and other initiatives at this controversial site (Bersaglio and Enns 2024). "Safaricom," we were told when we visited neighboring civil society organisations in 2025, "doesn't serve us all and doesn't serve us equally."

Eventually, the Kenyan regulators and corporate employees prevailed to change the charitable focus. "A decision was made," Sammy told me, "to better align this spending with

Government of Kenya goals, namely education and health." But this, too, brought troubles. For one, you have "politicians trooping to you to ask for boreholes and schools in their constituencies." Gesturing to both the accumulating financial yield and inquiring attention, he summarized the matter: "There's a lot of interest in that money!"

It was also hard to spend all the yield being accrued by MPHC. Sammy called this a lack of "absorptive capacity." Building schools or health clinics simply wasn't expensive enough, and if you went further – stocking the clinics, paying salaries, buying books – you end up in a quagmire of administrative difficulties. "Perhaps we should never have allowed interest to be paid to the trust fund," he mused before recanting because that would only serve the profitability of the banks who hold the MPHC deposits.

"It sounds to me that the Foundation ends up being the government, with all the scale and complications that involves," one of us proposed. "But," he countered, "it's not just government who works at that scale. For instance, the Gates Foundation spends this much money in Kenya." From our perspective, his example is appropriate, for as critics like McGoey (2021) and Fejerskov (2018) have detailed, the Gates Foundation does, indeed, compare to the role of governments in matters such as health spending. But unlike the Gates Foundation, Safaricom's philanthropic work is not administered by a large, purposeful organization detached from Microsoft. "The foundations *are* Safaricom," Sammy said. They are internal to the corporation, not distinct entities with a large, dedicated staff. And so, with limited philanthropic absorptive capacity, how to use the MPHC financial yield was an "unresolved issue."

In fact, it is such an unresolved matter that large sums of the financial yield never make it to charity—despite public statements otherwise. This was made clear one evening when we spoke to two former CBK officials at the members club they frequent. The yield generated by the trust accounts "is an interesting parameter," Peter told me. "Very little goes to charity." His colleague, Ronald concurred, "The bulk of it does not go to charity." Instead, "it is a silent reserve that in the unlikely event something happens, you still have money you can tap into." It was, they agreed, something like the reserve requirements banks must meet to ensure they have adequate capital in case of financial troubles. But, unlike those legally mandated and reported reserves, this one was "silent." While the CBK knew the amounts, they did not advertise it publicly.

We expressed our surprise: after all, the 2014 regulations said the money should go to charity. They were nonplussed. For these men, who frequently emphasized the importance of regulators enabling corporations, CBK being too prescriptive, or even vocal, about this financial yield would be a mistake. In other countries, it had been seized by governments: "They use it for budgetary support. It is another form of taxation. I find it deceitful," one complained. Moreover, advertising these sums too widely would have set up the wrong public perception. "We did not want expectations to be that you would earn interest." M-Pesa was for payments, not banking, and maintaining expectations was important for that.

Conclusion: Withholding and Giving

Stepping back, it is clear that our interlocutors, both expert and lay, diverge in their assessment of how the legal trust allocates financial yield. For some, it is an unwarranted and unreciprocated form of extraction, the sort of financial engineering often condemned as parasitical: "that's my money!" For others, the distribution of interest payments was a mutually beneficial arrangement: whether as charitable giving or a silent reserve, the earned income was serving a greater good, a patriotic purpose produced through "legal innovation." As Serres (2007) counsels, how 'eating next to' is perceived – as reciprocal? or leeching? – depends on a fine balance between hospitable provisioning and gracious consumption.[6] In the case of MPHC, there has been little public debate about such divergent perceptions, in part because this device is so little known. Even in our conversation with someone as knowledgeable as Sammy, we struggled over what to call potential payments to M-Pesa users, bouncing between "dividend," "windfall," and "cash back."

But the case above also is a reminder of Serres's third sense of parasite—that of a channel that always renders a dyad into a triadic relationship. Rather than a dualistic relationship between Safaricom and M-Pesa users, the MPHC legal trust is an unacknowledged third presence. For Serres, the significance of such intermediaries is twofold.[7] On the one hand, they inevitably introduce noise into a communicative signal. In Latour's reworking of Serres, every mediation is a "translation," with a resulting "drift, a slippage, a displacement" (Latour 1999: 88). On the other hand, thirdness – the work of channelling between dyads – provides political and economic leverage. "The one who plays the position," Serres (2007: 38) writes, "plays the relations between subjects; thus, he masters men. And the master of men is the master of the masters of the world."

While we depart from Serres's unusually hyperbolic language of "mastery," there can be no doubt that the way the MPHC legal trust mediates exchange in Kenya provides enormous opportunity for governing value and accumulating capital. Put another way, fiduciary and financial devices initially governing a few thousand "residual" shillings have grown to be a rarely acknowledged presence in the largest financial infrastructure in Kenya. What is also worth

[6] Michel Serres, *The Parasite* (University of Minnesota Press, 2007).

[7] Paul Kockelman approaches the topic similarly, writing that for Serres "the channel should be understood in terms of its capacity to fail, in the sense of being subject to a variety of parasites (e.g., interference and interception, among other things)." "Enemies, Parasites, and Noise: How to Take Up Residence in a System Without Being a Term in It," *Linguistic Anthropology* 20(2): 412.

emphasizing is *how* this unfolded: through "an informalization of policy-making in the grey zone between economics and politics, a deregulation of its procedures and authorities" (Vogl 2017). M-Pesa emerged through ad hoc agreements born of mutual consultations between a handful of corporate and government elites. Rather than public law and government regulation determining how M-Pesa would function, it was through property law and contract law that M-Pesa was governed. It was through property law that the M-Pesa trust was established by Safaricom and the M-Pesa Holding Company. M-Pesa's users were not consulted. Instead, they were subsumed into the trust device through contract law—namely, assenting to the Terms & Conditions of M-Pesa. Such assent is but the thinnest form of consent (cf. Radin 2007), and whether Kenyans have a meaningful opportunity to *not* join M-Pesa and its parastatal governance is very much an open question. In an era much shaped by Katiba 2010, constitutional law had little influence here.

The technical, legal, and financial devices of Safaricom's M-Pesa have accumulated huge amounts of otherwise dispersed residuals within a single trust fund. The result has been considerable discretionary power over billions of shillings in earned income, whether it be in the charitable spending determined by Foundation directors, or in the decision to hold financial yield as a "silent reserve," or in the commercial banks' use of MPHC's deposited funds. It is plausible to see this as yet another case of corporate latitude, seized through legal and financial engineering and sanctioned by a permissive state. In Serres's idiom, you might question who was hosting what, and how resources were to be commanded and distributed. In this vein it would be clear that, in Serres language, Safaricom "play[s] the position... to dominate the relation." As a mediator, it does not present a transparent channel between domains but rather acts as a translator, raising the risk of shifting the dynamics of action and representation. This intermediation of other relations compels Kenyans -- from the President to the peasant -- to relate to Safaricom, and in doing so it allows Safaricom to achieve otherwise infeasible power.

In an unpublished paper, Bill Maurer -- a participant observer in some of these early regulatory conversations -- re-assessed the ultimate arrangement of these devices. Concurring with Michael Tarazi, Maurer argues that "not paying interest on mobile money accounts in itself constituted a kind of rent". He notes that the enrollment of trust law in a jurisdiction like Kenya reflects a colonial history of English law originally designed to enhance "the will of the propertied classes from generation to generation," as well as bearing echoes of other inegalitarian financial imaginaries such as American goldbugs who opposed fractional reserve banking in an effort to protect the South's own modes of production and property.

But there is another subtle lesson from his paper, echoed in our findings from MPHC and the trust funds it manages. These devices and the resulting regime emerged, our interlocutors and industry publications argue, less as a preordained result than as a provisional response to an emergent phenomenon. Maurer emphasizes the confusion amongst his technocratic informants circa 2010: What was the best way forward? What's the difference between an escrow account and a trust fund? How to turn ideas into reality? As people relayed it to us, much of this was emergent, as commercial models and customer behavior changed. In the effort to ensure the liquidity of M-Pesa customer funds – to ensure, in other words, that their non-deposits could always be withdrawn as fiat currency – a large sum of money was immobilised in the trust fund. Yet, these sums needed to be held somewhere and at the commercial banks that accepted MPHC's deposits, money frozen for one purpose continued to earn financial income in the form of interest payments. As in the Indian genealogy analyzed by Birla (2018: 136), the operations of fiduciary trusts bequeathed the "problem of the distribution of profits." And as she demonstrates, we might better understand the putative opposition between charity and profit as something more akin to an amalgamation, dependent upon certain "techniques by which practices of giving are folded into market logics." The MPHC is one such technique, but unlike the Indian genealogy of case law and parliamentary acts, M-Pesa's parastatal indistinction emerged, in the first case, through the improvised elite alliances characteristic of parastatal governance and, in the second case, through the property and contract law that authorizes trust deeds, terms and conditions, and the distribution of financial yield.

Finally, it is worth noting what the methodological focus suggests for the study of CSR. Anthropologists have drawn on studies of exchange, especially gifts, to understand the "tension between affect and economic action expressed in the Maussian gift" of CSR (Dolan and Rajak 2016: 13). Such insights speak to the experience of Academy alumni, including one who told us that her friends expect her to loyally use Safaricom products—an expectation of return and obligation recognisable to all readers of Mauss. But our focus on legal and financial devices behind the M-Pesa Foundation Academy suggests that at least in this case, just as important are forms of non-exchange. Like the inalienable possessions studied by Weiner (1992) – jealously guarded in part by exchanging alternative gifts – the giving of the M-Pesa Foundation is premised on withholding. The legal trust withholds from circulation the wealth deposited by M-Pesa users by prohibiting its conversion into other purposes (unlike bank deposits which are leveraged for lending and other purposes). Likewise, the trust structure prohibits earned financial interest from returning to M-Pesa customers. But the fact that the accumulated trust funds are – indeed, must be – banked somewhere means that their withholding is only partial. Whether it be banks collateralizing the trust funds in ways MPHC cannot, or MPHC converting financial yield into corporate philanthropic giving, what is at stake in this CSR is a negotiating not only of giving but also the hoarding born of resources withheld from circulation.