

REPORT OF
A TWO-DAY WORKSHOP ON COMPENSATION AND CONFLICT RESOLUTION
FOR COMMUNITIES TO BE AFFECTED BY IRON ORE OPERATION IN TATALE-
SANGULE DISTRICT



HELD IN TAMALE
13-14 SEPTEMBER 2017

INTRODUCTION

The workshop was opened with a prayer followed by self introduction of participants. The participants were mainly from Tatale – Sangule District and comprise communities such as Sheini, Sangbang, Campouni, Kandin, Kpajaba Lakpali, Bulkpali Wajado, Nankando, Tatale etc. The participants were fifty (50) in number made up of 45 men and 5 female (10 percent). The organizers noted with dismay that the reason for the low attendance of women was because the activity was held outside the district as many men feel uncomfortable to allow their wives or girl child to travel and stay overnight or more withstanding that they were encourage to come with their wives as participants.

In opening the meeting Augustine Niber, the Executive Director of CEPIL said the workshop was a continuation of interactions CEPIL, ACEP, Wacam, CEIA and their partners have been having with community members of the Tatale-Sangule District in respect or the potential exploration of the iron ore in Sheini area dating back 2015. He recalled the series of engagement the project partners had had with the communities and indicated that the two day workshop was in furtherance of the engagement and designed to better equip them with the capacity to be ready to engage any company that may come to explore the iron ore in negotiations for the payment of compensation for their activities that may be affected by the operations of the company. As a result he noted that the purpose of the workshop is train them on the principles of compensation and also on how to engage in effective negotiations and mediation processes.

Madam Hannah Owusu-Koranteng from Wacam started the discussions for the day on “Who are we?” She tried eliciting for answers from the participants their understanding of who they are. Various answers were given by the participant on who they are. They among other answers stated “we are representatives from Sheini,” we are people from Sheini affected by iron ore mine. A woman answered that: “we are people who were sleeping and Madam Hanna came to wake us”.



Madam Hannah Owusu-Koranteng facilitating a session during the training workshop

Madam Hannah used a philosophical approach by tracing the history of mining in Ghana. She stated that we are Ghanaians and the natural resources belong to us, therefore we are the rightful owners of our natural resources and have the right to make decisions on them. She emphasized the need for every man to be treated equally but noted that, a few persons were preventing this from happening, with the way they are treating others. They treat others with much disregard to their rights.

Madam Hannah reiterated the fact that we as a country were carrying out mining on artisanal basis without problems before the introduction of large scale mining. And noted that the advent of large scale mining placed Ghanaians to the background, with our natural resources now benefiting other people and not the people for whom it was meant for.

At the end of the presentation, participants expressed their comments and asked questions. Some of the participants indicated that they have now understood the question “who are we” and so now know how they could prevent this sad situation from happening. That understood they should know the law and act within it as it is their only weapon.

A chief among the participants expressed the view if they could always get a lawyer to advise them before they took decisions. Another chief also commented that they need to always act together to prevent destruction of our environment. It was also observed by one of the participants that due to poverty it was difficult to control others from betraying the cause. That they need to educate the members of their communities on their rights and let them know that poverty was a state of the mind and that mining was the cause of poverty among many community people.

They however wonder why Ghanaians not were employed by company. The answer to this was that it depends on the company as some companies employ Ghanaians. The facilitator noted however, many people lost jobs especially farm jobs than the number the companies could employ.

The second topic for the day was on an overview of minerals and mining law in Ghana. This was facilitated by Mr. Niber Augustine. The facilitator took participants through the legal regimes preceding the Minerals and mining Act 2006 (Act 703) and their underlying features and depicted the lapses found in the law.

The Niber took participants through the ownership of natural resources in Ghana. He stated that the natural resources belong to the people of Ghana but is vested in the President to hold in trust for the people of Ghana. He stated that to be able to carry out mineral exploration one needs a licence from the minister authorized to grant such licenses.

Mr Niber also discussed with the participants the acquisition of land for mining and indicated the various ways a person's land can be acquired for purposes of mining as well as the responsibilities of the person acquiring the land and the rights of the owner of the land. On the

right of companies to use water for their operations, Mr. Niber noted that the provision is so broad and invariable grants mining companies blanket cheque to use water in their concession hence some of the problems communities in mining areas face regarding the use of water from rivers, streams and other water courses in the communities.

He also discussed with the participants the issues of disclosure of information and indicated that the law rather favours lack of disclosure of information as it requires that information was the mining companies is to be treated as confidential information.

Mr. Niber also indicated that under the law mining companies are allowed to deduct the expenditure they incurred during prospecting and development and other stages from the income they come from their mining operation referred to as capitalization. At this stage a participant wondered how the government could know or ascertain the actual expenditure made by the mining company in order to calculate the recapitalization. The facilitator observed that it may be difficult and so it was an avenue that can be exploited to make more profit for the company if cure is not taken.

At the end of the presentation the issues of who really was benefitting from our natural resources if indeed it was held in trust by the president on our behalf came up and some participants wondered whether community members could refuse the taking of their land for mining purposes.

Participants made important comments and contributions and questions such as , whether community members could ever meet the Minister to discuss their land matters before being taken away?

Another participant also asked that if chiefs could allow the land to be destroyed in such manner then what will be left for future generation? Another said based on this answer it was obvious the government and the company were on a collaboration to cheat Ghanaians? The facilitator agreed to an extent since it seemed not to bother the government even when citizen rights are violated. However, there is always a legal process to vindicate their rights.

One of the participants wanted to know what they could do if government and company try cheating them. The facilitator responded they could always seek legal means in addressing whatever grievances they may have with mining companies and the government.



A picture of a cross section of the Participants

The next topic was on the impact of mining on mining communities and the community and their right Free Prior Informed Consent. This was facilitated by Hannah Owusu- Koranteng. She started with the theme violations in natural resource extraction: the case of mining in Ghana. The essence of this topic was to unravel to participants why the state of the law on mining was the way it was – “race to the bottom”; a recurring feature in many African countries.

Madam Owusu- Koranteng traced the history of mining in the Gold Coast from the 17th century to date and its main features. The presenter demonstrated how other natural resources were always destroyed during mining activities especially water bodies, as the law itself allowed this to happen. In her view reviewing law on mining was the basic cure to most of the problems in the sector without which nothing would be achieved. With pictures the presenter showed to the participants the various violations of community rights that have been perpetuated in mining areas. They include human rights violations and the destruction of the environment. She showed graphic pictures of degraded environment and community people afflicted by diseases emanating from mining activities in the area. After lamenting on how mining rights are granted to mining companies without the consent of communities ended the presentation with a call for the “free prior informed consent” to be accepted by all to protect the rights of communities.

The presentation was followed by questions time and the participants asked questions such as how communities can access information on mining? The facilitator responded that they should read the law to know what to do.

Another wanted to know how to deal with community members who did not side with the community but instead the company and the facilitator made them know that it was their right to decide what they want so they must be persuaded to understand the community view point.

Other wanted to know why the companies after meeting with the District Assembly (D.A.) never want to meet the community. And how to deal with that and were informed that the D.A's have been educated not to allow this again. The communities must insist on meeting the company.

Also, another asked whether if they could stop the company from mining and were informed that the laws (Minerals & Mining Act and Constitution) were the only tools to use to stop the company.

The next topic was on compensation and resettlement and facilitated by Mr Kumi Larbi of CEPIL. The facilitator took participants through the processes and procedures for claiming compensation from a mining company when the operations of the company affects or likely to affect the property of community members. The facilitator educated the participants on the principles that are to be used in the calculation of compensation for the disturbance of property rights of community people.

The participants were also taken through the processes for resettlement of communities who have been affected by the mining operations and have to be relocated to a different land. Emphasis was placed on the factor that must take into consideration in every resettlement. The area where the community people are to be resettled must be a suitable alternate land and due regard must be given to their economic wellbeing. There must also be respect for social and cultural values; the cost of resettlement to be borne by the mining company in agreement with the occupier and finally the resettlement houses to be built must be in compliance with the town and country planning laws in existence

The facilitator also educated the participants on what to do when there is disagreement between the company and the community members about the amount of compensation. It showed how the community members and their representatives could be made part of the process in order for their views to be reflected in the final outcome of the package.

A participant wanted to know whether a claim could be made for loss of life and the facilitator responded that once the case is presented well compensation could be paid for loss of life where the company is found responsible. Facilitator used cases of Clement Baffoe among others (cases) which CEPIL has litigated and gotten compensation for the family of Clement Baffoe killed by a mining company to support the answer to the participant's question.

Other wanted to know how they can determine the size of land and the facilitator explained that with the help of a qualified surveyor a site plan can be prepared and that will serve as a good prove of the size of land, if the person is to go to court.



Mr. Kumi Larbi of CEPIL facilitating a session during the training workshop.

The next topic on Health Implications of Mining on the Communities was facilitated by Samuel Obiri of the centre for Environmental Impact Analysis. The facilitator with the aid of pictures showed participants diseases such as skin cancers that have afflicted people in mining communities. The facilitator also showed pictures of degraded lands, mine rock wastes dumps and trenches that have been left un-rehabilitated after mining project including acid drains etc. the facilitator also showed polluted rivers and streams with dead fish floating on them and indicated the rivers were polluted with cyanide solution thus the death of the fishes.

The facilitator stated that studies in many mining communities especially Obuasi, Tarkwa and Kenyasi have shown high level of pollutants in the water such as heavy iron cadmium etc. He noted that many of these diseases and infections came as a result of pollution of the environment by mining companies.

At this stage one of the participants wondered why as a country we are allowing multi-national companies to come to our country only to make us poorer? Another did not understand why notwithstanding all the health effects of enumerated by the facilitator government is still granting licence when we know mining is killing us. The Facilitator responded that it is due to our interest in the money mining brings that is why government is still granting mining licences.

One of the participants was worried that in Sheni, they do not have a health post as such, how they were going to we know of our plight should diseases afflict them? The facilitator stated early detection in every disease is vital to effective treatment of any disease.



Time to exercise, stretch, dance and get the sleep off.

The second day of the training was devoted on Alternative dispute Resolution (ADR) Mechanism that were available. The aim of the training on alternative disputes resolution was to build the capacity of the participants in other forms of dispute resolution other than the court system and for them to also appreciate that there are various causes of conflicts and if conflicts does arise, appropriate channels must be adopted to resolve such conflict and one such less expensive channel is using Alternative Dispute resolution mechanisms.



Mr Augustine Niber facilitating the session on Alternative Dispute Resolution

The presentation on the Alternative Dispute Resolution was made very participatory by the presenter. This generated lively discussions and debate amongst participants. The need to compromise on our interests and positions in order to gain what we may not get was underscored. That if one insists too hard on his or her position the other will also not see eye to eye with you then there cannot be a resolution of the dispute.

The Participants were shown various pictures and asked to closely observe the pictures and indicate what they have seen in the picture. The participants gave different interpretations to the pictures as they perceive them. This exercise was intended to draw home to the participants that the same thing could look different to two or more people and that how one perceives things was a greater source of conflict. The facilitator also took the participants through other sources of conflict.

The facilitator took the participants of the importance of ADR. He noted that in ADR everyone is a winner and relationships are always enhanced and/or preserved when ADR is employed to resolve the conflict. The different types of ADR were discussed. They include Negotiation, Mediation and Arbitration. The rest are Neutral Evaluation, Fact finding, Conciliation, and Confidential Listening.

The facilitator also discussed with the participants the issues that ADR could not be used to settle. The facilitator gave an example that generally criminal cases are not suitable for ADR particularly rape and all the participants especially the chiefs never to settle rape cases in their palaces. He also discussed the advantages and disadvantages in using the ADR for the resolution of disputes.

The facilitator discussed in detail the first three of the methods of ADR namely negotiation, mediation and arbitration. At the end of the discussion on negotiation the facilitator divide the group into two and gave them an exercise on negotiations.

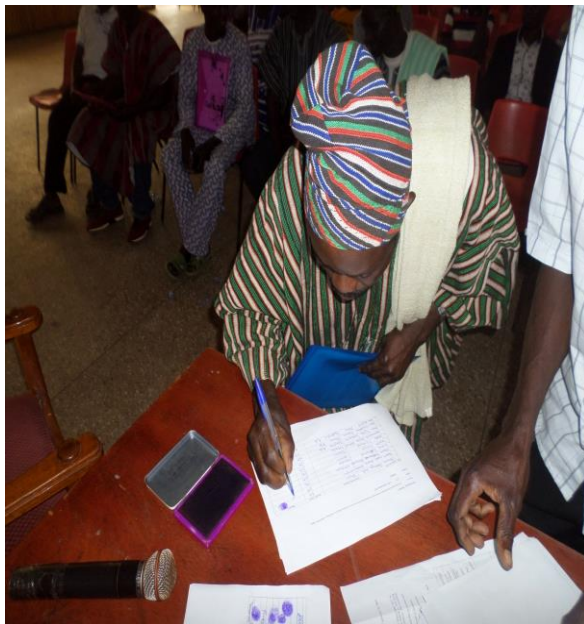


Participants in two separate groups doing a negotiation exercise

The topic ended with some suggestion to move forward including the need to use what had been thought them, organizing meetings, documenting of issues and involving Chiefs and community members in all discussions.



The participants were appreciative and satisfied with all the topics treated with them since they were relevant to their situation. All participants at the end of the workshop hoped that the team meets them again soon to discuss other important matters to their situation.



Participants signing for some transport subsidy