

THE IMPACT OF EXTRACTIVE INDUSTRY ACTIVITIES ON THE RIGHTS OF LOCAL COMMUNITIES

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GENERAL INTRODUCTION

Because of their natural resources, the DRC, Zambia, Angola and South Africa are amongst some of the richest countries in Africa. Despite this, the extraction of oil, gold, timber and diamonds, and other resources, is only rarely the engine for socio-economic growth and stability. On the contrary, they provide disproportionate power and an unfair advantage to national and foreign companies who exploit these resources, with only a small local elite profiting from this exploitation. The totally unequal division of revenue and the often fatal consequences of industrial practices on the local communities in the mining areas increase the opportunity for social unrest and armed conflict.

Civil Society Organisations (CSOs) who form part of the Peace, Principles and Participation (PPP) network are unanimous in their belief that the natural riches of a region should contribute to the sustainable development of poor communities. Civil society plays an important role in the issues linked to mining and the processing of natural resources and represents the interests of the communities living in this sector.

The present article is part of the project, "Unearthing the extractive industries. A

civil society research platform", which aims at strengthening the work of CSOs in South Africa, Zambia, Angola and the DRC, on the consequences of mining and the processing of natural resources in southern Africa..

The impact of extractive industry activities on the rights of local communities

The Guiding Principles of the Organisation for Economic Co-operation and Development (OCED), advise that multinational companies who originate from member countries of this organisation should contribute, by their activities in the host countries, to the economic, social and environmental development of the communities affected by their presence. In the DRC, these same companies are obliged to act in accordance with the Mining Code, and to devise and publish a programme of sustainable development aimed at improving the economic, social and cultural well-being of the local population, both during and after their project is completed. The benefit which the local populations should derive from their projects should notably be in terms of access to training, employment, clean drinking water, a healthy environment and proper housing.

This research has attempted to ascertain whether Anvil Mining, a multinational company which has been extracting copper since 2002 from a mine in Dikulushi, a village situated about 350 km from the town of Lubumbashi, impacts positively or negatively on the lives or rights of the local populations.

The analysis of reports published by this company on the issue of sustainable development, discussions with workers, traditional leaders, politico-administrative authorities, teachers, religious leaders, villagers, as well as the inspection of certain projects carried out for the benefit of the communities of Dikulushi and Kilwa, have demonstrated that such rights as the access to health care, to clean drinking water and to employment, have only been slightly improved, while others, like the rights to property, to a healthy environment, to housing, have either been impacted on negatively or have not evolved in a way which favours the well-being of the local populations.

Compared to the tax exemptions which this company has enjoyed from the mine for the last 25 years, and the profits it has made, it emerges clearly that it has satisfied very few of the recommendations of the OECD's Guiding Principles, nor met the obligations set out in the Code of Mining Regulations, which emphasise the improvement of the living conditions of the population affected by its enterprise. The relevant clauses in this respect are, articles 69 of the Mining Code, and 451 and 452 of the Mining Regulations, to which it is appropriate to include article 127 of annexure IX of the Regulations.

The OECD's Guiding Principles make the recommendation to companies that they should contribute to the economic, social and environmental development with a view, on the one hand, to ensuring sustainable development and respect for the human rights of the people affected by its activities, and, on the other hand, to safeguard the environment, and the public health and security in the host country.

INTRODUCTION

For many years, the mines in Katanga have mainly been exploited by the General Mining and Quarries (GMC), a state-run company. The financial problems experienced by this company in the 1990s, as well as the political changes which took place in 1997, served as a pretext for the government to open the mining industry up to other transnational companies which, to this day, either run private projects or enter into partnerships with GMC. Anvil Mining, which has private copper mining projects in Dikulushi and Kolwezi, is one such company.



The current legal mining framework reconciles profit earning by these companies with their contribution to the economic, social and cultural well-being of the local communities. It is acknowledged in the field that the activities of many of these companies have no sustainable influence on the daily lives of the populations affected by the mining practices.

The question of whether the mining activities of the multinational companies



RESEARCH METHOD

in Katanga contribute or not to the well-being of the population has always split civil society on the one side, and the government authorities and the multinationals on the other. The former contends that the mining projects do not contribute at all, or if they do, in such a fashion that they do not offer a significant improvement in the population's living conditions, whereas the latter hold the contrary view.

This divergence of opinion has been the impetus for ASADHO/Katanga to conduct a study on the impact of the activities of the mining companies on the rights of the local communities. Thus, the conclusions reached by this research aim to sensitise the local communities, and to provide a platform for advocating to the authorities and mining enterprises for their commitment to working towards the promotion and protection of the rights of the population, who are subjected daily to the negative consequences of mining.

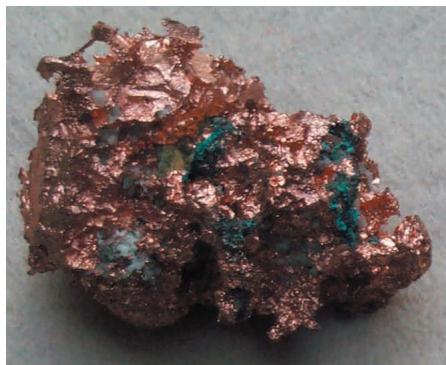
The objective of our research is to find out whether the activities of extractive industries have a positive or negative impact on the rights of local communities. To conduct our study we used two methods: the collection of documentation and their analysis; and field studies in Lubumbashi, Dikulushi and Kilwa. Going into the field allowed the research team to have discussions with two managers of Anvil Mining, 30 workers, two of which were trade unionists, two religious leaders, two traditional leaders, one leader who had assumed the role of interim Administrator of the territory, 300 inhabitants of the affected local communities, of which 200 were from the Dikulushi village, and 20 were nationals from Kilwa, currently living in Lubumbashi. It also allowed us to visit certain projects carried out by Anvil Mining.

The research team encountered some difficulties in the course of their work, namely :

■ The refusal by Anvil Mining and PACT CONGO to collaborate. These two institutions did not want to participate in this study on the grounds that ASADHO/Katanga was assisting civil groups who were opposing them in the trial before the Katanga military justice on the massacre of civilians in Kilwa. ASADHO/Katanga rejects their position in that it is not a party in the actual hearings, and this research is on a different topic to the matter before the court.

■ Financial constraints precluded ASADHO/Katanga from consulting a property specialist to give an expert opinion on the social projects carried out by Anvil Mining in relation to the figures presented by it in its reports.

Despite these problems, the study has permitted it to be shown that there is a significant disparity between what Anvil Mining states in its reports, and what the reality is in the field. The social projects which it has undertaken have not in any perceptible way improved the local communities' living conditions .



RESULTS

Our research arrived at the following results :

1. The extent to which Anvil Mining has abided by the Guiding principles of the OECD

The guiding principles of the OECD advise member State companies to contribute to the economic, social and environmental progress, with the purpose of contributing to the sustainable development of the host country.

Our study has shown that the social projects developed by Anvil Mining are not sustainable in that, to this day, they are conceived and managed by the company with no involvement by the communities in the actual mechanics of their management, neither during nor after the mining is completed.

In this regard it has been observed that the teachers' salaries and the maintenance of the schools built by the company depend on it entirely, with the population making no contribution, not even symbolically. They are also not involved in running the schools.

This also applies to the administration of the village pumps, whose maintenance and management are kept in the control of the company with no involvement by the population.

Given that it is the company that does everything, with no participation by the population in the management of these two projects, their sustainability is limited to a time frame. After the mining is completed, these projects risk disappearing, as the

populations, who are supposed to be the beneficiary thereof, do not know how to adequately manage them. They do not know how to pay the teachers, or run the schools and pumps.

ASADHO/Katanga recommends that the company sets up local committees made up of religious leaders, politico-administrative authorities, representatives of the local communities, traditional leaders and members of civil society who could manage these projects and discuss how the population can contribute to their continuation.

2. The level of compliance by Anvil Mining with the provisions of the Mining Code

Currently, Anvil Mining has no programme which could allow it to contribute in any coherent manner to the development of the communities of Dikulushi as is required by law. Article 69 of the mining Code requires the company to have a programme in place to ensure that its activities contribute to the development of the surrounding communities. This should be made known to the communities so that they can establish their schedule of conditions. Unfortunately, in this case, there is no such programme.

Social projects, namely the building of schools and village pumps, are developed with no pre-established plan, nor the prior involvement of the community. This lack of participation by the local communities affected by the mining project is in contravention of the provisions of the Mining Code.

3. The impact on the rights of the local communities

Thanks to certain social projects, some rights of the community have been improved (right to health, to employment, to clean drinking water, to a secure working environment) while other rights have been negatively affected, or have not seen much improvement (right to housing, to ownership of property, to a healthy environment).

We observed that Anvil Mining has contributed to the improvement of rights to education, health, employment, clean drinking water and security, in that :

 It has built two schools for the benefit of the local communities of Kilwa and Lumeke respectively, one consisting of 17 classes and the other of 6 classes. This has allowed the village children to have access to education.

 It has financed renovation works of a general hospital in Kilwa. It has also supplied it with generators.

 It has installed hand pumps in Kilwa and in Dikulushi which supply clean drinking water to the population. These pumps provide a near-by and accessible supply of water, and also reduce the incidence of water-borne diseases

 80% of its employees are nationals of Kilwa and Dikulushi. Regular training is given to workers in order to improve work performance and to reduce the incidence of work accidents. The rights to employment and security have been improved.



Some rights, such as the right to housing, to property ownership and a healthy environment have, however, been negatively impacted on, or have not seen any improvement. We noted that:

- The right to own property has been negatively affected, with the land of 53 rural dwellers devastated by Anvil Mining's operations and the compensation received by them being negligible - in the region of 36 to 60 US\$.
- The right to housing has not been improved, with Anvil Mining's supervisors living in houses made of clay and thatch, with no electricity and no running water, while Anvil Mining's management are living in suitable Guest Houses.
- The right to a healthy environment has been negatively affected, with the storage of ore by Anvil Mining at the port of Lake Moero being left in the open, before exportation, which is exposing the rivers to pollution each time rain water washes ore particles into Lake Moero.

CONCLUSIONS

The projects undertaken by Anvil Mining should be encouraged in that many of the other mining companies operating from Katanga do not do even this much to help the local communities. This situation is largely due to the fact that these companies do not respect the prescribed national and international norms which regulate their activities, as stated above. Thus, they do not contribute to the improvement of the living conditions of the people affected by the mining activities.

Regarding the projects which Anvil Mining has developed, they have not had a significant impact on the rights of the local communities, insofar as they have been achieved outside the parameters set by the guiding principles of the OCED and the Mining Code.

This study highlights the necessity that exists to advocate before the authorities for their assurance that they will control the activities of the extractive industries, so as to ensure that they respect the national and international norms in their substantive form.

RECOMMENDATIONS

Our recommendations addressed to

Anvil Mining :

- To carry out its activities in accordance with the national and international norms relating to mining
- Devise a development programme for local communities who are affected by the mining project, in consultation with the beneficiaries, which is in accordance with the Guiding Principles of the OECD, the Mining Code, and the Mining Regulations of the Democratic Republic of Congo.
- Make this programme available to the local communities and Civil Society, with the aim of allowing them to establish its conditions.

■ Promote involvement by members of the local community, religious and traditional leaders, and local authorities in the conceptualisation and fulfilment of social projects

Government:

- Guarantee control of extractive industry activities, in accordance with the provisions of the Mining Code and the Mining Regulations, so that they contribute to the economic, social and cultural development of the country in general, and in particular, the local communities affected by mining activities.
- Improve the socio-professional conditions of civil servants who oversee and control the mining industry's adherence to the provisions of the Mining Code.

All photographs, with the exception of that on page 5, were taken by Michele Bonnardeaux (www.inchi-yetu.be)



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This research was led by members of the African Association of Human Rights, from the Katanga Representation, (ASADHO/Katanga). ASADHO/Katanga is a non-governmental organisation, which takes an interest in the advancement and the protection of human rights in the province of Katanga, in the Democratic Republic of Congo. Its headquarters are at 565 KAPENDA Avenue, in the town of Lubumbashi. The e-mail address is: asadhokat@ic-lubum.cd and the telephone nos: (243)997032984, (243)818153407.