



Module 3 of the Learning Alliance on Extractive Industries (LEA1) aimed to exchange knowledge on a range of issues regarding extractive industries and social conflicts. Participants exchanged their own perspectives and assessed how such knowledge could be adapted to their own regions.

EXTRACTIVE INDUSTRIES: PREVENTING AND ADDRESSING SOCIAL CONFLICTS

SUMMARY

The five weeks that made up Module 3 began with the Moderator identifying the underlying causes and actors involved in extractive industry conflicts. He then provided an analysis of recent Latin American country responses and policies and called upon LEA1 members to present experiences and policies from their own countries. The discussions that followed resulted in a deeper assessment of how small-scale or informal mining, and inadequate tax and royalty distributions systems cause social conflicts in the context of extractive projects. Likewise, the potential of community consultation as a strategy to prevent and manage conflicts was debated. In discussion week 4, the Moderator and participants also explored one possible consequence of conflicts; involuntary resettlement or population displacement.

This document summarises the posts and main conclusions drawn from the discussions. Materials shared are hyperlinked and selected contributions are also highlighted. Finally, conclusions from the module are presented.





KEY ISSUES:

- Community consultation can be an important strategy to prevent and manage conflicts resulting from extractive industry activities.
- Establishing transparent dialogue and negotiation processes is the only way to maintain conflicts under control and reach socially sustainable agreements.
- Participatory policies and mechanisms for planning rural development are key in conflict prevention.
- Latin American cases show how rent distribution alone does not diminish conflicts. Instead, it is necessary to enhance development in communities surrounding extractive activities in order to provide adequate compensation.

CONTENT

Week 1	Issue for Discussion: Introduction to Preventing and Addressing Social Conflicts	Page 4
Week 2	Issue for Discussion: Local Consultation and Participation: Public and Private Sector Strategies	Page 6
Week 3	Issue for Discussion: Small-Scale Mining and Conflict	Page 9
Week 4	Issue for Discussion: Involuntary Resettlement in a Conflict Context	Page 12
Week 5	Issue for Discussion: National and Regional Tax and Royalties Distribution Problems	Page 17
Module Three General Conclusions		Page 20



Week 1: Issue for Discussion: Introduction to Preventing and Addressing Social Conflicts

Introduction

In Latin America, conflicts associated with extractive industry developments are common. In particular, local populations in potential or actual sites of extraction have confronted the state and/or private corporations over the use and contamination of their resources, as well as the sharing of extractive revenues. States and corporations have reacted to this situation by developing policies for preventing and managing conflicts, with mixed results.

Questions posed to LEA members:

Do you know of any conflicts associated to extractive industry projects in your country or region?

What are the main issues associated with such conflicts in your country or region?

Have states and/or private companies developed policies for preventing or managing conflict in your country or region?

Materials for review:

[ELLA Brief: Managing Conflict Through Consultation: Latin America's Experience](#)

[ELLA Brief: Indigenous People, Conflict and Extractive Industries: Latin American Approaches](#)

[Spotlight on Publications: Extractive Industries and Conflict Management](#)

[Spotlight on Organisations: Extractive Industries and Conflict Management](#)

Summary of the Exchange

From the discussion posts, it is clear that across Africa and Asia extractive developments fail to lay the foundations for sustainable social development, such as is the case in the Zambian copper belt and the Niger delta, as shared by **Anthony Egobueze, Rivers State, Nigeria** and covered in [the document](#) proposed by **Archana Shukla, PiC, India**.

Anthony Egobueze, Rivers State, Nigeria

"The specific issues around which conflict revolves, the manifestations of the conflict and the conflict management strategies and processes, however, are different in the social, cultural, organizational, economic, technological and political sectors of society. Albeit, it is instructive to state that the management of conflicts falls basically in the boundaries of the executive and the judiciary branches. However, it is sad to note that these institutions have not been able to adequately stem conflict, rather conflicts have deepened in Nigeria and indeed in Rivers State. Because of this perceived inefficiency, legislative bodies as the largest army of representatives have been inundated with petitions from the people. The implication of this is there is the growing trust and confidence by the people on the



ability of the legislature to resolve conflict. Therefore, the relevant question is not whether legislatures contribute to political stability or change - some undoubtedly facilitate stability, while others promote change and still others have little effect on either, and all are susceptible to reciprocal influences from their environments, that is, the political system. Nonetheless, the important question, rather, is under what conditions are legislatures likely to contribute to stability or change and to what extent. What combination of legislative structures and procedures is most conducive to political stability, under what circumstances, in what social, economic, and political settings and what potency does it have that stimulates confidence from the people that are lacking in the executive and the judiciary?"

John Tembo, [Zambia Revenue Authority](#), Zambia, and Dimitri Sanjeev, [Mirada Global Advisors](#), US highlighted recent labour conflicts in [South African](#) and [Zambian mines](#) and reminded the group that decent jobs and working conditions are necessary to improve social circumstances locally.

Participants identified several conflicts arising from the different ways local groups have been affected by extractive development projects. On the one hand, the impacts on indigenous people’s livelihoods has caused conflicts in countries such India and Sierra Leone. When companies use indigenous land and/or sacred places for extractive purposes with no authorisation, as expressed by Joseph Osman, [CAFOD](#), Sierra Leone, conflicts almost inevitably arise.

Joseph Osman, [CAFOD](#), Sierra Leone

"In Sierra Leone, while the issue of perpetual land concessions to mining conglomerates is gradually being addressed (land concession periods are being reduced from 99 years to 30 years), the latest clashes result from encroachment by extractive industry activities onto sacred/secret bushes where local communities uphold traditional cultural practices and which are a no-go area for non-initiates... I foresee a latent potential backlash between these groups of people and the mining companies when their mining activities become operational in the not too distant future. This is where the issue of conflict management has to be given prominence by all: the company, the communities, government and civil society groups."

On the other hand, the lack of adequate conflict prevention and management policies itself seems to be a major source of conflicts, as pointed by Dominique Diouf, [Laval University](#), Canada.

Dominique Diouf, [Laval University](#), Canada

"In Kédougou (in northern Senegal where most mining operations take place), there is everything. But who benefits these resources? People do not benefit. It is a scandal. These fundamental questions drive the Extractive Industries Transparency Initiative (EITI). There’s a fierce resistance to the membership in EITI because this requires reports that allow transparent management of resource... conflicts often come from the marginalisation of local populations. This marginalisation occurs both upstream and downstream, before the operation and after the operation... Unfortunately, conflict management systems often rely on a curative mode rather than prevention. Under these conditions, the worst may happen, as is the case in South Africa."



Participants also demonstrated concern for conflicts around small-scale mining development, mostly in Ghana and Tanzania. For example, **Jones Mushi**, [MEM](#), **Tanzania** told the group about the North Mara Mine.

Jones Mushi, MEM, Tanzania

“In Tanzania, a typical example of conflict between an extractive industry project and the community is that of North Mara Mine owned by African Barrick Gold. The mine was sold to Barrick by Placedom who bought it from Africa Mashariki Mine. The latter established an agreement with five surrounding villages holding small-scale mining licenses to jointly develop the mine into a large-scale open pit, with 1% of production and other benefits assigned to the communities. The communities, whose main livelihood strategy was artisanal mining, hoped the agreement will work. It didn’t. The conflict worsened when the source of water (Tigite river) was contaminated in 2008 by acid water from waste rock drainage. Many options have been tried including the mining company allocating areas for artisanal mining for the communities and providing technical assistance. Government policy to avoid such a problem includes designating areas for small scale miners, ensuring public participation in the EIA process so that communities know the impacts of the mine before the project starts and direct benefits of the surrounding communities apart from taxes and levies for central and local governments.”

Week 1 Moderator’s Main Conclusions:

- There is a general concern about whether mining extraction can lead to development, in particular in countries with important and long-standing extractive sectors such as Zambia, South Africa and Nigeria, where unfulfilled social development objectives are a main source of conflict.
- Sustainable development in the extractive sector is associated with environment protection, as well as investments in health and education. In this regard, how states spend revenue from extractive rent is vital for ensuring that these objectives are met.
- Participants identified several conflicts stemming from the way local groups have been affected by extractive projects. Latin American countries have faced similar problems and participants have learned from a myriad of conflict scenarios in the region. In order to deal with these issues, some Latin American governments have recognised indigenous cultural and territorial rights (see [ELLA Brief on Indigenous People, Conflict and Extractive Industries: Latin American Approaches](#)) and have implemented, or at least informally endorsed, broader and more effective processes of local participation and consultation (see [ELLA Brief Managing Conflict Through Consultation: Latin America’s Experience](#)).
- Regarding conflicts and small-scale mining, two different causes have come to light. On the one hand, there is competition between small and large-scale miners for extracting mineral resources. On the other, artisanal and small-scale mining is often informal and therefore not regulated by the state. In Latin America, conflicts around small-scale mining are often related to the latter, since most small and large-scale mines are located in different places.



Week 2: Issue for Discussion: Local Consultation and Participation: Public and Private Sector Strategies

Introduction

Experience from Latin America shows how community consultation provides an important strategy for preventing and managing conflicts related to extractive industries activities. In this regard, participants are invited to read the [ELLA Brief: Managing Conflict Through Consultation: Latin America's Experience](#), which characterises and analyses the different types of local consultation in the region, focusing on the diverse actors that lead the processes and providing illustrative examples of each.

This week, we discuss state and private sector-led conflict prevention and management. In relation to state-led initiatives, participants are invited to listen to the [interview with Dr. Anthony Bebbigton](#) on the challenges faced by Latin American states and how improvements have been made to managing conflicts.

We also share two documents about the important role of the Ombudsman in Latin America. First, a [document](#) that provides an analysis of the Latin American approach to the Ombudsmanship, and, a [second document](#) that highlights the importance of the creation of Ombudsman offices for poorer communities in Peru.

As for private sector-led initiatives, we share two key documents. First, the [World Bank OP 4.10](#) - a useful introduction to indigenous people's rights - and, second, a document on [corporate participatory policies for extractive developments](#).

Questions posed to LEA members:

Do you know of cases of consultation in your country or region?

Do you know of corporate or state-led consultation policies in your country or region?

What do you think are the main opportunities and constraints for implementing consultation process in your country or region?

Summary of the Exchange

Several contributions showed how in many countries state or private forces still use violence instead of dialogue to push through extractive projects (see the document proposed by Dimitri Sanjeev, [Mirada Global Advisors](#), US on the [South African](#) and [Steelpoort](#) cases and by Jarso Mokku, [CEDMAC](#), Kenya on [violence exercised against the Maasai people](#)). As Edwing Usang, NGO Coalition for the Environment, Nigeria pointed out, it is only when the state cannot enforce its objectives using violence that the consultation process is considered.



Edwin Usang, NGO Coalition for the Environment, Nigeria

"In Nigeria there are several consultation cases, but I'll dare to say that most of them are reactive rather than proactive. Most industry operators would first go to the government and present their proposals. After that, the next thing is to look for some local 'powerful chiefs or leaders' and talk to with the belief that this is enough for them to enter the community and start extraction, but only to discover that they have stirred up conflict ab initio.

In the 1990s when the Ogoni people of the Niger Delta region protested against the destruction of their environment due to oil pollution by Shell Oil Company, initially, instead of consulting the people for a possible solution, the oil company, in collaboration with the Federal Government thought that the best thing was to silence their leaders. So they committed judicial murder by hanging one of us, Ken Saro Wiwa. Later on, they were forced to negotiate / consult the people and have since been paying huge compensation. At a larger scale, we've witness so much militancy in the Niger Delta region of Nigeria within the past 10 - 15 years. After a lot of consultation between the Federal, State and Local Governments, with the communities, one of the outcomes was the setting up of the Niger Delta Development Commission (NDDC) during the Obasanjo regime."

Some participants have raised the issue of objectivity regarding enforcement carried out by the state. This is a problem particularly in countries that depend heavily on extractive revenues and/or where the private sector has political power, a point brought out by **Archana Shukla, PiC, India**.

Archana Shukla, PiC, India

"In India, consultation is either done as compliance (not engagement) and sometimes for damage control (after the damage happened) and nowadays under CSR (it's just a philanthropic measures though, not real consultation). The second point of consultation is with whom. In the case of communities, it hardly/never takes place with the vulnerable and marginalised section of the society on whom the whole strategy of the private sector relies upon. Thus, there is a great mismatch in consultation and strategy during implementation. The third point is that the most of the mining companies do consultation with a philanthropic approach instead of a rights-based approach. Hence, strategies could not be effective when implemented. Hence a few questions are very important regarding consultations; when, with whom and with what approach."

Sometimes this creates extreme situations that severely damage state credibility, as was the case in the Newmont conflict in Ghana shared by **Nene-Lomo Kuditchart, University of Ghana**.

Nene-Lomo Kuditchart, University of Ghana, Ghana

"A minister of state expressed concern that the people in the Brong Ahafo region of Ghana were making demands on Newmont Ghana and for him these demands were unjustified since the company was "doing well" in its corporate social responsibilities to the people and besides the company was in no position to afford the demands being made on it. Sometimes these tensions and instabilities took the form of the harsh and violent response of mining firms to encroachments on their concessions (see a case relating to AngloGold-Asante). In some cases, these responses were allegedly carried out by the Ghana Army. In addition, tension and instability is set up as a result of mining firms shortchanging communities. As an example, a civil society organization -Livelihood and Environment - in a letter written to a Government Minister of Lands and Natural Resources accused Newmont Ghana of unilaterally opting to relocate rather than resettling people displaced by its operations. From the above, it can be concluded that if there was any consultation one cannot help saying they were empty rituals."



Transparency and clear rules are key to consultation processes in the realm of extractive developments, as reflected in the documents shared by **Sydney Machafa**, [HelpAge, Mozambique](#) the [Rio Tinto](#) and [Vale do Rio Doce](#) cases.

Finally, during the exchange consultation processes implemented by non-state actors were also debated. **Subhasis Ray**, [Xavier Institute of Management](#), India pointed out that sometimes, responsible companies (see Ray's attachment on [Good Practices by Rio Tinto in Namibia](#)) or civil society groups can organise consultation processes beyond those prescribed by the EIA. The key factor here is to get public endorsement and state recognition.

Week 2 Moderator's Main Conclusions:

- Several contributions show how in many countries in Africa and Asia state or private forces continue to use violence instead of dialogue to push through extractive projects. In Latin America the story is not very different, with the continent having experienced a myriad of violent conflicts over recent decades. However, states seem to be realising that consultation is a right and not just a mechanism to facilitate extraction. Violence destroys the very essence of consultation processes, which implies respect for everybody's rights. We have learned that violence has to be replaced by dialogue and not only complemented by it.
- From the discussions, we see that in many countries there are unclear rules and/or insufficient state capacity for implementing adequate consultation processes. Even states that have signed international agreements such as the ILO 169 have no interest or capacity to implement them. Latin America has made some progress in this regard; some countries have enacted consultation laws and have some successful stories to tell.
- Another concern raised was the objectivity of state enforcement, particularly in countries that depend heavily on extractive revenues and/or where the private sector has political power. In these cases, political actors set to benefit from extractive development tend to show a clear bias towards extractive actors. In Latin America, the scenario is not so different and civil society groups have the task of lobbying for greater consideration of environmental and social issues. In many consultations, civil society has played an important role by pressuring the state to comply with its commitments. In the case study shared by **Elisa Canqui**, [Ibis, Bolivia](#) on [the duty of the state to protect indigenous people affected by transnational corporations](#) we observe that the presence of some supra-national organisms as well as an independent ombudsman office has been vital for the public oversight of consultation processes.



Week 3: Issue for Discussion: Small-Scale Mining and Conflict

Introduction

Small-scale and informal mining became a major issue during the late 1970s and 1980s in Latin America, with large settlements of small-scale and informal miners appearing in Brazil, Bolivia, Colombia, Peru, and Venezuela (see [BBC News article](#)). Some common problems that have generated conflicts in the region are poor management of mining rights, overlapping with indigenous land rights, environmental pollution, social conflicts and other illegal activities (see [Interview with Dr. Marjo de Theije](#)). Some state interventions have proved to be more effective than others (see the [ELLA Brief on Small Scale and Informal Mining](#)).

Questions posed to LEA members:

What are the main problems associated with the development of Small Scale Mining (SSM)?

What have been the main characteristics of state policies regarding SSM in your country/region?

Could you share any lessons learned, conflict case studies or policy experiences with us?

Summary of the Exchange

Some interesting posts have helped to define Small-Scale Mining (SSM) activities. Jhon Tembo, Zambia Revenue Authority, Zambia shared an interesting [video on copper mining in Zambia](#) and David Allan, Spectrum, Myanmar shared the paper [Artisanal and Small-scale Mining and Livelihoods In Africa](#). According to Subhasis Ray from India, the policy approach to preventing illegal SSM has to be “directed at the commercialisation part of the value chain and here big companies can play a big role through CSR...The solution has to be based on the shared value concept (Porter, 2011) where companies, government and NGOs have to work together and regional approach is likely to work better than national ones.” Contributors also raised the issue of SSM impacts. Participants from Ghana, Mozambique and Uganda pointed out the severe environmental disruption that SSM has produced in their countries, such as Sydney Machafa, [HelpAge, Mozambique](#) who cited pollution, health hazards and violence, amongst others.

Sydney Machafa, [HelpAge, Mozambique](#)

“Small Scale Mining in Mozambique does not only include nationals but nationalities from Zimbabwe, Mali, Tanzania, Zambia, Malawi and others. One of the mining camps in Manica was named “Burundi” due to the number of people from that particular country. The most sought minerals are gold, emeralds and rubies. The problems associated with the mining are: a. High pollution in rivers due to use of mercury in the purification of gold as in Manica and Murrupula districts. b. Health hazards to the miners. High levels of mercury were recorded among the miners in Manica which prompted a project by Blacksmith Institute and other partners in collaboration with the government to reduce the problem. c. Violence between the miners themselves, as was the case in Manica and between the miners and some mining companies operating in the same area, as was reported Montepuez in the province of Cabo Delgado recently. d. In some provinces which are predominantly agricultural like Manica, villagers are renting land to the miners which is contributing to the reduction in agricultural production.”



Participants from Ghana and Mozambique described how SSM developments have negatively affected local agricultural production, and identified some indirect negative impacts of SSM such as child abuse. Finally, the [document attached by David Allan](#) and [the one attached by Dimetri Sanjeev](#) explain the links between SSM and insecurity in the Congo and criminality in South Africa, respectively.

Some participants told the group about the current social and economic context around SSM in their countries. We have learned about an international gold rush in Zambia, Ghana and Mozambique where SSM activities have attracted people from neighbouring countries as well from distant nations such as China. According to **Michael Ocansey, Agapet Oil Co. Ltd, Ghana and Kwame Jantuath, African Energy Consortium Ltd, Ghana**, this migration has affected customary practices, creating tense relationships between locals and foreigners. In addition, we have learned about different scales of SSM and labour organisation. Two common tendencies are the upgrading of SSMs to medium-size operations and the formation of working relationships between SSM and large operations.

From the exchange we also learned that, in several countries, different measures are being taken forward to regulate or/and formalise SSM activities, including: i) training small-scale miners in environmental management; ii) regulating who can engage in SSM activities; iii) regulating the activity in itself (standards etc.), and; iv) creating SSM co-operatives, as is the case of India. **Dimitri Sanjeev, Mirada Global Advisors, US** described the policy context surrounding small-scale mining in South Africa, while **Roland Asare, CSIR-STEPRI, Ghana** shared two documents on the [Minerals and Mining Act in Ghana](#) and the [illegal small-scale miners in South Africa](#) respectively as examples of recent legal developments on the topic.

Dimitri Sanjeev, Mirada Global Advisors, US

“In South Africa, the Department of Mineral Resources (DMR) has established a Directorate of Small Scale Mining in order to develop small scale miners and to address the challenges faced by them. With the advent of the new Minerals and Petroleum Resources Development Act in 2002, many previously disadvantaged South Africans have begun to see small-scale mining as a way to a new life.

The DMR therefore has a policy of integrating small-scale miners into the greater South African mining community and the economy. The Department is working to legalise the small-scale mining operations that currently exist. The Directorate of Small-Scale Mining within the DMR assists aspiring small-scale miners in the following ways: • Establishment of a legal entity; • Guidance towards the identification of mineral deposits; • Environmental impact assessment (EIA); • Legal and contractual arrangements, mineral rights etcetera; • Reserve estimation of the selected deposits; • Mining feasibility study; • Market study; and • Development of mining equipment. A Small-Scale Mining Board has been set up as a point of delivery for the services required by the small-scale mining sector. It co-ordinates a substantial amount of expert capacity and experience and specialises in planning and developing a viable mining project through the pre-feasibility stages. The contribution of each board member is essential for professional development of a successful mining project.”



The dilemma seems to be whether to formalise and integrate SSM into the national economy or to reduce such activities in order to minimise their negative impacts.

Week 3 Moderator's Main Conclusions:

- In Africa and India, illegal and unregulated SSM is producing negative impacts on the environment and on people. Latin America faces the same problems, though they are more acute in some regions than others. For example, environmental problems are more visible in the Amazonian region because of the fragile ecosystem. SSM activities have destroyed large parts of the forests and contaminated several rivers. Additionally, a number of local agricultural producers and foreigners have turned their hand to small-scale miners because of high international prices for gold.
- We have learned about the different ways in which governments are trying to deal with the problems associated with SSM developments in Africa and India. In Latin America, most governments are trying to reduce or formalise SSM activities. On the one hand, they are trying to reduce areas exploited for SSM by creating no-mining zones. On the other hand, some governments are enacting new laws in order to control the environmental and social impacts of SSM.
- The main question is how to enforce these territorial restrictions and formalisation laws. In this regard, regional experience is variable. Some countries, such as Peru and Brazil, have used repression in the Amazonian region as the principle method for persuading small-scale miners to pull out of no-go zones and encourage formalisation. In other areas, such as the Bolivian and Peruvian highlands, governments have promoted SSM organisation (into co-operatives in the case of Bolivia) to drive forward formalisation processes. The results have been variable so far (see the [ELLA Brief: Small-scale and Informal Mining: A Big Problem for Latin American States](#)). In any case, an important lesson we have learned is that laws and repression are not enough to deal with the negative impacts of SSM, and that institutional changes are also required to ensure adequate control and transition towards formalisation.



Week 4: Issue for Discussion: Involuntary Resettlement in a Conflict Context

Introduction

The development of a large-scale extractive project may entail the displacement of the current owners, occupiers or users of the land. Studies have repeatedly shown that in the overwhelming majority of cases, displacement increases poverty among already poor people and often triggers conflicts (see [M. Cernea Paper](#)).

Consequently, states, multilateral agencies and extractive corporations are making new efforts to mitigate the negative impacts of displacement. In particular, the World Bank Group has researched and provided guidelines for such processes, such as the International Financial Corporation (IFC) Performance Standards 5 on Land Acquisition and Involuntary Resettlement (IR) (read [an overview of IFC sustainability standards](#) and watch the [World Bank documentary](#) on this issue). In Latin America, some companies have (more or less) tried to follow international guidelines with variable results. See for example the case of Antamina in Peru (see [Damonte & Glave Paper](#)).

Questions posed to LEA members:

What are the main issues associated with IR processes in your country or region?

Have the state or companies developed sound IR standards?

Do they follow IFC standards? If you know IR cases, please share them with us, highlighting their positive and/or negative outcomes.

Summary of the Exchange

Contributors, including **Subhasis Ray, Xavier Institute of Management, India** and **Jarso Mokku, CEDMAC, Kenya** stated that governments have a bad record in conducting IR processes.

Subhasis Ray, Xavier Institute of Management, India

“Though Cernea’s impoverishment model is indeed true, I do not think WB guidelines have helped in any way except validating and reinforcing the need to displace. I do not think displacement is a given, unlike WB experts like Cernea. I recount a small incident that happened a year back. In our country, there is a group of engineers who come from the tribal communities and who are studying the impact of this industrial development on tribal population. The engineers came to discuss a proposed copper mine and said that by shifting the mine by 35km, displacement could be completely avoided. The mining company refused! Our new regulation on rehabilitation will strengthen the existing system but companies and managers must be willing to walk the extra mile.”



Jarso Mokku, CEDMAC, Kenya

"In Kenya we have noted one of the contributing factors to IR is the way the business of national planning is conducted especially on the critical issue of land use. The planners are based in faraway city offices and rarely have updated verified facts on the ground when issuing licences to companies to undertake extraction works."

It seems that the main reason for this poor performance is that states lack either adequate institutional skills or political will to carry out IR processes. According to **Nene-Lomo Kuditchart, University of Ghana** and **Dimitri Sanjeev, Mirada Global Advisors, US**, this is certainly the case in Ghana and South Africa.

Nene-Lomo Kuditchart, University of Ghana

"The Fourth Republican Constitution of Ghana under its Article (20) 3 requires that persons are settled on suitable alternate land with due regard to their socio-cultural and economic circumstances. Furthermore, Section 74 (2) of Ghana's Minerals and Mining Act, 2006, Act 703 also specifies that the holder of a mining lease should pay adequate compensation for affected property before operations begin. In addition, there is evidence that shows mining firms have resettlement standards. Newmont, for example, has a Resettlement and Compensation Regime and in some cases has set up [resettlement Action Plans](#) .

So, the first question last: What are the main issues associated with involuntary resettlement in Ghana. Well my curt responses is that the GoG marginalizes indigenous host communities and this sends a signal to mining corporations that they can be 'creative' in how they manage resettlement issues. If creativity does not work, forced [eviction] is then applied."

Dimitri Sanjeev, Mirada Global Advisors, US

"Where resettlement has taken place, mining companies in Southern Africa have generally adopted the World Bank's Operational Directive 4.30 on Involuntary Resettlement as a guide. However, Southern African countries do not seem to have any explicit guidelines as to how involuntary resettlement should take place (I may be subject to correction here). South African companies such as Eskom (state electricity generator), have had to move people occupying land "illegally", that had been procured by the company. The Equator Principles have also been adopted by many companies in order to ensure responsible decision making with regard to large projects.

The following legislation may impact in some way on the issue of involuntary resettlement in South Africa:

- Expropriation of Land Act No 64 of 1975
- Restitutions of Land Rights Act 22 of 1994
- Land Reform (Labour Tenants) Act No 3 of 1996
- Extension of Security of Tenure Act 62 of 1997
- Prevention of Illegal Eviction and Unlawful Occupation of Land Act No 19 of 1998
- Constitution of the Republic of South Africa No 108 of 1996



There appears to be a policy vacuum with regard to involuntary resettlement in the region. There also appears to be institutional weakness and structural issues, hindering the proper application of involuntary resettlement guidelines. Finally, I believe that the World Bank Directive 4.30 and Equator Principles should be the minimum standards required from companies."

It was suggested that responsible companies (if any) are the most capable of carrying out such processes. **Nene Lomo Kuditchart, University of Ghana**, provided a successful example of [the completion of Salman Village resettlement in Ghana](#).

We have also learned from the exchange that compensation has to be integrated into IR planning in such a way that it fosters community reconstruction processes. **Joseph Kwadwo, MOFEP, Ghana** and **Michael Ocansey, Agapet Oil Co. Ltd, Ghana** pointed out that in Ghana companies have tried to fulfil this goal by providing some assistance and funding to resettled people.

Joseph Kwadwo, MOFEP, Ghana

"There are several examples of involuntary resettlement due to mining activities in Ghana...This has altered the livelihood of many who most of the time rely heavily on agricultural activities to feed themselves and their families. The rock waste is, in some cases, dumped onto such arable lands making it impossible for these lands to be used for cultivation. Cyanide spillages due to mining activities have and continue to affect aquatic life and the livelihood of people. If these are well anticipated, the companies would compensate the communities by resettling them in locations which are a bit withdrawn from the mining activity areas. However, the issue is whether the anticipated losses to the community are well calculated and enough compensation paid. It is not just about providing lands and buildings, due attention must also be paid to how the people would be able to survive. Some companies have mitigated the above by setting farmers up and providing continuous assistance to them. Sadly, most of them have not done enough to ease the plight of these people."

Michael Ocansey, Agapet Oil Co. Ltd, Ghana

"To address this situation, most mining companies have initiated several programmes to restore the livelihood of the project impacted communities. One such initiative is the Alternative Livelihood Programmes (ALPs) which seeks to offer alternative ventures to the local people as a form of compensation to the lost farmlands. Some of these projects include, oil palm plantations, animal husbandry including fish farming and support to cottage industries which tend to service the mining companies. Following the numerous challenges arising from these initiatives in terms of sustainability, there is a clarion call to migrate from ALPs to Sustainable Alternative Programmes (SLPs). In response to this many mining companies have instituted a fund where 1% of their gross profit is committed to support the development of the community."



Kwame Jantuath, African Energy Consortium Ltd Ghana raised a very important issue regarding the difficulties faced by resettled communities in getting control over the IR process.

Kwame Jantuath, African Energy Consortium Ltd Ghana

“I reckon the single major obstacle to indigenous people, like the Yanacocha in the developing world, which will enable them take control of the kinds of situations highlighted in this module, is the complete lack of mass education and consequently the inability to be able to understand the complex resolutions that require to be put in place and they being part of the process before the act of displacement and re-settlement is put in motion once their land has been earmarked for acquisition for a project. If not all, the majority should have the basic understanding of the process so that they can discuss effectively among themselves the pros and cons on offer. The point was made in the WB documentary that before involuntary re-settlement is embarked upon, the planning of it is very crucial and some of the key areas that should be planned and planned well are the economic rehabilitation of the people, restoration of their incomes, planning for income regeneration should be done very early, explicit and efficient plans should be made in terms of housing etc. and the people should have a say in what they want.”

One key question, therefore, is how to achieve more community control over the IR process (see [Corporate Social Responsibility, resettlement, rehabilitation and community involvement in India](#) shared by Subhasis Ray, [Xavier Institute of Management](#), India).

Week 4 Moderator’s Main Conclusions:

- First, several participants have raised a key issue: who should carry out IR processes - the public or the private sector? From the contributions, we learned that states have problems with conducting IR processes. In Latin America, it is common that states are in charge of conducting IR processes in the case of so-called development projects, such as roads and hydroelectric plants, while companies have tended to take the leading role in mining resettlement projects. There is, however, an increasing tendency for the state to get more involved in mining IR processes. Other critical issues include standardisation, regulation and enforcement.
- Second, it has become clear from discussions that resettled communities are hardly ever in control of the IR process, and specific constraints exist such as low education levels or poor understanding of policy. Efforts must therefore focus on reaching an informed consensus on IR. We have read policy advice and guidelines in the documents shared by participants, which, despite providing some useful ideas, have not helped to resolve the problem of IR and conflict in practice. It is clear, therefore, that we are dealing with a power issue and communities must be empowered in order to get their voice heard. Likewise, states or companies must take the time to listen to affected communities, to engage them in dialogue that perhaps will lead to a common understanding and better outcomes.



- Third, there is the issue of sustainability. As we know, IR policies aim to ensure that the resettled population will be able to improving or at least maintaining its pre-resettlement quality of life. This is the central issue in all resettlement plans. We have learned that compensation has to be integrated into IR planning in such a way that it supports community reconstruction processes. However, compensation and continuous assistance will not necessarily bring about social sustainability in the long term. In Latin America, how to provide the right kind of compensation to foster sustainable community reconstruction is still an issue of debate. Some people believe that land-for-land schemes will allow rural communities to reconstruct their rural livelihoods easily. This kind of compensation may need to include technical support for new kinds of agricultural/pastoral production. Other experts believe that urban resettlement is the best option, even for rural communities, arguing that in urban settings people will receive better services that will improve their standard of living. Here the issues are how a rural community could learn to make an urban living or whether, in fact, rural people would even want to move to an urban area.
- This issue is even more complicated if we consider the cultural issues. Involuntary resettlement and reconstruction encompass not only economic issues, but also social and cultural influences and changes that can hardly be grasped in all their complexity (see [Corporate Social Responsibility, Resettlement, Rehabilitation and Community Involvement In India](#)).



Week 5: Issue for Discussion: National and Regional Tax and Royalties Distribution Problems

Introduction

Some conflicts are related to disagreements about how to distribute and use the huge revenues generated by extractive projects. In Latin America, communities from the mostly poor areas where extractive development takes place strive for a better share of royalties given the high profit margins concerned (see [Revenue Watch document on revenue distribution at the sub-national level](#)).

60.4% of Peruvian conflicts are related to socio-environmental problems, most of arising from mining activities in the highlands (see [News article: Insight: Peru provinces sit on cash from mines; discontent grows](#)).

However, allocating rent to areas where extractive development is taking place has not necessarily reduced conflicts there and could in fact divert the course of national development plans (see the [ICMM document on the Peruvian case](#) which describes the Canon Minero transfers, and [the chart showing the recurrence of conflicts in Peru](#)).

Therefore, a challenge facing governments in Africa, Asia and Latin America is getting the right balance between rent centralisation and decentralisation in order to reduce social conflicts while enhancing development.

Questions posed to LEA members:

How is rent distributed in your country or region?

Do you know conflicts associated with contested distribution systems?

Summary of the Exchange

From contributions, it seems that in Myanmar, Zambia, South Africa and India distribution systems are more centralised, while in Ghana and Tanzania they follow a more decentralised model. In Ghana, fifty percent of the rent goes to the traditional chief while in Tanzania revenue is distributed equally to all districts regardless of whether they produce extractive wealth. **Joseph Kwadwo, MOFEP, Ghana** illustrates this point with the Obuasi case.

Joseph Kwadwo, MOFEP, Ghana

“Obuasi is the foremost gold mining district in Ghana. For a very long time, it had no access roads to Kumasi, which is the regional capital. Electricity supply and water was erratic and one could barely point to anything which showed that the place was rich in gold. The only evidence of gold mining was the mining company trucks and machines which plied the dusty roads. The people were agitated but thankfully, no conflicts ensued. The distribution of mining rents has come in the form of royalties to traditional chiefs and the central government. The former complains that they do not receive enough of the revenues while the latter believes it is not earning enough from gold in spite of windfall profits.”



Jarso Mokku, [CEDMAC](#), Kenya shared links to news on rent distribution and conflicts arising from large-scale mining developments in Kenya.

Jarso Mokku, [CEDMAC](#), Kenya

"I have compiled a series of short news stories in Kenya print media on the topic of mining and revenue distribution challenges. I believe they will provide clear view of why and how revenue distribution can cause conflict. In Kenya the potential of the mining sector and growth of extractive industry investment is on a path to developing serious conflict around the distribution of the revenue expected from the sector"

><http://www.howwemadeitinafrica.com/mining-kenyas-next-frontier-for-economic-growth/19440/>

><http://www.reuters.com/article/2012/08/16/us-kenya-mining-idUSBRE87F0V120120816>

><http://allafrica.com/stories/201108140089.html>

><http://www.nation.co.ke/business/news/Mining-firm-raises-stakes-in-search-for-gold/-/1006/1509040/-/ehsd9k/-/index.html>

><http://www.project-syndicate.org/commentary/oil-and-isolation>

><http://allafrica.com/stories/201207040184.html>

Rent distribution is an issue debated by several participants, for instance **John Tembo**, [Zambia Revenue Authority](#), illustrated the Zambian case where revenues are centrally collected and distribution is based on the national budget. Furthermore, distribution is differentiated, with Lusaka province receiving the highest revenue due to its rich stock of natural resources. Tembo suggests that providing better public services and sharing more resources with the poor provinces can help avoid potential conflicts.

On the other hand, **Jones Mushi**, [MEM](#), Tanzania commented that in Tanzania, the distribution of income from extractive industries (inclusive of taxes, royalties, and capital gains) is equal between all districts regardless of where the revenue was generated. Based on this distribution system, no conflict has ever arisen, though some activists think that the scheme should be changed.

Some participants raised the issues of transparency and institutional capacity in public expenditure. For example, **David Allan**, [Spectrum](#), Myanmar commented that in Myanmar what remains complicated across the whole country is lack of overall transparency, "either with revenue income to the national budget (from gas, oil, minerals, timber, fisheries and hydropower sales), or in the spending side of the national budget. So EITI is being discussed as a way of improving the supply side transparency."



Week 5 Moderators' Main Conclusions:

- First, there is the issue of centralised vs. decentralised systems for rent distribution, since increasing extractive production is meant to generate greater revenue (see the [news articles](#) shared by Sudhir Kumar on [a new mining bill in India](#)). In Latin America, both centralised systems, such as in Chile, and decentralised systems, such as Peru and Bolivia, exist. Decentralised systems tend to compensate the region or district where extraction takes place. Thus, they follow a compensatory rationale: part of the rent should be used to mitigate negative impacts and foster development within political-territorial units where extractive development is underway. It is expected that these fund transfers will improve people's opinion of extractive industries and thereby reduce potential or actual conflicts.
- Second, what is the logic behind the public expenditure of extractive rent? In Latin America, most revenue is allocated to meet the development priorities of either central government (in centralised systems) or regional government (in decentralised systems). For example, the Chilean government assigns a percentage of extractive revenues to developing the science and technology sector, while the Brazilian government transfers significant funds to regional governments on the understanding that these are used to implement components of their regional development plans.
- Third, the issues of transparency and institutional capacity in public expenditure are very important since they are closely related to the former points. Sometimes regional governments have limited capacity for public spending, in which case a more centralised scheme may be preferable. In other instances, the whole system of rent distribution is subject to corruption and therefore totally discredited and ineffective. The main lesson from Latin America is that any rent distribution system needs to be built on a strong and transparent institutional basis.



MODULE 3 GENERAL CONCLUSIONS

First, the main issue discussed throughout this module: how to prevent and manage conflicts. In Africa and Asia, conflicts seem to be mostly associated with the impacts of extractive industries on indigenous people's livelihoods, environmental damage and poor working conditions. **David Allan, Spectrum, Myanmar** pointed out the relationship between high value natural resources and civil conflicts). Latin America faces a very similar scenario, and the main mechanism developed to deal with conflict in the region has been consultation processes. Some conditions have facilitated these consultations, in particular granting territorial and land rights to local communities involved in extractive projects. By doing so, states have empowered local communities as stakeholders in consultation processes. Moreover, we have learned that some countries are trying to update the land registry as a way to add market value to the land. However, we must not mistake land markets with land tenure. The former is meant to develop a land market while the latter is meant to recognise local land use.

Several participants pointed out the issue of enforcement. The challenge is not only to enforce adequate consultation processes but also the outcomes. This is fundamental, particularly in countries where the state has limited power or is controlled by powerful private interest groups. In Latin America, civil society has played a key role exercising pressure on the state to create more democratic and transparent institutions. Successful lobbying has led to the creation of independent Ombudsman offices through which states have been able to deal with local complaints that otherwise may result in more serious conflict.

However, we have learned from the contributions that in many countries the state is not institutionalised, democratic or transparent enough to carry out adequate consultation and monitoring. In such contexts, either civil society or company-led consultations can be strengthened (see [ELLA Brief: Managing Conflict Through Consultation: Latin America's Experience](#)), although state endorsement would still be required for the sake of long-term sustainability. Latin America experience shows that without state endorsement, company-led consultations can lack independence, while civil society-led processes may be regarded more as a demonstration than as conflict management mechanism.

Some participants have suggested the formation of multi-actor or multi-stakeholder committees to carry out consultation processes. This is an interesting possibility; however there is still a need for an independent institution with enough political leverage and social acceptance to chair the committee. In Latin America, the church has sometimes played this role, especially in enduring social conflicts.

Second, there was in-depth analysis of the role of involuntary resettlement policies in conflict prevention, and in particular, the issue of community control. In Latin America, governments and some companies have gradually incorporate some of the World Bank or IFC Involuntary Resettlement guidelines. Although this represents a step in the right direction, evidence shows that most resettled people are unable to enjoy the same quality of life as beforehand. In this regard, some participants suggested raising awareness amongst local communities about these guidelines so that they can call upon governments and companies to respect these commitments.



Third, the centralised vs. decentralised model for extractive rent distribution was one of the issues most commented upon in this module. Most countries in Africa and Asia have rather centralised systems. Given the direct links between poverty and sites of natural resource extraction, it seems that most participants would prefer to see more decentralised systems that allow for more and better rent distribution to extractive zones. However, we should bear in mind that greater decentralisation does not necessarily ensure better distribution since in many countries regional and local institutions demonstrate weak capacity for distribution and expenditure of extractive rent. Thus, a key lesson is that improving the capacity and performance of public institutions is a critical step to improving rent distribution systems.

In addition, there is the issue of transparency. In Latin America, it has taken decades to make public institutions more transparent. This transition has been enabled by two interrelated processes: democratisation and civil society empowerment. Achieving greater transparency in extractive industries remains a hard goal to achieve, but could be fostered via some very specific initiatives. For example, **Dominique Diouf, Laval University, Canada**, shared [a document explaining why companies should care about the increasing influence of the NGOs](#) (see in particular the section on extractive industries). In another example, the EITI initiative has enhanced government transparency with regard to extractive industries in countries such as Peru and Ghana. In any case, stronger and more transparent institutions would certainly help to prevent and manage conflicts in most contexts.

Finally, there are several issues that have not been covered in this learning alliance such as the complex relations between extractive development and industrialisation (see the [Mozambique President, Emilio Guebuza's speech](#), shared by **Sydney Machafa**).

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