

# Ambuklao-Binga Hydroelectric Power Project, Philippines Complaint Conclusion Report

August 2009

*This document summarizes the response to the complaint received by the Compliance Advisor/Ombudsman (CAO) on the Ambuklao-Binga hydroelectric power project from local communities in northern Philippines and actions taken to bring resolution to the issues raised.*

## The Complaint

On June 8, 2008, the Compliance Advisor Ombudsman (CAO) office of the World Bank received a letter of concern from local community members on behalf of a project-affected community of the Ambuklao-Binga Hydroelectric Power Plant. The letter raised the following concerns:

- Complainants regarding the indigenous people of the lowak and Ibaloi, who had been displaced from the original project site in the late 1950's, and their claims that had not been fully settled prior to the planned privatization of the project in 2008;
- Appropriate benefits for local community members;
- The need for monitoring to ensure adherence to appropriate labor standards.

Requests for assistance were also received by CAO from a local Ibaloi clan, as well as local officials of two affected communities of Bokod and Tinongdan.



## Process/Approach

Initial review of the CAO deemed the letter eligible for assessment so a field team was immediately sent to conduct a preliminary field visit on July 14-23, 2008. The field team met with various stakeholders in Metro Manila and Benguet province to evaluate the concerns.

This trip resulted in an initial review that outlined the field team's comprehension of some facts and the sentiments of the stakeholders. Important information gathered were:



1. In the 1970's the Courts ruled in favor of expropriation of the land. The government, through the National Power Corporation (NPC), paid affected families a) through the Court (as evidenced by Court documents) and b) through out-of-court settlement arrangements. However, there continues to be claims of non-receipt of or under payments.

2. The NPC resettled some displaced families to Palawan and Nueva Vizcaya, but some returned because of discontent over inhospitable conditions in the area where they were transferred. Thus, there continues to be claims for resettlement to this day.

3. Families who stayed in Ambuklao-Binga who were affected by siltation as a result of the 1990 earthquake pressed for assistance especially in the wake of the construction of a new hydroelectric plant further downstream of the Agno River in Magat. The Ramos government in 1997 attempted to mitigate the complaints with the creation of the Ambuklao-Binga Damage Claims Committee (ABDCC) by asking NPC to provide some P26 Million to assist the people (not compensate since as far as government is concerned it had already complied with expropriation requirements). The NPC entered into an agreement with the Province of Benguet to hand over the money for pay out by the Provincial Government, with the latter agreeing to be responsible for all future land-related claims. The local government set a cut-off period for submission and pay-out. Today, there continues to be claims of non-payment.

The CAO team then produced an Assessment Report which highlighted the collective interests of the stakeholders' behind their demands on land. These were to "heal the wounds of the past" by identifying the meaning of land to the people, and to create a better basis for an on-going relationship among the communities, the local governments, and the 3 Corporations. The Assessment Report also outlined a proposal for a three-stage process of intervention to address the Ambuklao-Binga community complaint. This included the following:

**Stage1:** Assisting and strengthening existing community institutions (local government units and IP organizations) and the corporations to represent the views of their principals and constituents effectively

**Stage2:** Joint training to increase skills and capacity for multi-sectoral collaborative dialogue

**Stage 3:** Convening of facilitated dialogues

## Outcome

The result is a Memorandum of Agreement to create an Indigenous People's Cultural Heritage Site. A product of a 7-month engagement among the stakeholders' representatives, the MOA includes:

- a. **Access to Land.** A usufruct agreement that hands over to the Barangay government (*the smallest political unit*) the management of the residual areas of the watershed area (*which includes the school, gym, health center, day care center, market, housing and more*) for the common use of the communities.
- b. **Corporate Social Responsibility and Livelihood Programs.** The stakeholders' concrete commitments to one another for the support of their identified needs, including substantial corporate social responsibility funds, and alignment of corporate programs with the indigenous people's livelihood objectives.

While the MOA is not the end of the process, it is a significant forward movement to the years of strained relationships, stumped conversations, dashed dreams, and simply painful subsistence. The stakeholders recognize that the MOA is merely the start of the never ending process of nurturing their collaboration and rebuilding their relationships. The approach developed in the MOA is acknowledged by the Secretary for Energy as a 'new model' to promote better ways of resolving complex issues on projects.



## Insights

The final agreement is a product of a constructive engagement arrived at in a safe space where the participants could speak their minds in a responsible way. This is not unique. This is the ambition of any well-facilitated process. But it is worth exploring the particularly distinct aspects of the process and the results they generated.

1. **There was a definite change in mind-set. This was a marked transformation from a legal approach to a mutual recognition of needs.**

**Issue:** For almost 60 years, affected families sought resolution of their issues through legal and adversarial means.

**Insight:** This dialogue resulted in a shift from an emphasis on land ownership to the **use or meaning of land**. The change is significant because the people tied to the land their identity, opportunity and security. As such, when the negotiators were able to move the 60-year debate on ownership to simply having land serve the people's needs, an expanded list of options emerged. However, those who stayed the course of the legal frame were reminded that the judicial system is always available for questions that require evidence and proof in order to be answered. Thus, the communities who chose to stay in the process were deliberate that they stand more to gain from the negotiations.

2. **The idea of an Indigenous Peoples' Cultural Heritage Site is an innovative approach to the land claim challenge.**

**Issue:** Having only the legal route available to the complainants, they were aware of only one option with regards to their claim to the land which was to get ownership back.

**Insight:** It is through this process that this now strongly supported option came about. The idea of IP Cultural Heritage Site is a product of compassion and generosity. It was borne out of a better understanding of mutual needs, which the dialogue successfully fostered.

However, it is also practical as well as beneficial to NPC and PSALM. By transferring the management of the residual areas to the Barangay, NPC will be free of its maintenance costs. It will also shift responsibility to local government for dealing with the people on provision for humane housing and resettlement. On the part of the Barangays, its assumption of management provides an opportunity for revenue collection and control, as it can now charge for rent and maintenance costs. On the part of the community, handing over of the area creates immense possibilities for the "Site" use such as eco-tourism, livelihood, cultural programs, and socialization.



3. **The specially-designed capacity building workshop on collaborative negotiations is the single most important event that changed the course of communications.**

**Insight:** The CAO's utilization of a Philippine-based pioneer in values-based mediation and negotiation training delivered a culturally sensitive workshop that raised the participants':

- appreciation of their common human values as a basis for engagement,
- awareness of the hazards of adversarial language such as blaming and judging
- acceptance of the importance of responsibility-taking
- skills in listening, asking questions, reframing, and summarizing
- understanding of the dynamics of conflict, the various responses and their consequences, and processes of transformation
- differentiating between competitive versus collaborative negotiations
- The value of third party intervention

It was clear at the start that "victimhood" was a reflex response among the communities,

which resonated in local government officials' similar reactions. Awareness of this response and its contrariness to their espoused value of empowerment changed the dynamics of negotiation. Instead of calling attention to their weaknesses, they paid attention to mutual gains. For example, in the beginning requests were often prefaced by, "We have been so oppressed so we are entitled to. . ." After the training, the tone changed to, "We agreed to do this because we realized. . ."

#### **4. The negotiation was premised on their expressed human values, and not just on narrow interests.**

*Insight:* Prior to coming together, they identified and agreed on the norms that will guide their participation. Prominent among these were inclusiveness, collectivity, voluntariness, respect, generosity, honesty, compassion, and empowerment. Keeping these norms in mind became pivotal when they were overcome by fear or resistance.



#### **5. The process created a sustainable and continuing structure for the community to use for engagement in future negotiations.**

*Insight:* Realizing that the process will be a continuing one for addressing their mutual needs, it was important that an enduring structure be established for sustained dialogues. The CAO process empowered the participants and gave them the confidence in both their competence and the effectiveness of the process in yielding productive results. The preparation, the selection, the capacity-building and the 7-month experience created an opportunity that they considered unique and profound in learning and realizations. Thus, the

corporations, the communities, and the local governments have a reliable formation of people who can directly talk to one another and link up their needs and resources.

#### **6. The process paid particular attention to the need of the participants to overcome their initial fear, anxieties, and suspicions with one another.**

*Issue:* The communities' years of trauma, reinforced by a sense of entrapment due to stalled conversations, created faceless enemies who were routinely defiled and demonized. On the other hand, Corporation representatives perceived and responded with the same kind of fear, futility and frustration.

*Insight:* The ability to interact and experience each other in a way different from their expectations during the training gave a new face to the other side and challenged old ways of looking at one another. As a result, opportunities for genuine engagement especially between the government corporations and the indigenous peoples - generated better understanding of their needs and constraints, improved relationships, and created a sincere desire to help one another.

#### **7. Joining of interests was achieved.**

*Issue:* Prior to this dialogue, parties had limited communication as one viewed the other to be adversarial and unconcerned with their interests.

*Insight:* Through this process, NPC began to work with the community on its joint interest to protect the watershed, such as holding of a forum on prevention of forest fires, and agreeing to coordinate with the IP's on reforestation projects. For example, NPC agreed to provide inputs and seedlings while the IP's agreed to provide labor for the planting of coffee, which when harvested will boost the IP's livelihood and income opportunities. NPC would be saved of reforestation labor costs, while the people will gain from planting trees of their choice that would meet their income needs.

Further information on the Ambuklao-Binga case, and other CAO cases, is available at [www.cao-ombudsman.org](http://www.cao-ombudsman.org)