

## **MEDIATION ACADEMY**

### **Specialized Mediation Training The Mediation of Ethnic and Religious Conflicts**

#### **Mediation Project**

#### **Mediation Case Study (developed by Evelyn Namakula Mayanja, April 25, 2019)**

#### **The Mining Company Conflict in the Democratic Republic of Congo**

##### **What Happened? Historical Background to the Conflict**

The Congo is endowed with the world's biggest depositories of minerals, approximated at \$24 trillion (Kors, 2012), that equals the GDP of Europe and the United States combined (Noury, 2010). After the first Congo War that ousted Mobutu Sese Seko in 1997, mining companies seeking to exploit Congo's minerals signed business contracts with Laurent Desire Kabila even before he took office. The Banro Mining Corporation purchased the mining titles that belonged to Société Minière et Industrielle du Kivu (SOMINKI) in South Kivu (Kamituga, Luhwindja, Luguswa and Namoya). In 2005, Banro started the exploration process in Luhwindja chefferie, Mwenga territory, followed by the extraction in 2011.

The company mining project is in areas which formerly belonged to the local population, where they earned a living through artisanal mining and agriculture. Six villages (Bigaya, Luciga, Buhamba, Lwaramba, Nyora and Cibanda) were displaced and are being relocated to a mountainous place called Cinjira. The company's base (figure 1, pg. 3) is located in an area of around 183 km<sup>2</sup> which was formerly occupied by about 93,147 people. Luciga village alone is estimated to have had a population of 17,907 people.<sup>1</sup> Before being relocated to Cinjira, land-owners had title deeds issued by local chiefs after giving a cow, a goat or another sign of appreciation locally referred to as *Kalinzi* [appreciation]. In the Congolese tradition, land is considered a common property to be shared in the community and not to be owned individually. Banro displaced communities following the colonial title deeds obtained from the Kinshasa government which dispossessed those who owned land in accordance with customary laws.

During the exploration phase, when the company was drilling and taking samples, communities were disturbed by the drilling, noise, falling rocks, open pits, and caves. People and

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1 Chefferie de Luhwindja (2013). *Rapport du recensement de la chefferie de Luhwindja*. The number of the displaced is estimated since the last official census in Congo in 1984.

animals fell into caves and pits, and others were hurt by falling rocks. Some animals were never recovered from the caves and pits, while others were killed by collapsing rocks. When people in Luhwindja protested and demanded compensation, the company refused and instead contacted the Kinshasa government that sent soldiers to suppress the protests. The soldiers shot at people, wounded some and others were killed or died later due to the wounds they sustained in an environment without medical care. The pits and caves remain open, are filled with stagnant water and when it rains, they become breeding places for mosquitoes, bringing malaria to a population without efficient medical facilities.

In 2015, the company announced a 59 percent increase in Twangiza reserve alone, without counting Namoya, Lugushwa and Kamituga deposits. In 2016, the company produced 107,691 ounces of gold. The profits accrued are not reflected in improved livelihoods of the local communities, who remain impoverished, unemployed, and confronted with human and environmental rights violations that could plunge Congo into heightened wars. It follows that the suffering of the people increases concomitant with the global demand for minerals.

## **Each Other's Stories – how each party understands the situation and why**

### **Congolese Community Representative's Story** – *Banro threatens our livelihoods*

**Position:** Banro must compensate us and continue mining only after dialoguing with the communities. We are the owners of the minerals and not the foreigners.

#### **Interests:**

*Safety/Security:* The coercive relocation of communities from our ancestral land where we earned a living and the unfavorable compensations is a total violation of our dignity and rights. We need land to live well and happy. We cannot have peace when our land is taken. How can we come out of this poverty when we cannot cultivate or mine? If we continue to remain landless, we are left with no choice except that of joining and/or forming armed groups.

*Economic Needs:* Many people are unemployed and we have become poorer than before the coming of Banro. Without land, we have no income. For example, we used to own and cultivate fruit trees from which we could earn a living during different seasons of the year. Children also used to feed on fruits, beans, and avocado. We cannot afford that anymore. Many children are suffering from malnutrition. Artisanal miners cannot mine anymore. Wherever they find gold, Banro claims that it is under its concession. For example, some miners found a place they dubbed 'Makimbilio' (Swahili, place of refuge) in Cinjira. Banro is claiming that it is under its concession land. We thought that Cinjira belonged to us although the living conditions are similar to a refugee camp. Banro also reinforces corruption. They bribe government officials to terrorize us, to evade taxes and to obtain cheap deals. If it was not for corruption, the 2002 Mining Code indicates that Banro should reserve an area for the artisanal miners and observe environmental policies. After bribing local officials, the company operates with impunity. They do as they want and claim to own every mineral site occupied by the artisanal miners, which is increasing conflicts and unrest in communities. If Banro claims to own all the mineral deposits where will the more than a million artisanal miners and their families earn a living? The only alternative left for us is taking up guns to defend our rights. Time is coming when armed groups will attack mining companies.

*Physiological Needs:* The houses that Banro constructed for families in Cinjira are very small. Parents live in the same house with their adolescents, whereas traditionally, boys and girls should have separate houses in the compound of their parents and where that is not possible, boys and girls will have separate rooms. This is not possible in small houses and the small compounds where you cannot construct other houses. Even the kitchens are so small that we don't have space around the fireplace where we used to sit as a family, roast maize or cassava

and tell stories. For every family, the toilet and kitchen are close to each other which is unhealthy. Our children do not have a place to play outside, given that the houses are on a rocky hill. Cinjira is located on a steep hill, at high altitude, with low temperatures making it generally very cold with constant fog that sometimes covers homes, and makes visibility difficult even in the middle of the day. It is also very steep and without trees. When the wind blows it can throw a weak person down. Yet, we cannot even plant trees due to the rocky location.

*Environmental Violations/Crimes:* During the exploration phase, Banro destroyed our environment with pits and caves that remain open to this day. The mining phase also has disastrous effects with increased wide and deep pits. The tailings from the gold mines are poured beside the roads and we suspect that they contain cyanide acids. As figure 1 below illustrates, the land where Banro's headquarters is located is left bare, exposed to strong wind and soil erosion.

Figure 1: Banro Corporation mining site<sup>2</sup>



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Banro uses cyanide acid and the fumes from the factory have all combined to pollute land, air, and water. The water containing toxins from the factory is drained into rivers and lakes which are our sources of sustenance. The same toxins affect the water table. We are experiencing chronic obstructive pulmonary disorder, lung cancer, and acute lower respiratory diseases, heart diseases and many more complications. Cows, pigs, and goats have been poisoned by drinking water from the factory, which resulted in death. The emission of metals into the air also causes acid rain which harms our health, plants, buildings, aquatic life and other organs that benefit from rainwater. Continued pollution, contaminating land, air and water tables could create food insecurity, land and water scarcity and potentially lead the Congo into environmental wars.

*Belongingness/Ownership and Social Services:* Cinjira is isolated from the other communities. We are on our own whereas before, our villages were close to each other. How can we call this place home when we do not have even title deeds? We are deprived of all basic social facilities including hospitals and schools. We are worried that when we get sick, especially our children and pregnant mothers, we might die before we could access a medical facility. Cinjira has no secondary schools, which limits our children's education to elementary levels. Even on very cold days which are frequent on a mountain, we walk long distances to access the basic services including medical care, schools, and the market. The only road to Cinjira was constructed on a very steep slope, accessed mostly by 4x4 wheel vehicles (which no common person can afford). Banro's vehicles are the ones using the road and they are driven recklessly,

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<sup>2</sup> Banro's base is located in the sub-village of Mbweqa, the *groupment* of Luciga, in the chiefdom of Luhwundja comprising nine *groupments*.

which threatens the lives of our children who sometimes play besides the road as well as people who cross from different directions. We have had cases where people are knocked down and even when they die, no one is called to account.

*Self-Esteem/Dignity/Human Rights:* Our dignity and rights are violated in our own country. Is it because we are Africans? We feel humiliated and we have nowhere to report our case. When the chiefs tried to speak to those white men, they do not listen. There is a great disparity in power between us and the company which, because it has money, exerts control over the government that should call them to account. We are the disadvantaged victims. Neither the government nor the company respects us. They all behave and treat us like King Leopold II or the Belgian colonizers thinking that they are superior to us. If they were superior, noble and ethical, why do they come here to steal our resources? A dignified person does not steal. There is also something that we struggle to understand. People who object to Banro's projects end up dead. For example, the former Mwami (local chief) of Luhindja Philemon ...was against the displacement of communities. When he traveled to France, his car was set on fire and he died. Others disappear or receive letters from Kinshasa not to interfere with Banro. If our dignity and rights are not respected here in Congo, where else can we be respected? Which country can we call our home? Can we go to Canada and behave as Banro behaves here?

*Justice:* We want justice. For over fourteen years, we are suffering and repeatedly telling our stories, but nothing has ever been done. This is without counting the plunder of this country that started with the 1885 scramble and partition of Africa. The atrocities committed in this country, the lives lost and the resources plundered for so long must be compensated.

### **Banro's Representative's Story** – *The people are the problem.*

**Position:** We will NOT STOP mining.

#### **Interests:**

*Economic:* The gold we are mining is not free. We invested and we need profit. As our vision and mission state: We want to be "a Premier Central Africa Gold Mining company," in "the right places, doing the right things, all the time." Our values include creating a sustainable future for host communities, investing in people and leading with integrity. We wanted to employ some of the local people but they do not have the skills we require. We understand that the community expected us to improve their living conditions. We cannot. We constructed a market, repaired some schools, we maintain the road and provided an ambulance to the nearby hospital. We are not the government. Ours is a business. The communities that were displaced were compensated. For every banana or fruit tree, they received \$20.00. They complain that we did not compensate other plants such as bamboo, non-fruit trees, polyculture, tobacco, and so on. How much money does one earn from those plants? In Cinjira, they have a place where they can grow vegetables. They could as well grow them in tins or on the verandahs.

*Safety/Security:* We are threatened by violence. That is why we rely on the government to protect us from the militia. Several times our workers have been attacked.<sup>3</sup>

*Environment Rights:* We follow the guidelines in the mining code and act responsibly towards host communities. We follow the laws of the country and behave as strong and reliable economic contributors to the country and community, managing risks that could compromise our reputation. But we cannot do more than what the laws of the country require. We always strive to minimize our environmental footprints in consultation with communities. We wanted to train and

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3 For examples on attacks see: Mining.com (2018) Militia kills five in attack on Banro corp's eastern Congo gold mine. <http://www.mining.com/web/militia-kills-five-attack-banro-corps-east-congo-gold-mine/>; Reuters (2018) Banro gold mine trucks attacked in eastern Congo, two dead: Army <https://www.reuters.com/article/us-banro-congo-violence/banro-gold-mine-trucks-attacked-in-eastern-congo-two-dead-army-idUSKBN1KW0IY>

contract some local people who could plant trees wherever we have concluded the mining project. We intend to do that.

*Self-Esteem/Dignity/Human Rights:* We follow our core values, that is respect for people, transparency, integrity, compliance, and we operate with excellence. We cannot talk to everybody in the host communities. We do it through their chiefs.

*Business Growth/Profit:* We are happy that we are profiting even more than we expected. This is also because we genuinely and professionally do our work. Our goal is to contribute to the growth of the company, the wellbeing of our workers, and also create a sustainable future for the communities.

### **References**

- Kors, J. (2012). Blood mineral. *Current Science*, 9(95), 10-12. Retrieved from <https://joshuakors.com/bloodmineral.htm>
- Noury, V. (2010). The curse of coltan. *New African*, (494), 34-35. Retrieved from <https://www.questia.com/magazine/1G1-224534703/the-curse-of-coltan-drcongo-s-mineral-wealth-particularly>