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THE ART OF REPRESENTATION

An Interview with Mia Quiaoit-Corpus

Linda Botha with Pablo Lumerman

This interview is no. 1 of 15 in a series of Reflections from Practice that ACDS produced for ACCESS Facility. The series shares insights on company-community dialogue and rights-compatible, interest-based conflict resolution from senior practitioners. Please cite as Botha, L. with Lumerman, P. (2015). The Art of Representation: An interview with Mia Quiaoit-Corpus. Reflections from Practice Series No. 6 (B. Ganson, ed.). The Hague: ACCESS Facility. Accessible from Scholar.SUN.ac.za.

Mia Quiaoit-Corpus is Executive Director of the Conflict Resolution Group Foundation, an NGO focused on delivering non-adversarial processes of dispute resolution across the Asia Pacific Region. She has 9 years of experience in the management of various mediation and facilitation programs, including research, framework & institutional design, policy writing and training. She received her Global Masters of Arts in International Affairs from the Fletcher School of Law and Diplomacy of Tufts University, Boston. She completed her MBA from the University of the Philippines.

Question: What is one of the more significant challenges or dilemmas you face when you are facilitating company-community dialogue?

Answer: Getting the right people to the negotiation table.

In the Philippines, it is a common practice for companies to send legal counsellors or community relations officers to represent them when negotiating with communities. These dialogues typically involve business activities related to mining, timber or the building of dams for electricity. CEOs and general managers are sometimes absent throughout the process, or only get on board towards the end. This has led to several instances in which communities complained of commitments not being honoured. They feel like they are speaking with people who lack the capacity to act on agreements made.

Sometimes CEO's prefer to send legal counsellors to the negotiation table, since they themselves do not possess those types of expertise. There are formal laws that must be taken into account, for example, laws protecting the rights of indigenous people. So top managers feel safer having legal representation at these meetings. That is not a bad thing, but the presence of a high-level person like a CEO is an expression of commitment to the collaborative process. Negotiation is not just about legal compliance, but also about building trust.

On the other hand, you have communities that tend to select representatives without fully grasping the responsibility that such a representative must carry. Representatives must set aside personal interests and speak on behalf of their entire community. But representatives are typically selected from a standard group of people, like elders or local government officials, or the people with the loudest voices. These are not necessarily the right people for the job. As facilitators we spend a lot of time educating communities to fully understand the role of their elected representatives. On one occasion, this led to the community actually recalling a representative that had been previously selected and they appointed a new person. Once community members comprehended the seriousness of the role, they opted for a person with the right skills.

Question: *What is an example of this challenge?*

Answer: *A new mining company inherited a history of poor community-based representation.*

We recently got involved with an open-pit mining company that tried to re-establish good relations with its neighbours. This was a difficult task, since this new company inherited all the negative sentiment caused by the first owners of the mine. There was already this deep legacy of unfulfilled commitments and tensions with communities. Previously, the community representative did not accurately report back the terms discussed at the negotiation table. Naturally, this caused lots of distrust and frustration on all sides and caused long delays. It got so bad that eleven different communities wanted to send two hundred people to the negotiation table to ensure they were properly represented.

The new company immediately noticed this problem and wanted to rectify it. It was agreed that there would be fewer community representatives, but extra "observers" would be included to ensure transparency and proper representation of community interests. After consultations, the Community Relations Officers would walk back to the communities together with the representatives. Meetings were held, negotiation terms were recounted, and every party could be sure that they were being properly represented. Everyone was on the same page. So communities began to understand that you don't necessarily need two hundred people to participate in the actual negotiation. All you need is a good feedback mechanism that promotes transparency. It is time-consuming, but builds trust *within*

communities as well as *between* communities and companies. It is not just about trust among individuals, but also about confidence in the process.

In this case the CEO himself is very involved, very hands-on. A process is never only about technicalities and facts. Strong social relationships were built around the negotiation process. As a team we with the parties are able to reverse old patterns and build new connections, processes and lasting mechanisms.

Question: How did this impact the parties' ability to achieve rights-compatible, interest-based outcomes?

Answer: Having a better understanding of representation, communities choose people who can really promote their interests and rights.

A successful example is the *Ambuklao-Binga* Hydroelectricity case, of which there is a video case story on the ACCESS website. Here, facilitators explained the role of community negotiators *prior* to the start of negotiations. Using traditional forms of decision-making, the people were then able to choose trusted and skilled representatives, making sure to elect those who could prioritize collective needs over personal agendas. With such a big project, there were multiple parties involved, including a Compliance Advisor Ombudsman from the World Bank. As facilitators we also managed to convince the company's top management to be part of the negotiation team. Again, this can be a very time-consuming process, as relationships and trust are not built overnight. But once you get the representatives working together, it creates a bond between the company and community negotiators. Parties put a lot of effort into training, ensuring mutual expectations and roles were clear.

This case started in 2008, and still to this day the same representatives – even government officials – are involved in the negotiation processes. Continuity creates trust, and trust is the cornerstone of successful mediation. This also applies to us as facilitators. Sometimes we also draw on other resources to ensure legitimacy, like the National Commission for Indigenous Peoples. They join us as observers during company-community dialogues and can also assist where mediation is needed. With Indigenous people, given their history of rights violations, the presence of the Commission provides extra security. They know that their rights will be upheld. They start trusting the process. All these factors combine to create a smooth negotiation process, based on interests being fairly and properly represented.

Question: The answer to what question would have helped you be able to more effectively intervene as a third party?

Answer: What do we need to do to change people's mindsets so that they don't see negotiations as a series of boxes that need to be ticked?

Negotiations between companies and communities can be very procedural, especially when it comes to natural resource extraction. For example, Free Prior Informed Consent (FPIC) must be obtained before operations can begin, and companies need to get environmental impact assessments done. This involves a lot of forms, signatures, assessments, approvals, certificates, and so on. Some companies view the process as simply a series of checklists. As facilitators, we see the bigger picture. The negotiation process is about letting everyone understand the long-term impact. A company could be there for the next five, ten, fifty, or hundred years. Companies must understand that they will become part of the community. It is not just about signing a series of papers. You need to be a responsible member of the community. Also, people must accept that the company now becomes part of *their* community, and they will have to work with it over a long period of time.

Some companies just show up to extract resources like timber and minerals. Yes, they do some corporate social responsibility work and they roll out a few livelihoods programs. But sometimes these programs are very superficial. A gap forms between company interests and community needs. It is exactly this gap that we as facilitators need to work on. We take the long-term view. Our work goes beyond solving just the immediate issues at hand. We need to bring companies on board to share this perspective with us. Because when we all leave, we need to leave something behind.