



AFRICA CENTRE FOR DISPUTE SETTLEMENT

At the University of Stellenbosch Business School

ACDS SUNScholar Document Library

Title	Between harmony and justice: An Interview with Ivan Ormachea	
Author(s)	Surname(s)	First name(s)
	Botha	Lindie
APA citation	Botha, L. with Lumerman, P. (2015). Between harmony and justice: An Interview with Ivan Ormachea. Reflections from Practice Series No. 12 (B. Ganson, ed.). The Hague: ACCESS Facility. Retrieved from Scholar.SUN.ac.za	
Year	2015	
Peer reviewed?	No	
Document type 1	Interview	
Document type 2	N/A	
Key topic 1	Dispute resolution	
Key topic 2	Business and human rights	
Key topic 3	Business, conflict, and development	
Key lens 1	Third party roles	
Key lens 2	N/A	
Visible to public?	Yes	
Notes	This is no. 12 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.	



AFRICA CENTRE FOR
DISPUTE SETTLEMENT

At the University of Stellenbosch Business School

BETWEEN HARMONY AND JUSTICE

An Interview with Ivan Ormachea

Linda Botha with Pablo Lumerman

This interview is no. 12 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). Between harmony and justice: An interview with Ivan Ormachea. Reflections from Practice Series No. 6 (B. Ganson, ed.). The Hague: ACCESS Facility. Accessible from Scholar.SUN.ac.za.

Ivan Ormachea specializes in conflict prevention, conflict transformation dialogue and mediation. He works on social and environmental issues related to extractive industries, and on family, commercial, workplace and labor disputes. He is a mediator for the Office of Mediation and Facilitation Services of the World Bank and the Compliance Advisor Ombudsman of the IFC. He is the President of the Peruvian NGO ProDiálogo. He is a part-time professor of the Catholic University of Peru and has an MA in International Relations from Syracuse University, USA.

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

Answer: Helping people appreciate the complexity of incorporating human rights issues during consensus building processes.

Many activists in the human rights community see consensus building as a bargaining process where human rights are sacrificed. For some of them it is a black-and-white issue. Sometimes they believe that local people have to give up their rights in order to receive a material benefit from a company. They see no common ground between fostering human rights and promoting consensus building

between local communities and companies.

This leads to a great misunderstanding of what conflict transformation work is actually about, and how human rights feature in it. Activists don't typically believe that human rights can be a normal part of the dialogue process and integrated into the final agreement. I've witnessed a prime example of this attitude. A human rights activist recently got a prestigious award from an international conflict resolution organization. In the acceptance speech this person said, "I don't believe in conflict resolution, I believe in human rights." It left everyone quite surprised.

The human rights community doesn't always appreciate that, as facilitators, we have to be careful to include human rights in the negotiation agenda. We encourage communities to become educated about their rights, to engage with rights-focused NGOs and the Ombudsman mandated to protect the rights of indigenous people. However, we can't force communities to make human rights their top priority. When people are poor, the most significant thing to them might be their immediate livelihood needs. Talking about jobs and contracts might take precedence over other conversations. That does not mean human rights falls off the agenda; the conversation is only postponed until people feel their most pressing issues are addressed.

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

Answer: *Working with a mining company and indigenous community in the Peru highlands.*

As facilitators, the first thing we did when working with a mining company and indigenous community in the Peru highlands was to encourage the community to take up the "Right of Consultation of Indigenous Peoples." This is a government-driven mechanism that gives Peru's indigenous communities the right to be consulted about a state's administrative decision in regard to any activity, plan or project that affects their ancestral territories.

But this particular community felt no need to involve any state agency. This is not uncommon. The state is something abstract for them, completely absent from their territory and daily lives. Companies move into an area and communities realize there is a new, rich neighbor in town. The community was extremely willing to engage directly with the company.

There were also no NGOs or human rights organizations involved. As with government, NGOs are also treated with suspicion. The community hired their own advisors whom they trusted and felt comfortable with. They even hired their own lawyers. A self-sufficient community can obtain numerous benefits from an agreement they reach directly with a company.

In cases like this, human rights organizations are very critical of our work because we manage these

dialogues. But at the end of the day, it is up to communities to decide how to conduct the dialogues and what to prioritize. As a facilitator, you have to accept the communities decisions. It is not your role to decide for them what is important or not. You have informed and advised them about human rights mechanisms and frameworks such as the right of consultation for indigenous peoples, but they have the final say about what they do or don't want to do. Your role is to be equidistant from both the community and the company. You are an impartial resource for both.

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

Answer: *The mediators helped keep human rights on the agenda.*

Even though we acted impartially, it doesn't mean that we saw ourselves as "neutral." We believe that *neutral* is a risky word; it implies that when there is injustice that nothing will be done. As a third party, you can't be neutral when there is something unjust, or when there are asymmetries that will impact on the integrity of the negotiation process. If we see an unfair practice, we raise it during the dialogue.

For example, a mining company had an agreement to provide jobs to unskilled members of the community. We asked the company whether they had a system in place to ensure jobs were given to people in a fair and transparent manner. The company replied that they had no system and decided to investigate the matter of job allocation. Soon it became clear that only 5% of the jobs went to women. Female leaders in the community were upset and demanded their fair share of the jobs. We held separate meetings with the company, discussing options for a more equitable approach. As a result, the company initiated a plan of affirmative action for women. Through acting as a resource to both the company and community, we were able to place human rights back onto the agenda. It shows that justice and harmony are not mutually exclusive.

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

Answer: *How can we find better ways to deal with the emotional and physical demands of facilitation work?*

Anybody who continuously does facilitation work experience the physical and emotional dimensions of it. I sometimes wonder how to manage the intensity of our efforts and how to sustain all the roles we have to play in the course of our work.

Sometimes you have to travel to remote regions with harsh climate conditions. Just getting there is a challenge. And then you still have to go on the journey of the whole conflict management process and

you must take others with you.

I recently facilitated a dialogue in Bogotá in a nice hotel that was very comfortable, with lots of facilities. Despite this great setting, you still feel the mental fatigue. You are like an orchestra maestro. You have to channel the colliding energies and facilitate the process as a whole, and also your own energy. It is almost like being divided into five different people, since you have all these roles to play. Your brain and your whole body must run at five times the normal speed!

It is a type of art to learn how to absorb the negative and powerful energy of those around you in order to process it. As facilitators we all need some internal method to restore our own energy after doing such intense work. We place our minds and souls under very strenuous forces, and we all need creative ways to neutralize it. I like to exercise. I'm also going to learn more about meditation. This is my way of resting, of finding a space of peaceful tranquility after finishing a challenging piece of work. You have to restore your own vitality before you are ready to take on a new facilitation challenge.