



Fredson Guilengue (Ed.)

ACTION MATTERS

**SIX SUCCESS STORIES OF STRUGGLES
FOR COMMONS IN AFRICA**

CONTENTS

Fredson Guirramela Guilengue Introduction	2
Andrew Bennie Defending the Commons The Case of the Amadiba Victory on the 'Right to Say No'	4
Ines Mahmoud "Common Good Before Private Profit!" A Peasant Struggle for Land in Jemna	14
Nadir Bouhmouch Building Power from Below The Movement on Road '96 as a Horizontal, Local, and Autonomous Model	21
Aly Sagne Complaint Filing at International Financial Institutions Successes and Weaknesses in the Case of the Sendou Coal Power Plant	30
Richard Ntakirutimana Twa Communities in Rwanda Advocating against the Impact of the Volcanoes National Park	37
Allan Kalangi No to Encroachment A Long History of Resistance in the Albertine Graben	42
Bibliographic Notes	50

INTRODUCTION

The continuous advance of neoliberal capitalism even in the context of a systemic crisis of the capitalist system has led to many questions about the lack of effective answers from the left in general, and from progressive social movement organizations in particular. Many critics argue that socialism, despite what was predicted by theorists in the past, is lacking the ability to profit from the systemic crisis of neoliberal capitalism. This type of critique gives a very strong impression that progressive actors including social movement organizations are failing completely in their struggle for political and socio-economic transformations. However, while it is true that the systemic crisis of capitalism is yet to lead to its total defeat, it is absolutely not correct to assume that progressive actors are not achieving any substantial victories in their differing struggles against the advance of neoliberal capitalism in their own constituencies. There are a number of facts which can be considered cases of “success stories” which demonstrate those victories in different parts of the world, including on the African continent.

In 2018, the Africa Unit of the Rosa-Luxemburg-Stiftung (RLS) and the respective regional offices on the African continent initiated a period of reflection which led to the objective of producing a collection of stories inspired by the success of local groups and individuals in fighting for peoples’ access to, and control of, common goods (commons). It is this reflection that led to this publication. Our notion of “success” here is informed by the local socio-economic, political, cultural, and environmental dynamics. We understand “success” when individual and/or collective action leads to the transformation of a particular status quo, which brings positive benefits to a particular community or to the entire society in terms of their right to access and/

or have control of commons. “Commons” is understood here as forms of wealth considered by a particular community as essential resources that should, therefore, be both preserved and accessible by everyone.

The aim of this publication is neither to corroborate, refute, nor expand upon any particular academic theory or body of theories, nor to serve as an “activist guideline” containing prescribed steps for activists to achieve success in their own lobbying, advocacy, or mass action. If this is achieved, it will be a positive side effect—but not a chief aim—of this publication and will certainly make its contributors very proud. Rather, we have put together “stories” which serve as positive empirical examples of how amidst all the existing difficulties, collective action is leading to some form of success. We believe that while sharing cases of success may or may not lead to these actions being replicated elsewhere, it will certainly make these cases more widely known, and possibly inspire much-needed solidarity for communities in their struggles for commons.

You will read six different stories from six different countries in Africa: South Africa, Tunisia, Morocco, Senegal, Uganda, and Rwanda. While the geographic location is the most salient difference in the cases gathered here, colonialism and its legacies, in terms of authoritarianism and dispossession, remain a common aspect.

The first case was written by Andrew Bennie and is about the struggle of the Amadiba Community on the “Right to Say No” in South Africa, which led to the historic legal victory by the community, won in the South African High Court in November 2018. The second case is about the struggle of the Jemna community over the right to land in the South of Tunisia. Written by Ines Mahmoud, it reveals

another dimension to the Arab Spring, that is the struggle of communities to regain sovereignty over their land. The third case, by Nadir Bouhmouch, explores how the community of Imider in Morocco was able to build counter-power by applying different strategies such as horizontal organizational structure, direct action, cultural action, and counter-propaganda, in the context of their struggle for commons. Aly Sagne authors the fourth case showing how coordinated advocacy action by local communities through International Financial Institutions (IFIs) temporarily prevented the 125-megawatt "Sendou" coal-fired power plant in the municipality of Bargny (Senegal) from advancing. The fifth case, written by Richard Ntakirutimana, focuses on the impact of the establishment of national park policies, and the intervention of the national government in trying to improve the living conditions of the former forest-dependent Batwa communities in

Rwanda and their responses to these impacts, in the light of the official vision of national unity. Finally, in the sixth case, Allan Kalangi explores how communities in the Bunyoro region in Uganda have once again mobilized to stage resistance against the new capitalistic trends of oil extraction that threaten to dispossess them of their remaining land.

Apart from the tremendous efforts from all of its contributors, this publication would not be possible without the collaboration and support from: Andreas Bohne, Britta Becker, and especially Franza Drechsel (RLS Africa Unit); Joan Leon and Dorothee Braun (RLS East Africa); Ibrahima Thiam (RLS West Africa); Khawla Ksiksi (RLS North Africa) and Mai Choucri (former RLS North Africa), as well as the entire staff of the RLS Africa to whom I will be forever grateful.

Fredson Guirramela Guilengue

March 2020

Andrew Bennie

DEFENDING THE COMMONS

THE CASE OF THE AMADIBA VICTORY ON THE 'RIGHT TO SAY NO'

Introduction

In November 2018, the coastal Amadiba community on the Wild Coast won a historic legal victory in the South African High Court, which ruled that the Department of Mineral Resources (DMR) could not award a mining right without the consent of the community.¹

The campaign around this legal case was thus framed as 'The Right to Say No'. The ruling establishes a precedent, not just for the Amadiba coastal community, but for all rural communities located mostly in the former homelands,² to decide whether mining and other extractive activities may take place on their land. This chapter will provide an account of the political and legal struggle by the Amadiba coastal community to prevent mining from happening on their land. It will explore some of the multiple layers to the struggle that help to understand both the course the struggle took and its success.

While the community has actively mobilized to defend their land against mining, it is the legal aspect of the struggle that over years has brought official barriers to the commencement of mining. There are those such as Patrick Bond who argue against the use of the law to achieve social justice outcomes, asserting that they weaken social mobilization.³ On the other hand, Mark Heywood argues that the Constitution and associated legal frameworks can be taken advantage of to advance social justice mobilization and to deepen economic and social transforma-

tion.⁴ I argue that the Amadiba struggle to defend the commons from mining illustrates a productive calibration between the use of legal strategies and community mobilization, where the legal strategy reflected consistent and robust interaction between the community anti-mining structure, the Amadiba Crisis Committee (ACC), and the lawyers representing them. An important part of understanding the success is thus the multiple layers of struggle, and how they cohered to deepen democracy as a key weapon to fight back against a force of capitalist accumulation from above. Indeed, I suggest that the successful legal strategy could not have emerged without sustained extra-legal political action by the community.

This chapter briefly explores some of these dynamics, including everyday community resistance, historical articulations of local customary democratic structures, the role of alliance building (nationally and internationally), the relationship to the media, and the alliance's own media and social media strategies. Furthermore, the article will also review the role that less visible, but nevertheless critical, political networking and manoeuvring has played in strategically confronting the state's attempted public relations and political attacks in response to the community's victory on the legal confirmation of their 'Right to Say No'. The chapter proceeds by providing a background and historical context to the struggle, after which it describes the legal context that shaped the ruling. I then describe some of the key aspects to consider in the success of the case and conclude by restating the importance of

The High Court Judge argued that the known devastating economic, social, and ecological consequences of mining constituted a deprivation of land rights.

litigation emerging from, rather than replacing, concrete political struggle.

Background

A small Australian mining company, Mineral Commodities (MRC),⁵ and its South African subsidiary, Transworld Energy and Mineral Resources (TEM), first started prospecting in 2003 for titanium-related minerals in uMgungundlovu, the coastal section of the Amadiba Tribal Administrative Area on the Wild Coast of South Africa. The Wild Coast is the coastline of the Pondoland region, which fell under the

involve digging up 885 hectares of land, much of which is used for cattle grazing, and apart from the 72 households that fall directly within the proposed mining tenement area who would have to be removed, the remaining households of a community that is highly dependent on the local environment for survival would be significantly affected by the infrastructure, activities, and environmental and social impacts of mining, including massive water extraction.⁸

MRC promotes the mine as a way to uplift the Amadiba community socially and economically, which it consistently argues is one of the poorest in South Africa; however the community has fiercely resisted any attempts to mine. A mining right was awarded to TEM in 2008, although the community was not formally notified and only found out through an announcement on the Australian Stock Exchange. Through their lawyers, the iNkosana's Council⁹ and Amadiba Crisis Committee (ACC), which leads local opposition to the mining, appealed against the



Members of the Amadiba Crisis Committee (ACC) protest outside the office of the Department of Mineral Resources during their High Court case on their Right to Say “No”. Photo: Andrew Bennie

former homeland of Transkei during apartheid, now in the province of the Eastern Cape. The area is one of rolling grassland punctuated by coastal forests, gorges, wetlands, and rivers. It falls within the Pondoland Centre for Endemism (PCE) and is an area of high biodiversity, regarded as the second most species-rich floristic region in South Africa.⁶ TEM has sought to establish the Xolobeni Heavy Minerals Sands Project by mining 360 million tonnes worth of sand dunes for ilmenite, together with rutile, zircon and leucoxene,⁷ which it claims is the tenth largest deposit of the minerals in the world. The mining would

awarding of the right, and the Minister of the DMR reversed the decision in 2011 on the grounds that TEM failed to sufficiently show how the significant environmental impacts would be managed, especially the impact on water resources. The core of the appeal against the mining was the poor community consultation conducted by TEM and its Environmental Assessment Practitioners (EAPs), yet the Minister specifically stated in her decision that consultation had been adequate. The Minister also allowed for TEM to re-start its application process, and in 2015 it submitted another application for a mining right, which

the uMgungundlovu community has formally opposed.

TEM's 'community empowerment partner', Xolco, was formed in 2003 without any knowledge of the community, who only found out about it in 2007. Xolco has come to be associated with the narrow interests of a few, and those who formed it are widely believed to be at the centre of coordinating a web of corruption and intimidation against the community. The resistance of the five uMgungundlovu villages to the proposed mining, based on the dispossession and destruction of their land and enrichment of the elite they fear it would encourage, has come at a cost. Families became divided, with the vast majority opposed to mining and small numbers in favour. Over the years, leaders of the anti-mining struggle have been attacked and some killed, the latest and most widely reported of which was the assassination of Sikkhosiphi "Bazooka" Radebe, Chairperson of the Amadiba Crisis Committee (ACC), in March 2016, a day after Human Rights Day. The villages of uMgungundlovu have also been fighting on another front, resisting the construction of the greenfields section of the Wild Coast N2 toll road through their land. Plans for the road were first mooted after a

transnational consortium of private construction companies submitted an unsolicited bid to SANRAL in the early 2000s to construct the road through one of South Africa's most beautiful regions, but one that has been most neglected by the state. SANRAL and the government argue that the road will open the area to development as a remedy for its state of neglect. Yet the villages of uMgungundlovu have opposed the road because they believe it will enable the mining. It will directly affect 40 homesteads and the 80-metre wide, fenced-off road reserve will split the communities in two. Before describing the struggle in more detail, I now turn briefly to the historical and legal context so as to understand the wider political economy shaping the Amadiba struggles, its course and its successes.

Historical Context

After the discovery of diamonds and then gold on the Johannesburg reef, mining drove the industrialization of the South African economy and condemned millions of Africans to dispossession, rural and urban poverty, malnutrition, and overall structural inequality in pursuit of their cheap labour.¹⁰ The rural reserves and later homelands to which Africans were confined contributed to subsidizing

the cost of labour to capital by providing a base of survival for those family members, mostly women and children, who were not in the employ of the mines, industry, or white commercial agriculture, and as a place for workers to return to when their labour was no longer required.¹¹ Betterment policies were aimed at re-organizing residential and agricultural activities in the homelands in an attempt to make them more capable of sustaining populations whose labour was not required by the dominant economy. This social engineering



An ACC activist and his young child look out over the Mtentu River Gorge, the southern boundary of the proposed mining tenement area, at sunset. Photo: Andrew Bennie

project was ultimately unsuccessful and the homelands intensified as zones of marginalization, patterns that remain today despite their formal disbandment.

The Amadiba area, however, fits a bit differently into this historical pattern. It was integrated into the industrial economy as a labour sending area but, as with much of the Wild

land and mining have interacted. South Africa's transition to democracy was also accompanied by a relatively far-reaching process of legislative reform. The Constitution, the supreme law of the country, was passed in 1996, and was an outcome of both struggle from below and compromise between liberation forces and the political and economic old

The successful legal strategy could not have emerged without sustained extra-legal political action by the community. They have essentially created a no-go zone for any mining-related activities through mobilization.

Coast,¹² the community was not dispossessed of their land, due partly to geographical remoteness and, in large part, to the Pondo Revolt, in which Pondoland communities rose up in violent confrontation against the apartheid state in the early 1960s to resist betterment planning and the imposition of distorted forms of traditional leadership.¹³ This is part of the precedent of determined defence of control over land and natural resources that is still highly evident in the present struggle against mining.¹⁴ It also allowed for the reproduction of a peasant structure and reliance on the local environment. While the households of uMgungundlovu depend on diversified livelihood strategies that combine agricultural production, local resource harvesting, wages, remittances, and government grants, land-based sources of livelihood retain a high significance, which translates into low perceptions of poverty or experiences of hunger.¹⁵ For example, in a survey of 68 of the 72 households that fall directly within the proposed mining tenement area, none reported having to skip a meal,¹⁶ which stands in contrast to South Africa in general, where 26 percent of the population is reported to experience hunger on a daily basis.¹⁷

This is the local context with which wider forces and legislative frameworks related to

guard who sought to protect their privilege. However, it is often regarded as one of the most progressive in the world, and those such as Heywood argue that “the rights it legalised gave unprecedented legal power to people; it created a rule of law framework that legitimated and protected people involved in struggles for human rights and social justice.”¹⁸

While the mining sector was historically at the heart of the mechanics of racial oppression, after the transition the ruling African National Congress (ANC) continued to see it as a strategic core component of the economy, and so was seen as a key target for racial redress. This motivation framed the design of the principle law regulating the mining sector, the Mineral and Petroleum Resources Development Act (MPRDA), which was passed in 2002. However, although framed in nationally transformative objectives, Capps argues that the essence of the law is that of supporting capitalist class formation on altered racial foundations.¹⁹ This has in practice driven a wedge between those rural communities that make way for mining and those who reap the economic benefits, as evident in the Amadiba case. Two further key elements of the MPRDA shape this dynamic. The first is that it transitioned the sector from private ownership of mineral rights to state owner-

ship of all minerals, independently of land ownership. Mining companies thus have to apply for rights from the state in order to mine. The vision behind this was of the progressive state as the custodian of mineral rights on behalf of the nation's people, which would wield this power in pursuit of transformative ends.²⁰ Secondly, the mining sector was the key target for Black Economic Empowerment (BEE), which sought to de-racialize the mining sector, broaden black ownership and produce a 'patriotic bourgeoisie' whose accumulation activities advance national development.²¹ This largely took place through share ownership schemes. The process has contributed to intensified class formation as some black business people were able to engage in, and benefit from, the process. Nevertheless, the state has largely been frustrated in its envisaged extent of racial transformation of the sector due to the power of mining capital to push back. However,

it still holds power over mineral rights, and 90 percent of new mining rights applications are located in the former homelands,²² giving the state the opportunity to support 'new entrants' into the industry and so continuing to pursue the rise of this patriotic bourgeoisie. From the instant that the uMgungundlovu community found out about the mining application, the community started mobilizing, spearheaded by elders and the local traditional council, through challenging the local state and confronting the local agents of the proposed mining in community meetings, and blockading prospecting attempts. The mining right was initially awarded in 2008 but was then withheld by the then-Minister

after she was confronted by a highly mobilized community at a local meeting, where the announcement of the award was not met with the expected acclaim. The human rights lawyer, Richard Spoor, and the Legal Resources Centre (LRC) began assisting the community from 2006 and 2007 respectively, using administrative law based on the MPRDA and prevailing environmental legislation to challenge the awarding of mining rights on procedural grounds.



Early on a late-winter morning, members of a household in Sigidi Village plough their field to prepare for spring planting of sweet potatoes. Photo: Andrew Bennie

Applying to the High Court to declare that the community's consent was required before the DMR could issue a mining right marked a shift to engaging in substantive law, where the legal basis of existing procedures was challenged.²³ This amounted to using a legal strategy to challenge an aspect of the political economy of mining in South Africa, the legal architecture of which the MPRDA reflected. The key law used to make this case was the Interim Protection of Informal Land Rights Act (IPILRA). The Constitution gives explicit recognition to the need to address the gross inequalities created by the history of colonialism and apartheid, including in relation to land access and secure tenure. As such,

Section 25(6) mandated the passing of an Act to protect the land rights of those who had no legal protection under previously discriminatory laws and so whose rights to land remained informal in the legal sense. The MPRDA only provides for consultation with affected communities before a mining right is granted, but the application argued that because it was on land inhabited by residents under customary law (to which the Constitution officially accords the same weight as common law, as long as it does not go against the tenets of the former), consent in terms of IPILRA first had to be obtained from the communities before the right could be granted.²⁴ The DMR's legal response was that while IPILRA confers land rights on communities it does not confer on them the right to block the exploitation of mineral resources lying under their land (the rights to which are, as discussed, vested in the state). It further argued that affording communities like the Amadiba the right to consent would amount to blocking the state from advancing its racially transformative agenda of supporting 'new entrants' in the mining industry.²⁵ This reflects Capps's argument that as a result of contestation between the state and fractions of mining capital in the formation of the original MPRDA, the imperative of reforming the conditions for accumulation came to social justice concerns, although such reform is often still framed in terms of the latter.²⁶

In November 2018, the High Court judge handed down her judgement that declared that the community members of uMgungundlovu could not be deprived of their land without their consent, derived through customary processes. Her reasoning on what constitutes 'deprivation' of land rights was critical to her judgement and to what amounted to a legal argument for protecting the commons. First, she followed the definition of 'community' as laid out in IPILRA, which rests on the notion of the commons: "any group or portion of a

group of persons whose rights to land are derived from *shared rules determining access to land held in common by such group*".²⁷ Secondly, she relied on case law to conclude that deprivation does not have to mean that land is physically taken away from community members, but that their use of the land is interfered with, even if they are not removed. She argued that given the known devastating economic, social, and ecological consequences of mining, the community members' agricultural livelihoods, access to natural resources like water, general way of life, and dignity would be interfered with, and so constituted a deprivation of land rights.

The Law and Struggle

Members of the ACC have felt it important to emphasize that this was not merely a legal victory, but reflected a political victory as a culmination of years of political struggle and mobilization. This is to assert their own steadfastness in ensuring that their struggle is not subsumed by the legal approach, thus avoiding Bond's caution of the demobilizing potential of legal strategies.²⁸ Indeed, despite the High Court decision, the political pressure persisted as the Minister of Mineral Resources continued to advance the cause of mining, which the ACC resisted at various levels, including with direct action.²⁹

This points to the overarching nature of the relationship between community mobilization and the legal approach in the Amadiba case. As discussed earlier, it was the disruptive tactics by the community at a local level that initially led to the withdrawal of the mining licence, as their mobilization increased the economic and social risks of awarding a licence. As one of the key lawyers for the community, Johan Lorenzen, pointed out, in contrast to other mining-affected communities who have sought legal assistance after mining and its deleterious impacts have commenced, such pre-existing mobilization that was able

to keep mining at bay created the grounds for a successful legal strategy: “preventing the foothold for capital was what opened the door for more creative legal solutions”.³⁰ Over the many years of the struggle, members of the community have undertaken disruptive tactics like blocking roads, uprooting prospecting equipment, physically chasing prospecting staff out of the area, and preventing consultants from entering the area to conduct studies for the EIA, a prerequisite of a mining right application. They have essentially created a no-go zone for any mining-related activities through mobilization, characteristic of what Klein describes as “blockadia”.³¹

The legal strategy aimed at entrenching the uMgungundlovu community’s right to say ‘No’ thus emerged

from pre-existing struggle and the “gut feeling from the community that they had the right to say ‘No’”.³² Customary law processes had already determined that the mining could not go ahead; however, guided by the tenets of the MPRDA, the DMR was not taking heed of customary injunctions in its steadfast promotion of mining and so, with the confidence given by the fact that the Constitution explicitly enforces the legal weight of customary law, the ACC and its lawyers turned to both the Constitution and IPILRA to defend and assert the power of customary processes.³³

This highlighted the importance of a wider legal approach predicated on supporting local practices of democracy, which in their operation are also means of resistance. It also links to the importance of maintaining a close articulation between the legal approach and local resistance. The team of human rights lawyers always took their mandate from the community, through direct community meetings, where the lawyers could report on

ongoing legal processes, plan and negotiate (see more below) with the community, and finalize mandates.³⁴

Beyond these meetings there is also the integral role of information flows. There was and continues to be a constant flow of information between events in the community and the lawyers, in which, while taking action around them, ACC members also report the latest developments to the lawyers by phone, a WhatsApp group, and email. These result in processes in which ACC members take action on the ground, the lawyers provide some input, and information is fed to the lawyers for them to take relevant action on the legal front. Such action might entail immediately drafting and sending a legal letter to the

The case was not only about the Amadiba but related to wider questions of rural democracy, land rights, and struggles against extractivism.

DMR for more information on the events and reminding them of the legal restrictions to their attempted actions, thus combining local direct action and formal legal procedures. Furthermore, ‘invisible’ information flows facilitated by ‘informal’ political connections and networks have allowed for information to be fed to anti-mining activists by sympathetic state functionaries and members of political parties, including the ruling ANC. This has allowed the ACC to prepare its political responses before intentions have even been formally announced by those such as the DMR, which includes issuing press statements that put the onus on the DMR to explain itself, mobilizing the community if necessary, and feeding the information to the lawyers to inform relevant legal steps.

The legal approach was thus always guided by and predicated upon local anti-mining agency. However, this does not imply a one-way street from community to lawyers. Rather, there is also at times disagreement between

the ACC and its lawyers, which instigates robust discussion and negotiation about the most appropriate course of action. As the spokesperson of the ACC, Nonhle Mbuthuma, described:

Sometimes we said to take this struggle we can't only rely on lawyers and the courts. We rely on ourselves. Yes, you can advise us but we will take it and choose what is useful. We know ourselves more than anybody else. It's not about education, that's us.

As Mbuthuma further described, when the environmental consultants appointed to conduct the environmental impact assessment informed the community that they would be entering to undertake research work,

The lawyers said, let them come, we will fight them in court and we said, no, no, no. We will go there and block them... So if we allow them to drill, then you lose in court, what then? We are actually helping you as your client.³⁵

Similarly, members of the ACC also disagreed with their lawyers when Minister Mantashe requested a meeting with ACC leadership at a hotel outside of the community a few months after the High Court judgement. While the lawyers felt it could perhaps be strategically useful, the ACC did not want to attend the meeting, as they argued that he should meet the whole community in the democratic forum of Komkhulu, the traditional meeting place. It was eventually agreed that they would attend the meeting, but the only discussion the ACC was willing to have was to tell the Minister that all discussions on mining, and therefore land, must take place in the open platform of Komkhulu, and so he should meet them, and the whole community, there at a later date. Such an approach is consistently used to subject those in power to local democratic, customary structures; especially to those, including the CEO of the national highway agency, who wish to impose forms of so-called development upon the community.

Local means of resistance are thus affirmed in relation to the wider legal strategy. It also reflects the importance recognized by both the lawyers and the ACC of not reducing the struggle to the legal approach – especially in a context where the structural political context is still not in favour of such communities.³⁶ As Mbuthuma affirmed, “If the legal strategy fails, it’s not the end of the world. We don’t rely on the legal strategy alone but it is one of the tools that we can utilize to protect our own land, and that’s not the only one”.³⁷

The legal victory on the right to say ‘No’ was thus embedded in multiple layers of activism. A further strength of the ACC has been its ability to dominate the narrative about the mining, and to use the court case to build a strong public narrative about land rights, democracy, the marginalization of rural areas, and ecological protection. For a number of years preceding the case, the ACC would send out detailed and colourfully written press statements that immediately exposed underhand activities by the state and pro-mining actors, and blatant injustices, including violence meted out on community members. Given the prominence of the struggle, they would be easily picked up and reported on by news outlets. This consistently gave the ACC the upper hand in building the public narrative around the mining, and part of its impact was the way in which the struggle is so indicative of wider ecological, social, and political crises. Furthermore, as part of not lumping the struggle into a legal approach, the right to say ‘No’ case was used to undertake further media work and alliance building. The case was not only about the Amadiba but related to wider questions of rural democracy, land rights, and struggles against extractivism, and so a wide alliance of movements and civil society organizations mobilized behind the case, which culminated in actions on the streets around the courthouse over the days of the case. From this alliance a group of activists consti-

tuted a media team that undertook creative activities on social media and fed information, imagery, and carefully crafted messaging to the media. This was aimed at building a public narrative that disrupted the purported link between mining and development and turned it towards the role of democracy in development, the limits of the post-apartheid economic development path, land rights, and social and environmental justice. Furthermore, the massive media and social media coverage of the case gave the ACC the upper hand in the public discourse, which placed it in a position of symbolic strength even after the case. As a result of the widespread public support it had built during the case, every step that Minister Mantashe made subsequent to the judgement – including announcing that he would appeal the outcome and attempting to hold a meeting in uMgungundlovu that ended in community members being teargassed – was lambasted in the media and on social media platforms. Essentially, Mantashe was left with little room for manoeuvre as he consistently found himself with political egg on his face, as social media and public discourse reacted in uproar at his bullying tactics and to his anti-democratic utterances.



Members of the uMgungundlovu community gather outside their traditional meeting place, Komkhulu, for a community meeting to discuss issues related to the proposed N2 highway and mining. Photo: Andrew Bennie

Conclusions

The legal confirmation of the Amadiba's right to give consent before mining can take place on their land was a landmark judgement that resonated for many rural communities in South Africa. Its success was built upon a vibrant community-led struggle that had proud traditions of resistance to attempts to wrench away local control over the commons, committed and strategic local leadership, a team of lawyers politically devoted to the cause of rural justice, land rights, and democracy, and the ability to mobilize research, financial, and political resources to undertake the case, itself a culmination of many years of political and legal work. However, as Johan Lorenzen points out, this is not necessarily a sustainable model for other communities to replicate.³⁸ Core to the approach of the legal application was to paint as detailed a picture of the community as possible for the judge to fully understand the context. It involved community surveys, historical research, focus groups, interviews, and acquiring affidavits from expert historians on Pondoland, which involved lawyers, legal interns, community volunteers, and professional researchers, as well as hundreds of hours of consultation and

engagement. These are combinations that not all rural communities have access to. Furthermore, as discussed in this chapter, such litigation is only impactful if it is 'second fiddle' to community mobilizing. More broadly, a legal victory like this does not substitute for progressive political governance, which will be achieved through wider building and connecting of struggles powerful enough to shift the country's political economy towards deepened democracy and a just transition.

The massive import of the ruling, however, is that it sets a precedent that means all rural communities with ‘informal’ land rights have the right to consent before they can be deprived of their land. This itself shifts the political economy of mining and development in South Africa. Furthermore, the DMR has appealed the ruling and the next step is therefore the Supreme Court of Appeal. From there the next level would be the Constitutional Court, where the ACC’s lawyers are confident

of a further victory. This would irrevocably cement the right of rural communities with informal land rights in arguably the most marginalized regions of the country, and so afford them the power to disrupt the power relations shaping the political economy of mining and offer a further strategic tool for the protection of the commons. This itself would also depend, however, on sustained mobilization, which legal avenues would build upon and reflect, as I have attempted to show in this chapter.

1 A.C. Basson (2018): ‘Judgement’ in the matter between Duduzile Baleni (First Applicant) and 128 others vs. Minister – Department of Mineral Resources (First Respondent) and Seven Others, Case Number: 73768/2016, 22 November 2018, available at <http://www.saflii.org/za/cases/ZAGPPHC/2018/829.pdf>. Last accessed: 25 March 2020. 2 Homelands built on the native reserves created by colonial governments, envisioned by the apartheid state to become semi-autonomous countries—each one for a supposedly different tribe—where black people could be citizens and thus not make political claims on the South African state, only entering the country to provide their labour for white-controlled industry, agriculture, and households. 3 Patrick Bond (2014): The Constitution as a barrier to the resolution of widespread community rebellions in South Africa, in: *Politikon. South African Journal of Political Studies*, Vol. 41 (3), pp. 461–482. 4 Mark Heywood (2015): *Seize power! The role of the constitution in uniting a struggle for social justice in South Africa* in: V. Satgar, (ed.), *Capitalism’s Crises. Class Struggles in South Africa and the World*, Johannesburg: Wits University Press, 2015, pp. 245–276; Heywood (2019) *South Africa’s journey from socialism to human rights. The true confessions of an errant socialist*, in: *Journal of Human Rights Practice*, Vol. 11 (2), pp. 305–323. 5 Its acronym is MRC because it used to be named Mineral Resources Commodities, but it continues to use the acronym after the name change. 6 Groundwater Consulting Services (GCS) (2007): *Mineral Sands Resources (Pty) Ltd, Xolobeni Heavy Mineral Sands Project, Environmental Management Programme (EMP)*, Groundwater Consulting Services (Pty) Ltd. 7 Ibid. 8 Andrew Bennie (2010): *The relation between environmental protection and “development”*. A case study of the social dynamics involved in the proposed mining at Xolobeni, Wild Coast. Unpublished MA Research Report, University of the Witwatersrand, 2010. 9 The Amadiba Administrative Area, which is overseen by Chief Lunga Baleni, is divided in two: the inland Section 21 and the coastal Section 24, known as uMgungundlovu. uMgungundlovu has its own traditional council, or iNkosana’s Council, whose traditional meeting place is called Komkhulu. The iNkosana’s Council is currently overseen by a headwoman, Duduzile Baleni. 10 Bernard Magubane (1996): *The Making of a Racist State. British Imperialism and the Union of South Africa, 1875–1910*, Africa World Press, 1996; Asanda Benya (2016): *Women in Mining. Occupational Culture and Gendered Identities in the Making*. Unpublished PhD Thesis, University of the Witwatersrand, 2016. 11 Ben Scully (2016): *From the shop floor to the kitchen table. The shifting centre of precarious workers’ politics in South Africa*, in: *Review of African Political Economy*, Vol. 43 (148), pp. 295–311. 12 Patrick McAllister (2003): *Xhosa agricultural work groups – economic hindrance or development opportunity? Fort Hare Institute of Social and Economic Research, Working Paper*, No. 12. 13 Gustav Mbeki (1964): *South Africa: The Peasants’ Revolt*, Gloucester MA: Peter Smith Pub inc.; B. Turok, (1960): *The Pondo Revolt*, South African Congress of Democrats. 14 W. Beinart (2016): *Affidavit*. In the matter between Duduzile Baleni (First Applicant) and 128 others vs. Minister – Department

of Mineral Resources (First Respondent) and Seven Others, Case Number: 73768/2016. 15 For a detailed discussion of this factor, see Bennie (2010, pp. 114–116); and Bennie (2011): *Questions for labour on land, livelihoods and jobs: A case study of the proposed mining at Xolobeni, Wild Coast*, in: *South African Review of Sociology*, Vol. 42 (3), pp. 41–59. 16 M. Koen (2016): *Supporting Affidavit. In the Matter Between Duduzile Baleni (First Applicant) and Others, and Minister – Department of Mineral Resources (First Applicant)*, 18 September 2016. 17 Human Sciences Research Council (HSRC) and Medical Research Council (MRC) (2013): *South African National Health and Nutrition Examination Survey (SANHANES)*, Cape Town: HSRC Press, 2013. 18 Heywood (2019). 19 Gavin Capps (2012): *A bourgeois reform with social justice? The contradictions of the Minerals Development Bill and black economic empowerment in the South African platinum mining industry*, in: *Review of African Political Economy*, Vol. 39 (132), pp. 315–333. 20 Ibid. 21 Andrew Bowman (2019): *Black economic empowerment policy and state-business relations in South Africa: the case of mining*, in: *Review of African Political Economy*, Vol. 46 (160), pp. 223–245. 22 Aninka Claassens (2018): *Mining – Giving the Power to the People, Custom Contested*, 10 Dec 2018, available at <https://www.customcontested.co.za/mining-giving-the-power-to-the-people/>. Last accessed: 28 September 2019. 23 Interview with Johan Lorenzen (2019): Richard Spoor Inc. Attorneys. Parktown, Johannesburg, 6 August 2019. 24 ‘Heads of Argument’ in the matter between Duduzile Baleni (1st Applicant) and 128 Others vs. the Minister – Department of Mineral Resources (1st Respondent) and 7 Others, in the High Court of South Africa, Case Number: 73768/2016. 25 Heads of Argument of the First to Fourth Respondents, *ibid*. 26 Capps (2012). 27 Interim Protection of Informal Land Rights Act 31 of 1996 (IPILRA), section 1, Republic of South Africa, Government Gazette, available at https://www.gov.za/sites/default/files/gcis_document/201409/act31of1996.pdf. Last accessed: 26 March 2020. 28 Bond (2014). 29 See Bennie (2010); and also Amadiba Crisis Committee (ACC) statements (2019a): Gwede Mantashe announces a ‘Third Coming’ to Xolobeni on 16 January. “DON’T COME, MINISTER MANTASHE!”, 8 January 2019, available at <http://aidc.org.za/mantashe-announces-a-third-coming-to-xolobeni-on-16-january-dont-come-minister-mantashe/>. Last accessed: 25 March 2020; ACC (2019b): ‘Gwede “Stun Grenade” Mantashe’s called Xolobeni R2SayNo judgement “bullshit” [bububhanxa] as he fired off his “independent survey” stunt’, 17 January 2019, available at <https://karibu.org.za/mantashe-called-r2sayno-judgement-bullshit-2/>. Last accessed: 25 March 2020. 30 Lorenzen, interview (2019). 31 Naomi Klein (2014): *This Changes Everything: Capitalism vs. the Climate*, London: Allen Lane, 2014. 32 Lorenzen, interview (2019). 33 Interview with Nonhle Mbuthuma, Amadiba Crisis Committee leader (2019): Wits University, Johannesburg, 14 August 2019. 34 *Ibid*; Lorenzen, interview (2019). 35 Mbuthuma, interview (2019). 36 Lorenzen, interview (2019). 37 Mbuthuma, interview (2019). 38 Lorenzen, interview (2019).

Ines Mahmoud

"COMMON GOOD BEFORE PRIVATE PROFIT!" A PEASANT STRUGGLE FOR LAND IN JEMNA

The screams for "work, freedom and national dignity", echoing in the streets throughout Tunisia in 2011, have brought about political and democratic change, that led not only to the abolition of the former dictatorship, but more importantly to a new constitution and gain of political-democratic civic rights. The Tunisian revolution of 2011 has marked a crucial point in Tunisian history. With uprisings, sparked in Kasserine, then later in the interior regions of Tunisia, Tunisians spread their resistance countrywide against decades of authoritarian, corrupt rule under Zine El Abidine Ben Ali, as well as against the difficult socio-economic conditions they had to live in. The revolt led to further uprisings in the entire Arab region. Throughout the nation, the spirit of regaining sovereignty and freedom was (re)awakened: not only over the political and democratic space taken from the people, but over all aspects of political life, as well as the economic sovereignty Tunisians had been deprived of, from the time of French colonialism until power was taken by the autocratic government of the Democratic Constitutional Rally (RCD). This regaining of sovereignty equally included the claim of sovereignty over land.

In Jemna, an oasis with a population of 7,000 in the south of Tunisia, this spirit of self-determination materialized the demands of the revolution for work, freedom, and dignity in an inspiring land rights struggle, as well as the implementation of a unique experience of collective self-management and voluntarism. We could see peasants, whose land was taken from them under colonialism and later managed by corrupt landowners under the dictatorship, who in the course of the revolution reclaimed the land of their ancestors

and founded an association to collectively manage both the oasis and the revenues from date production. In the past eight years, this led the community to great prosperity and investments in the farm, local infrastructure, educational institutions, and other public services initiated through democratic decisions among the peasants and workers of the oasis.

From Colonialism to Despotism: A Systematic Exploitation of Land

Jemna is surrounded by the Tunisian Sahara desert and the town is known for its natural springs (*A'in*). It is one of the biggest producers of dates in Tunisia. Today it encompasses about 306 hectares, with 185 date palms. In pre-colonial times, the land was farmed by the local population, within which parcels of the land were passed on from family to family. Under French colonialism in Tunisia, the land that had formerly belonged to peasants of Jemna was taken from them and administered by the French colonial power. Under the colonial administration, the peasants of Jemna, whose families had formerly owned the land, then started growing dates for French export. The French created a large agricultural company, the Commercial and Agricultural Society of South Tunisia (SCAST) in the 1920s, which oversaw the management of the oasis. In 1937, colonial ruler Maus de Rolley created a new palm plantation outside the ancient oasis. Dissidents, not accepting the expropriation of their land or the labour exploitation on the oasis by the former colonial power, faced imprisonment. After independence from France in 1956, which up to then had owned these lands, the oasis was nationalized under the agricultural



Road crossing the oasis of Jemna. Photo: Nadir Bouhmouch

decolonialization law of 1964. Through the law, state properties in Tunisia stretched across nearly 800,000 hectares and were covering a large part of the country’s most fertile lands. The law furthermore entrusted the management of the land nationalized under the act to the Public Land Office (OTD), placed under the authority of the Ministry of Agriculture.¹

At the same time, the peasants of Jemna entered into an agreement with the state, paying 40,000 Tunisian dinars (TND)²—half the amount requested by former governor Ahmed Ballouna for the land at the time—to reclaim the land they cultivated. In the mid-1960s however, the state preferred to return the money to the community of Jemna in dividends scattered among regional projects such as the hotel “Oasis” or the SCAST. Ten years later, in the 1970s, the state forced the tutelage council of the region to donate the land to the company’s Agricultural Development and Date Company (SODAD), a branch of the Tunisian Dairy Corporation STIL.

While one of the most dominant demands of the independence movements was the redistribution and recovery of the land taken away

from peasants through the former colonial power, the Tunisian post-independence government, weighing up its continued confiscation of the land with its assessment that Tunisian farmers were too technologically backward and economically poor to exploit the lands effectively and profitably, planned to continue the “technical modernization” of the agricultural sector by fully adopting the

colonial model.³ Its agenda therefore was to do the latter through public management, improving production levels, creating value and using the surplus generated. It aimed at the possession of large private property, mechanization, intensive use of chemical inputs, fertilizers, insecticides, pesticides, seeds and selected seedlings. In practice however, the public exploitation of lands has meant a deficit. Since 1970, no fiscal surplus has been registered on OTD’s account, which is chronically in deficit.

The contract was terminated by the public authority in the 1970s. In 1974, the oasis was then assigned to a subsidiary of STIL, which operated about 300 hectares of the oasis of Jemna, without the approval of Jemna’s Local Management Council, in which at the time only 7 of 16 members of the council approved the transaction, deeming the expropriation of the land to STIL to be an undemocratic decision of the state and against the wishes of the local population.

Through structural adjustment programmes dictated by the International Monetary Fund (IMF) in the 1980s, the liberalization of the

Tunisian agricultural sector, and the general corruption in the Tunisian economy under the dictatorship, the public company managing the oasis of Jemna went bankrupt in 2002.⁴ The grove was consequently leased for 15 years to two private investors close to the Trabelsis (the nepotistic circles of Ben Ali): Abdel Ben Amour, a business owner in the domain of construction renting 111 hectares of the land for a rent of TND 9,734 (about EUR 7,400) in the first year, as well as El Hedi Charfeddine, the brother of the former general inspector of Ben Ali's national guard, who rented 74 hectares of land for TND 5,000 (about EUR 3,800); a very low rent at the time. Under the corrupt dictatorship of Ben Ali, it

In the course of the revolution, peasants reclaimed the land of their ancestors and founded an association to collectively manage both the oasis and the revenues from date production.

was a common practice to arbitrarily attribute land to people close to power. With the revolution, citizens, specifically peasants, sought to "recover" these lands which they considered as belonging to their ancestors. In 2011, landless and near-landless workers occupied 100 farm units, totalling 10,000 hectares.⁵ These movements occurred in different parts of Tunisia, yet the case of Jemna—due to the citizens' unified aim to collectively reclaim and manage the land instead of individually re-occupying parcels—differs from other such land rights struggles in the country. In Tozeur for example, an oasis in the south-west of Tunisia, land has equally been occupied by inhabitants in the course of the revolution. In the case of Tozeur however, this land was not distributed among the inhabitants and thus its farming and revenues remained in the hands of individual occupants of the parcels.

The Establishment of the Association for the Protection of Jemna's Oasis

Breaking free from colonialism is, as Fanon said, for a "colonized people the most essential value, because the most concrete, is first and foremost the land: the land which will bring them bread and, above all, dignity."⁶

In 2011, caught by the spirit of the Tunisian revolution and the nationwide uprising carrying first and foremost the banner of self-determination, especially the youth of Jemna was determined: the land they lived and worked on and which was leased to them, generating profit for the corrupt elites of the dictatorship, belonged to their ancestors. It was therefore their right to take back what belonged to them. The entire town, under the lead of the Committee for the Protection of the Revolution, organized a sit-in for 99 days, to recover the confiscated land. Over a period of three months and ten days, tents were set up throughout the farm, in which the committee held its meetings, distributed food to the community, and in which media as well as local radio stations worked.⁷ Each citizen of Jemna contributed TND 30 to the Committee for the Protection of the Revolution, leading to a budget of TND 34,000 (around EUR 17,500) for the committee.⁸ Any equipment or material left on the farm which belonged to the former owners was returned to them. On 12 January 2011, the community finally reclaimed 185 hectares of land.

Within the period of the Tunisian revolution, the move to occupy the land was widespread and targeted predominantly state-owned farms. What remained different between the experience of Jemna and others is that in other villages and towns such as for example Tozeur, plots were occupied by individual actors and not in a collective act, and therefore benefited the individual former owners of the plot instead of the collective. In Jemna, by

contrast, the land was not divided into different plots.

After the successful reclaiming of the land, the question of how to proceed with the management of the land was collectively discussed in an inclusive process. At the beginning of the process, some members of the community wanted to divide the oasis into individual properties, the majority of the town however decided that the properties should remain together and the oasis be managed collectively. With the aim of collectively sharing and managing the reclaimed land, inhabitants of Jemna founded the Association for the Protection of Jemna’s Oasis (APJO) in 2012. That way, they wanted to promote more socially sensitive management of agriculture and reinvestment of revenues for community development.⁹ The slogan used by the APJO was “Common good before private profit!” The APJO operates as an association. As such, it has an external accountant, who verifies the budget and expenses of the association. It has statutes and operates in accordance with the Tunisian legislative framework on associations. The employees of the association are managed by three supervisors. The work of the 150 workers is divided into farmers, super-

visors responsible for managing workers, administration, finances, a general supervisor, and security guards.¹⁰ The nature of the work of farmers is adapted to the current needs of work on palm farms and ranges from cleaning, weeding, planting, maintenance of irrigation canals, to other tasks. However, to this day, the state has not legally recognized the association, even after it held meetings with the government and ministries such as the ministry of state property, or the ministry of agriculture.

Social Investments and Economic Growth

The association uses its revenues to plant new orchards, cover water and electricity bills, maintain the palm trees, and pay the salaries of 150 workers. It has also undertaken development projects: it bought an ambulance and built a permanent structure for the market (*souk*) of 1400 square metres to protect people from the sun, started the restoration of the cemetery of Jemna, and in two primary schools built classrooms, bathrooms, a library, a teacher’s room, a snack bar for students in the main entrance, and a gym for the high school. Recently, the APJO has been

planning the construction of a *hamam* (public bathhouse).¹¹

It also provides support for cultural and charitable organizations in Jemna. In the past, APJO hosted cultural festivals, provided a big donation to the regional section of the Tunisian Union for Aid of the Intellectually Disabled (UTAIM) as well as the mosque and local quranic school. It also financially assisted associations in neighbouring villages



A barn on the collectivized date farms in Jemna. Photo: Nadir Bouhouch

and towns which contacted them to ask for financial support, such as organizations in Kebili for autistic children and cancer patients respectively, a cultural association in Mansoura, the palm association of Douz, and the Belkhir elementary school of Gafsa.¹² Taxes from merchants go directly to the community. The APJO furthermore helps its community members with financial assistance on an individual basis where help is needed, such as when seeking medical treatment and other problems. Next to this, the most important spending of revenues is the continuous investment in the farm. 2500 new palm trees have been planted in the years after the revolution. By 2016, the association had reinvested USD 630,000 towards community projects. The APJO also changed the way of farming and maintaining the oasis. While under the former land owners there was garbage on the land and wild boars living on the farm, it cleaned the land and improved the quality of dates in Jemna, while promoting ecological sustainability.

lack of legal status of the land, it would not be possible to provide social security to workers there, the APJO decided, as an alternative solution, to increase the salaries of all workers by the amount of benefits otherwise provided through CNSS in cash. While in 2011, salaries were ten dinars per day, in the subsequent years they were raised to TND 12.50. In 2015, salaries were TND 13.50 plus TND 1.90 benefits, hence a total of TND 15.40 per day (around five euros). In the APJO all workers are paid, except the administrative council and the association members. The 12 people this encompasses execute their work on a voluntary basis.

Decisions in the APJO are taken collectively. General assemblies, in the form of regular public meetings, are held in the town's central square, at which the citizens of Jemna can express their opinions and raise concerns to the APJO, whereupon the issues which arise in the general assemblies are carried back into the APJO, influencing its decision-making processes. In information meetings, members

Inhabitants of Jemna wanted to promote more socially sensitive management of agriculture and reinvestment of revenues for community development.

Before the revolution, a majority of the citizens of Jemna were unemployed, and only 20 locals as well as 60 seasonal workers were employed by the former landowner, meanwhile the APJO has created new jobs for its community. While under the former land owners, salaries were at seven dinars (around two euros) per day plus TND 30 of social security benefits per month (around nine euros), salaries under the APJO increased steadily. Workers of the APJO however lack social security and health insurance provided by the state, due to the lack of legal state recognition of the land. When the Tunisian National Social Security Fund (CNSS) declared that due to the

explain income and expenses or declare new purchases and spending of the association. In cases of disagreements at assemblies, decision-making processes are delayed until a later meeting to allow everyone to think about new consensual proposals. The APJO experiences this form of policy as popular, direct democracy. In all processes of negotiation the association has with the government, local authorities, politicians, and parties concerning its legal status, reports are communicated to all inhabitants of the oasis and decisions are reached together. General assemblies as well as the composition of the APJO however remain predominantly male.

While pre-2011, the annual revenues from the farm were approximately TND 450,000 per year (about EUR 183,000), revenues generated in the first four years of the self-management of the oasis through the APJO increased as follows: TND 969,500 in 2011 (EUR 479,000), TND 941,000 in 2012 (EUR 461,000), TND 847,600 in 2013 (EUR 379,000) and TND 1,800,000 in 2014 (EUR 786,000). In the first five years since reclaiming its land, the oasis community has made the equivalent of more than EUR 621,000. Yearly revenues are published in a detailed annual report, overseen by an external auditor.

An Ongoing Struggle

The move to collectively reclaim their land and manage it as a cooperative did not however stay without resistance and struggles to be faced. As mentioned before, the biggest challenge faced by the APJO remains its lack of legal status, which prevents it from operating its farm properly due to constraints such as the inability to cover the CNSS social insurance of its employees. Furthermore, the association's lack of legal status does not make it possible for workers to create a union representing them and defending their rights. The Ministry of State Properties and Land Affairs has previously proposed that the association takes the “form of a Company for Agricultural Promotion and Development (SMVDA), a status created in 1990 to encourage private investment in state-owned land”.¹³ The APJO however rejected this proposal, as it would in that case have to rent the palm grove from the state, who would hold exclusive ownership of the plantation.

In September 2016, after five consecutive years of economic growth and successful administration of the farm through the APJO, this longstanding struggle for legal recognition reached a peak. Before selling the annual yield, the Tunisian Ministry for State Properties

and Land Affairs issued a statement, warning against buying or selling the yield and clarifying that the APJO has no legal right to manage public property.¹⁴ On 15 September, a court decision in favour of the state's ownership claims was prompted. However, the residents refused to surrender to state pressure and proceeded with the auction of the seasonal yield, despite the Ministry for State Properties and Land Affairs releasing a statement threatening them with prosecution.¹⁵

On the day of the auction, the citizens of Jemna gathered with supporters from other regions. The decision to do so had been taken collectively. In a courtyard arranged specifically for the auction of the annual harvest, they hosted their auction in a festive atmosphere, despite government threats.¹⁶ In response to the repression the association was met with in Tunisia, a solidarity committee for Jemna was founded, made up of young activists. The association equally received support from farmers in Chouigui, Sidi Bouzid, Tozeur, and Kasserine, as well as syndicalists in Sfax, the Tunisian League of Human Rights, and other civil society actors. With 110 people, a solidarity caravan to Jemna was organized to support the oasis in its determination to sell its harvest despite the prohibition of the Tunisian government. The harvest ended up being sold for TND 1,700,000 (EUR 690,000). The association has since been able to farm its land and sell its crops without comparable obstacles. Its struggle for legal status however remains. Still, the APJO hopes that Tunisia's new president, Kais Saied, will have the will to “resolve the situation in favor of locals” as he advocated for decentralization in his election campaign, with the aim to strengthen local councils as the basis of a restructured legislative body.¹⁷

Jemna portrays an image of a solidarity economy, not only in the context of the Tunisian counter-revolution, but also in the context of global neoliberalism and neocolonialism,

presenting a socio-economic alternative cooperative model of production. Within a neoliberal system, which puts profit before people and in which workers are more and more alienated from labour, Jemna shows how the opposite, the collective management and distribution in an implementation of what some might see as a socialist utopia, can work. This is achieved by focusing on a broader agenda entailing "economic sovereignty (including over land), dignity and justice".¹⁸

Tunisia remains shaken by ongoing movements of civil disobedience, protests, and strikes against the neoliberal rule of the counter-revolutionary government, which continues the economic policy of the toppled dictatorship, committed to free market reforms, decreasing the state's regulatory, financial, and productive roles in the economy, and further pushing the national economy into a

vicious circle of foreign-denominated debt and free trade agreements. It thereby threatens national food sovereignty, water sovereignty, energy sovereignty, and ultimately economic sovereignty. "Work, freedom and dignity", the words so prominently shouted during the revolution, still resonate today, as the economic demands of the revolution remain unfulfilled.

Since its creation, the APJO has "facilitated investment of agricultural gains in the town, in health provision, paying workers and maintaining the ecological balance of the Oasis".¹⁹ The experience of Jemna has left a big echo. From the south-west to the south-east of Tunisia, the question is raised, loudly and clearly: to whom does this land, which was expropriated from peasants in the context of colonialism, today belong? Since the revolution, according to the Ministry of State Property and Land Affairs,

between 50,000 and 70,000 hectares of land were "illegally captured by citizens".²⁰ Jemna is no isolated case. Its experience is echoing in neighbouring oases, which have started attempting to implement similar models to the APJO.

Not only in the context of the Tunisian counter-revolution, but also in the context of global neoliberalism and neocolonialism, Jemna stands for a socio-economic alternative cooperative model of production.

1 Aziz Krichen (2017): L'affaire de Jemna. Question paysanne et révolution démocratique, Nawaat, 7 December 2016, available at <https://nawaat.org/portail/2016/12/07/laffaire-de-jemna-question-paysanne-et-revolution-democratique/>. Last accessed: 30 March 2020. 2 Hamza Hamouchene (2017): Jemna in Tunisia. An Inspiring Land Struggle in North Africa, Open Democracy, 13 April 2017, available at <https://www.opendemocracy.net/arab-awakening/hamza-hamouchene/jemna-in-tunisia-inspiring-land-struggle-in-north-africa>. Last accessed: 30 March 2020. 3 Krichen (2017). 4 Rachel Bahn and Rami Zurayk (2018): The 'Arab Spring' in North Africa: Egypt and Tunisia, in: Rami Zurayk, Eckart Woertz and Rachel Bahn, (eds.), *Crisis and Conflict in Agriculture*, Oxford: CAB International, 2018, pp. 90–101, p. 100. 5 Alia Gana (2017): Rural and farmers' protest movements in Tunisia and Egypt in the era of Arab revolts, in: Alessandra Corrado, Carlos de Castro, Domenico Perrotta, (eds.), *Migration and Agriculture. Mobility and Change in the Mediterranean Area*. London, Routledge, 2017, pp. 261–276, p. 268. 6 Frantz Fanon (1961): *The Wretched of the Earth*. New York: Grove Press, 1961, p. 44. 7 Vanessa Szakal (2015): In Jemna, Locals Manage Oases to Reap the Fruits of their Labor, Nawaat, 11 July 2015, available at <https://nawaat.org/portail/2015/07/11/in-jemna-locals-manage-oases-to-reap-the-fruits-of-their-labor/>. Last accessed: 20 March 2020. 8 Szakal (2015). 9 Habib Ayebe (2016): Jemna, ou la résistance d'une communauté dépossédée de ses terres agricoles, 3 October 2016, available at [\[wordpress.com/2016/10/03/jemna-ou-la-resistance-dune-communaute-depossedee-de-ses-terres-agricoles\]\(https://wordpress.com/2016/10/03/jemna-ou-la-resistance-dune-communaute-depossedee-de-ses-terres-agricoles\). Last accessed: 30 March 2020. 10 Maisie Odone \(2019\): Jemna's Collective Land Association Looks to New President with Hope, Meshkal, 3 October 2019, available at <http://mesh-kal.com/2019/10/31/jemas-collective-land-association-looks-to-new-president-with-hope/?fbclid=IwAR33RBVnRwKQoOf4MqGp9kz8BGwRcTJnJcMveuBKUIX-OhBG5pMXiSbzHanE>. Last accessed: 30 March 2020. 11 Ibid. \(2019\). 12 Szakal \(2015\). 13 Ibid. 14 Tasnim Abderrahim \(2016\): Jemna. The challenge of Local Empowerment in the Tunisian Hinterland, European Centre for Development Policy Management, 10 November 2016, available at <https://ecdpm.org/talking-points/jemna-the-challenge-of-local-empowerment-in-the-tunisian-hinterland/>. Last accessed: 30 March 2020. 15 Mohamed Kerrou \(2017\): Actualité et urgence de la résolution de l'affaire de Jemna, Leaders, 30 October 2017, available at <https://www.leaders.com.tn/article/23375-mohamed-kerrou-actualite-et-urgence-de-la-resolution-de-l-affaire-de-jemna>. Last accessed: 30 March 2020. 16 Abderrahim \(2016\). 17 Odone \(2019\). 18 Hamouchene \(2017\). 19 Bahn and Zurayk \(2018\): p. 100. 20 Lilia Blaise \(2016\): Tunisie. Entre quelles mains tomberont les dattes de l'oasis de Jemna, France 24, 22 October 2016, available at <https://www.france24.com/fr/20161022-tunisie-jemna-dattes-histoire-revolution-terres-agricoles-habitants-exploitants-recuperatio>. Last accessed: 30 March 2020.](https://habibayeb.</p>
</div>
<div data-bbox=)

Nadir Bouhmouch

BUILDING POWER FROM BELOW

THE MOVEMENT ON ROAD '96 AS A HORIZONTAL, LOCAL, AND AUTONOMOUS MODEL

The commune of Imider is located in a valley between the water-rich sedentary Atlas and the mineral-rich volcanic Jbel Saghro mountain ranges in Morocco. At the bottom of the valley, fertile fields cling to the sides of a riverbed where the villagers maintain a diverse mosaic of crops, trees, and bushes suited to the climate of this semi-arid region. Each plant is laid out symbiotically with other plants and in harmony with the passage of water, the movement of the sun, and occasional windstorms. A complex system of ancient *khattara* (a traditional system of water transport in desert areas) runs underground bringing spring water from faraway mountain sources, keeping this high-altitude oasis lush. Despite their aridity, the commons surrounding the oasis are not only a source of food for livestock but also home to a variety of natural herbs, plants, and animals which the community has taken care to use in moderation. Tribal customs, discussed and decided upon in regular *Agraws* (popular assemblies), have designated hectares of collective lands as *Agdals*, natural reserves forbidden for pastoral activities. *Agdals* are rotated every couple of years, allowing for plants to regenerate and making pastoral activities genuinely sustainable, and are even crucial for the stability of the commons. Meticulously developed by the Ait Atta tribe for centuries, these various organizational features come

together in social and environmental harmony which speaks to human creativity, indigenous knowledge, and participatory tribal politics. However, with the brutal penetration of French colonial forces into Ait Atta tribelands in 1933, much of this system would come under threat. Over the coming decades, an authoritarian state, regimented from Rabat, would come to replace local autonomy and participatory politics maintained by tribal confederations. The commons, along with the water and minerals underneath them, became property of the state. With the discovery of significant silver reserves in the commune, the situation became aggravated as a state-owned mining company started extracting the raw mineral and exporting it for purification and manufacture. Starting in the 1960s, this model would stand for the next couple of decades, until the 1980s when the state took out a loan from the International Monetary Fund (IMF). The IMF in turn required the Moroccan state to privatize state-owned industries and services, including the silver mine in Imider. By 1984, the mine



The Movement on Road '96 marks World Water Day with a march to the Targuit water well. Photo: Nadir Bouhmouch

was well on its way towards privatization but was also changing the raw-export model by expanding its activities to include on-the-spot silver purification. While the proponents of this new economic model claimed it would provide more jobs, what it meant in reality was the introduction of an extremely water-intensive and toxic process in a semi-arid region. In the same year, the mining company Managem began planning to tap into Imider's fragile aquifer waters, resulting in the first of four peaceful uprisings led by the villagers over the next three decades: in 1986, 1996, 2004, and 2011. Quickly put down by the authorities, the 1986 uprising consisted of the villagers occupying the area where the mining company was planning to build the well. After that, the mining company would go on to dig more wells and a system of pipelines which led to increasing substantial water extraction. This became more evident after a 2004 report showed a

48 percent decrease in *khattara* water levels just one year after the mining company drilled another well in 2003.¹ Another 2015 report puts the mine's daily consumption of water at 1555 cubic metres, which is 12 times the village's consumption for agricultural and domestic purposes combined.² As such, by 2004, the drastic depletion of water resources resulted in another uprising, this time led exclusively by peasant women worried for their crops and angered by the lack of water in their homes.

The purpose of this paper is to focus on the successes of the last rebellion in 2011, which goes by the name "Movement on Road '96" (MOR96) in memory of the 1996 uprising, which led to the intervention of the military, as well as curfews, imprisonment of villagers, and the death of one activist, Lahcen Usbdan. Unlike the previous rebellions which lasted for no more than 40 days, the 2011 uprising lasted

for eight years. It began on an August morning as students, previously promised summer jobs at the mine, were turned away at its gates. Angered by the situation, the students marched to and occupied the square in front of the commune administration. As news of their protest spread through Imider's seven villages, other segments of the population joined the youths. Most notable among these segments were peasant farmers, mainly women, who united their demands for water with the unemployed students' demands for jobs and better local infrastructure. The result was a comprehensive grassroots movement which included all demographic and social sectors in Imider, including schoolchildren who led their own strikes and school walk-outs.

Peasant farmers, mainly women, united their demands for water with the unemployed students' demands for jobs and better local infrastructure.

Throughout this paper, I will attempt to analyze how the community of Imider was able to galvanize this moment to construct one of the strongest and most unique rural protest movements in modern Moroccan history. I will offer an overview of MOR96's various gains and victories, including how it managed to shut down the majority of water extraction in the commune, forced the mine to insulate waste deposits from local aquifers, and secured essential local infrastructures like school buses and roads. This paper will particularly focus on the four primary factors which I believe enabled the movement to establish these gains and build counter-power: horizontal organization, direct action, cultural action and counter-propaganda. However, today, the movement has seen an almost fatal decline which was largely brought about by a relentless eight-year long campaign by the state and the mining company deploying violence,

imprisonment, propaganda, social pressure, and co-optation. Since most of these detrimental forces have already been quite widely discussed in the press and by human rights organizations, here, I will rather focus on the role of political parties and workers' unions and their largely negative impact on the Movement on Road '96.

Horizontal Organization

The *Agraw* held in front of the commune administration on 1 August 2011 was in many ways a spontaneous moment in which previously invisible but nonetheless present popular resentment towards the state transpired into a palpable revolt. Involving hundreds of villagers, the circular form of the assembly symbolizes this democratic ideal by rejecting the hierarchal seating structure usually found in more authoritarian forms of organizing. This makes *Agraw* not only a decision-making body but also a form of protest by virtue of its occupation of public space. During breaks, family picnics sprawl out into the brush, infusing the political event with social significance and opportunities for communitarian bonds which had not existed since pre-colonial times.

Before the re-adoption of *Agraw* as a political form, clan feuds and inter-village discord instigated by the state were the norm. Also, due to fear, resentment towards state institutions prior to this open revolt was fragmented and either limited to individual thought or communicated amongst small groups in what James Scott calls "hidden transcripts".³ For example, "hidden transcripts" in Imider may have manifested themselves amongst a group of women harvesting the crop alfalfa while quietly discussing the dwindling water quotas accorded for irrigation and domestic use, or amongst cliques of young men gathering to talk about unemployment in a hidden corner of the almond groves. Various social groupings, cliques, and other micro-spaces for political

discussion were not necessarily separate from each other. In reality, they formed an informal, fluid, ever-evolving network which revolved around communal spaces: water sources, work spaces, weekly markets, high schools, universities; and instances such as harvests, weddings, other social events, and so on. In the absence of formal political organizing, and disillusionment with political parties, these grassroots spaces of political negotiation should be seen as the most important means of constructing counter-power in the absence of formal or institutionalized civil society groups. I believe these ubiquitous, horizontal, and informal networks are also what made it so natural for the August 1 *Agraw* to immediately become a unified, horizontal, and practical decision-making body which would go on to become a regular feature of Imiderian daily life. Including all segments of the community, the horizontality of *Agraw* was primordial to ensuring that everyone's specific interests were vocalized and discussed.

Now, *Agraw* enhanced each individual's sense of agency by creating an open platform where any villager could participate and therefore have a direct impact. In this sense, the establishment and normalization of *Agraw* was in itself a victory against the central state and its authoritarian modes of function. It is thanks to this process that the movement's "Bill of Rights"⁴ emerged, a detailed document outlining a wide set of social, economic, political, cultural, and environmental demands, which is inclusive of the woes and needs of all the voices making up the movement.

The horizontal structure of the movement also had strategic advantages. First, it helped prevent the burn-out that often affects activist groups. By getting rid of leadership and ensuring a horizontal dissemination of knowledge amongst villagers, the movement ensured its capacity to open participation to all members according to the various degrees of commitment and time each individual was able to

dedicate to the struggle. While *Agraw* was the only decision-making body, committees created to execute specific and more intensive tasks allowed for more dedicated members to make more significant contributions and deploy their particular talents and capabilities while preventing the concentration of decision-making power in too few hands. These dedicated members were considered volunteers who could opt out of the more intensive work required of committee work if they were no longer capable due to psychological, social, or economic reasons. For example, members who remained intensely active for months at a time could take a break (for example to pursue their studies or rare work opportunities) and return without worrying that their departure may leave a vacuum significant enough to handicap the movement.

This brings us to the second advantage of *Agraw*: its ability to weaken the impact of political imprisonment and avoid the co-opting of leadership by dissolving the individual power of its members into a collective whole. This not only protected individuals from being perceived as key “imprisonable” or “co-optable” figures the state might want to use to break the movement, but also made it possible for tasks to be easily transferred to other members in case an individual was arrested or co-opted.



Peasant women from Imider demonstrate for World Water Day. Photo: Nadir Bouhmouch

Direct Action

The movement sought to build popular power not by resorting to coalition-building, judicial, or legal means but rather through direct action. 22 days after the protests began in Imider, the villagers decided to shut down the water pipeline to the mine. The 22 August decision, made by consensus in *Agraw*, was seen as a necessary step following the non-response of both the authorities and Management to their demands. As such, the closure of the pipeline was meant to strengthen their negotiating power by striking directly at the mine’s productive capacities and therefore its profit margin. Indeed, over the next couple of years, the silver production in the mine fell by about 40 percent as a result of this action, forcing the mine and the authorities to sit at the negotiating table with the villagers.⁵ This permitted the movement to secure some important albeit still unsatisfactory gains, all of which were published in a September 2019 MOR96 statement outlining 28 gains. Some of these came in the form of concessions made by the authorities and the Management mining company, including:

- The restoration of historic monuments in Imider.
- The construction of roads linking the two banks of the Targuit valley to the centre of Imider and Tabulkhert.
- The official employment of 50 people from Imider at the mining company.
- Maintaining summer employment as well as providing training opportunities for students at the mining company.
- Providing school transportation for students in Imider.
- Providing 200,000 Moroccan Dirham (MAD), equal to around EUR 18,400, as financial support to local associations in Imider.
- Expanding electrical networks to include all of Imider’s villages.
- Fencing Imider’s graveyards.

- Building barriers on the sides of riverbanks to protect agricultural lands and housing from flash flooding.
- Providing a garbage truck to the commune and creating a sanitation network.
- Providing an additional ambulance for the villages.
- Building isolated waste deposits to prevent the mine’s toxic waste from leaking into local aquifers.
- Introducing a water recycling system to minimize the mine’s consumption of water.
- Raising communal land rental to the mine from MAD 880 to 2500 (EUR 81 to 239) per hectare (the mine rents collective lands from the village commune).

However, as significant as these concessions were, perhaps the most important gain did not come from concessions but rather as a direct result of shutting down the water pipeline. According to MOR96, approximately three million cubic meters of water were saved and kept in the ground thanks to their direct action. This number continued to grow as long as the pipeline remained shut. The fruits of this direct action were literally visible as previously-dying almond and olive trees have returned to life. *Khettara* have regained their flow of water while the wells which irrigate the drier margins of the oasis have become exploitable once again. In fact, over the last five years of field work in Imider, I have observed the green surface area of Imider’s oases expanding in a spectacular way. Although the exact surface area growth and impacts still need to be studied and determined, the villagers confirm that the oases have returned to their original size ever since the pipeline was shut down. Imider’s farmers have praised the action as essential to their survival, pointing to severe droughts and harvest failures in Timadrouine, a nearby commune where the mine continues to exploit aquifers, compared to the healthy condition of their own lands.

The movement’s direct action and the installation of village youth in a protest camp around the area where they had shut down the pipeline had also opened up a sort of “liberated zone” where the police were unable to penetrate. The protest camp consequently became a space for uncensored cultural, social, and even academic exchange as the villagers used it to organize film festivals, theatre shows, concerts, panel discussions, and a variety of other events bringing artists, professors, and activists from as far away as Standing Rock, USA, or the ZAD (the “Zone to Defend” of Notre-Dame-des-Landes) in France, from neighbouring countries like Algerian anti-fracking and Tunisian anti-phosphate activists, but also geographically closer struggles like land rights activists from Ouled Sbita. Typically, the type of events organized at the protest camp would have been banned by the authorities if they had been carried out in an area where the state had control over venues and public spaces. As such, the camp attracted wave after wave of visitors and solidarity caravans who exchanged knowledge with the villagers of Imider. One could indeed say that the lack of state control over this new extension of the villagers’ daily living-space permitted a flourishing of ideas that impacted not only the community of Imider, but also people from far away and across borders.

Cultural Action and Counter-Propaganda

If horizontal organization can be said to have permitted grassroots participation on a local level, and direct action to have liberated space for popular expression, the deployment of culture and media has played the equally important role of nourishing the movement morally and attracting solidarity on both a national and international level. As I have outlined above, the explosive moment in front of the commune administration was the latest of four post-independence uprisings in Imider.

Each of the preceding uprisings had undoubtedly fed into the next one as each generation learned from its previous mistakes and victories.

The collective memory of previous struggles is primarily carried through cultural and artistic creations. As an indigenous form of poetry known for its social critique and its historic role opposing colonialism, *Izlan* is the most prominent artistic form deployed by the movement. *Izlan* is recognized by many anthropologists for its role as a type of living archive, as they are told as tales of historic events.⁶ In the case of Imider, *Izlan* act as both historic documents which describe previous uprisings as well as poetic reports of the current struggle. Many villagers have maintained this oral tradition by singing it at social and public events where

ers of all ages to produce and present artistic works ranging from theatrical plays, to murals and concerts expressing what they think about the mining company and the condition of their commune. The community also put together the “Imider Film Festival for Environmental Justice” where they screened films about other communities struggling against extractivism and environmental injustice. The festival allowed for this isolated community to engage with and relate to a global issue, permitting them to be better informed in their own struggle against Managem. The protest camp also attracted various artists, including influential musicians like Itran Clan and Imgoun Life who recorded songs at the protest camp or about the movement, allowing it to reach wider audiences.

Approximately three million cubic meters of water were saved and kept in the ground thanks to shutting down the water pipeline, and previously-dying almond and olive trees returned to life.

they can mobilize people behind their cause or by confronting state collaborators, informants or local notables through nothing more than a few verses, causing their humiliation and eventual retreat from a public event. Poetry thus acted as a means of giving MOR96 local credibility while placing social pressure on those considering taking the side of the mining company or local notables. Poetry also provided a great source for slogans and chants during protests as specific verses were deployed according to specific political changes or as responses to Managem or the state’s actions.

As I briefly mentioned above, cultural action also revolved around the protest camp as a space liberated for expression. Besides poetry, the movement organized various festivals for the benefit of the community. Held every spring, the Tafsut Festival encourages villag-

Besides attracting the interest of artists outside of the community, the movement itself produced its own works, including a photography exhibit which was shown in an exhibition tour in France. MOR96 has also produced three films: two shorts and one feature-length documentary. The feature-length documentary, “Amussu” (Movement) was produced collectively by the villagers and succeeded in winning the Grand Prize at the most important documentary festival in Morocco, but was also shown around the world. As such, the film was able to garner renewed attention and foster international solidarity for the Movement as well as permitting it to make new connections with activists abroad.

Prior to the feature film, the Movement’s first short film, “#300kmSouth” exemplifies its utilization of the Internet and social media to circumvent a mainstream media blockade

and to confront Managem corporation's influence over the press and official media. Sharing its name with a hashtag used across several social media platforms, the short film was produced right before the COP22 conference held in Marrakesh in November 2016 and was meant to criticize one of the conference's main sponsors: Managem. Going viral, the video and the hashtag were able to gain the attention of environmentalists, press, and even some government officials who came to attend the climate conference from abroad. The messaging of the film and the hashtag was simple: just 300 km south of Marrakesh, the Moroccan state and one of the main sponsors of the conference was carrying out environmental crimes against their community.

But #300kmSouth was not the first time the Movement had carried out an effective online campaign. A year before, Managem attempted to break the Movement's widespread online presence and influence by inviting young "social media influencers" and bloggers to tour its various mines and publish praise for the mine on their blogs, Twitter, Facebook, and Instagram pages. To this end, the mine created a hashtag called #MNGdiscover. The Movement's response was swift: it immediately produced dozens of memes, infographics, and photographs which it deployed on the same platforms using the same hashtag. As a result, the Movement was effectively able to hijack the hashtag and subvert it for its own purposes, with people from across the country joining them and beginning to do the same.

In addition to online campaigns and cultural production, the Movement has also been able to attract the international press by using multi-lingual messaging and slogans, press releases, and statements. In turn, the attention of the international press put enough pressure on national outlets to cover the struggle of Imider. Ultimately, the Movement was able to

break the national media blockade and protect itself from further state violence by maximizing its presence in the cultural field, online, and in the international press.

The Role of Political Parties and Workers' Unions

However, despite its local strength and its creative methods of attracting grassroots solidarity from individuals, collectives, and small political organizations, the Movement was unable to gain any substantial support from political parties and workers' unions. I believe this has to do with the political nature of the Movement. While its horizontal organization allowed for mass grassroots participation on a local level, it indirectly threatened national political parties, workers' unions, and other major opposition groups. This largely has to do with the interests of these organizations vis-a-vis the state and their aspirations to attain positions of power within it. As such, their lack of support for the Movement could be seen as ideological. On the one hand, political parties and workers' unions advocated for representative or electoral democracy in their ranks, although in the vast majority of cases, we actually find outright authoritarian practices in the higher echelons of these organizations. On the other hand, the activists in Imider were proponents of direct democracy and local action taking place within a loose network or confederated structure. I believe this could pose a threat to political parties and other centralized organizations which, if this idea were to take hold throughout the country, would make them entirely irrelevant. It would also render them incapable of extracting political or financial benefits from their traditional positions as negotiators and political middlemen.

As such, political parties on the left have generally kept an ambivalent distance to the Movement while political parties in the centre and right have actively sought to sabotage it or redirect it for their political benefit. This was

particularly evident during electoral periods when they were seeking to win new seats. According to some activists, political parties who came in contact with the Movement mostly attempted to push their demands towards judicial or legal routes, which would put these external organizations in charge of



The villagers of Imider hold an *Agraw*, a form of popular or tribal assembly. Photo: Nadir Bouhmouch

the community's affairs. From the perspective of the Movement, it was against their interest to use the law or the courts, which they saw as disadvantageous battlegrounds. Indeed, Moroccan laws tend to preserve the interests of capital over those of communities in order to attract foreign investors. The vast majority of Morocco's political parties work exclusively within this inherently unjust framework, making them useless for the community. As such, these attempts should be purely seen as an indirect means of co-opting and driving the Movement into an institutional dead-end.

Yet, the latter description of the relationship between the Movement and political parties only reveals the most benign and indirect forms of attack against the Movement. According to MOR96 activists, representatives of political parties have also played a more aggressive and direct role in trying to break the Movement, in order to win the praise of higher-up officials and attain promotions. For example, all three primary political parties in the region, the Party of Authenticity

and Modernity (PAM), the Party of Justice and Development (PJD), and the Party of Progress and Socialism (PPS) came out directly against the Movement, which they characterize as nothing more than a greedy community seeking advantages to the detriment of the rest of Morocco's population. According to Omar Moujane, from MOR96's negotiation committee, and Mohamed Ed-Daoudy, from the communications committee, party officials, like the PPS's Yassine Chagiri have even invested in personal business projects which act as subcontractors for the mine while others have come to be directly employed by it.

Meanwhile, belonging to the *Confédération Démocratique du Travail* (CDT), the workers' syndicate inside the Managem mine, has demonstrated the effectiveness of a dec-

ades-long informal state policy which ensures mine workers are recruited almost exclusively from outside the communities in which mines are found. This policy was designed to create a rift between mine workers and local communities and to prevent collaboration and solidarity both inside and outside of the mine, for example by coordinating a strike inside and direct action outside. This would effectively bring the mine to its knees. For this reason, the state and the mining company have focused on bringing in mine workers from other regions, starting in 1979 when mine workers from Imider were fired en masse. As a consequence, today mine workers are not invested in the environmental or social stability of the surrounding community. On the contrary, they are dependent on the continued stability of the mining company to maintain their relatively privileged positions vis-a-vis the community. A position in favour of the community could also jeopardize their own struggles for better wages, health benefits, and other advantages. As such, the CDT has

officially communicated their position against the Movement, mirroring a pattern also found amongst phosphate miners in Tunisia who came out against the 2008 unemployed youth uprising in the southern Gafsa region, and oil workers who remained ambivalent to the anti-fracking movement in Algeria. But their refusal to back the Movement, as in the case of political parties, also has to do with an ideological worldview. Subscribing to a Leninist view at best, Moroccan workers' unions maintain the classical notion that workers are at the forefront of revolutionary struggle while peasants and nomads are vestiges of a reactionary society. Some even view the peasantry as a part of the *petite bourgeoisie*. Yet, Moroccan workers' unions are highly bureaucratic and centralized structures controlled by political elites and functionaries, not the workers themselves. Commands for local workers' unions in specific mines or factories come from the capital, leaving little room for independent action or wildcat strikes which may be more effective and useful for class solidarity on the ground.

Conclusion

Between horizontal organizational structures, autonomously-organized direct action, and the deployment of culture and media, the Movement on Road '96 exemplifies an increasingly common trend amongst contemporary social movements who reject centralized bureaucratic structures including political parties. Part of the success of the movement lay in its capacity to unite a community fragmented by decades of fear and tribal division instigated by a central state which saw tribes as a threat to its authority; and to turn this informal network of political debate into a

leaderless organizational structure that would become a regular part of Imiderian daily life. By relying more on communitarian ideals and locally-focused action, while simultaneously fostering a solidarity network outside of the community, the Movement was able to act more effectively without compromising its initial demands by bargaining and negotiating with political organizations. Considering the corruption and lack of trust in political parties and other classical forms of political organization, the example of Imider can be pertinent as an innovative, more democratic, and participatory model for grassroots resistance across the continent. Indeed, it places power directly on the grassroots level instead of focusing on "middlemen" like political parties, who often undermine popular power and the sense of agency required for mass mobilization. By rejecting strict dogmatic views, rejecting Eurocentric models, and finding inspiration in local references and social structures, the Movement was also able to make the cause more relevant and comprehensible for all its members on a local level. Meanwhile, direct action provided a concrete, palpable lever for the community which challenged the otherwise unchecked power of corporations by striking directly at their productive capacities and profit. In turn, direct action and occupation established liberated spaces which fostered democratic culture and experimentation, which in turn could provide a foundation for alternative models of governance, resource management, and even cultural production. In this sense, movements like the one in Imider not only bring about short-term gains like water preservation and social infrastructure, but also act as laboratories for a more liberated and equal future for all.

1 INOVAR (2005), *Compte Rendu de la Mission du 29/08/2005*, Temara. 2 World Amazigh Congress (2015), *International Pact on Economic, Social and Cultural Rights*, Geneva. 3 James C. Scott (1990), *Domination and the Arts of Resistance: Hidden Transcripts*, New Haven: Yale University Press, 1990. 4 *Mouvement sur Voie '96* (2015), *Dossier des Droits: Défendus par la population d'Imider depuis*

2011. 5 Souhail Karam (2012), *Moroccans Take on Silver Miner for a Share of Wealth*, 29 Feb 2012, available at <https://de.reuters.com/article/morocco-protests-silver/feature-moroccans-take-on-silver-miner-for-a-share-of-wealth-idUKL5E8DRA1S20120229>. Last accessed: 30 March 2020. 6 Ahmed Bouanani (1966), *Introduction. La poésie populaire marocaine*, in: *Souffles*, Vol. 3, pp. 3–9.

Aly Sagne

COMPLAINT FILING AT INTERNATIONAL FINANCIAL INSTITUTIONS

SUCCESSSES AND WEAKNESSES IN THE CASE OF THE SENDOU COAL POWER PLANT

On 25 November 2009, the Board of Governors of the African Development Bank (AfDB) approved a EUR 55 million loan to Nykomb Synergetics Development AB, a Swedish company, for the construction of a 125-megawatt coal-fired power plant named Sendou in the municipality of Bargny, overlooking the Atlantic Ocean and 30 kilometres outside of Dakar, the Senegalese capital. It consists of a Public Private Partnership (PPP) under the “build, own, operate” (BOO) model, lasting for



The Sendou power plant is located close to the sea and on a spot where fish are smoked and sold by women of the village. Photo: Franza Drechsel

25 years and with the coal to be sourced from South Africa.

Based on our research on the AfDB’s operations, *Lumière Synergie Développement* (LSD), a founding member of the Coalition of African Civil Society Organizations and a locally-based environmental association, found in 2010 that the project did not comply with the bank’s social and environmental safeguards policies.¹ In fact, the project started without adequate consultation with the local community. It was planned to use an area for the power plant which had been promised to the victims of coastal erosion, however the 1,433 plots of land were expropriated without compensation. In addition, more than 1,000 people, mostly women working in fish processing plants and seasonal workers, were put at risk of losing their workplace and means of livelihood. This was because a safe distance between the power plant and the ovens used to smoke fish could not be maintained as the power plant was too close by. The project would also entail enormous risks to the environment and the health of communities, and it was not in compliance with the Senegalese environmental code (Article L13).²

Yet, like the AfDB, the other two development banks, The West African Development Bank (BOAD) and the Dutch Development Bank *Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden* (FMO) have environmental and social safeguards policies, whose ultimate goal is to avoid as much as possible any adverse effects, or to minimize social and environmental impacts. Therefore, in partnership with Takkom Jerry, LSD decided to

engage with international financial institutions (IFIs), using their expertise on Independent Accountability Mechanisms (IAM).

On 9 May 2016, LSD and Takkom Jerry filed a joint complaint at the Independent Review Mechanisms (IRM) of the African Development Bank, the Dutch Public Development Bank, and the West African Development Bank's Independent Complaint Mechanisms, for the non-compliance³ of the Sendou project with their respective environmental and social safeguards policies. Safeguards policies are a set of standards established by multilateral development banks to prevent and/or avoid that their investments and operations harm the environment or human rights. On the other hand, complaint mechanisms such as the AfDB's IRM are intended to "make available to all those who have suffered damage as a result of a project financed by the Bank Group, an independent mechanism through which they can request the Bank Group to act in accordance with its rules and procedures."⁴

Grievances Brought to the Attention of Banks

In the complaint, LSD raised the shortcomings of the project in violation of the banks' social and environmental safeguards which these three banks should address, in particular:

- Inadequate community consultation;
- Lack of compensation for land;
- No resettlement of women working in fish drying facilities;
- Violation of Article L13 of the Environmental Code (as this included a buffer zone of 500 metres to the next residential area, which has not been kept);
- Risks of air pollution, marine ecosystem pollution, and threats to fishing;
- Threat to cultural heritage (one sacred Baobab tree is situated in the power plant enclosure and is thus not accessible for the population, while other sacred trees were felled);

- Failure to address the cumulative impacts of the planned coal power plant and the cement factory SOCOCIM that is close by in the Environmental Impact Assessment.

Three Years of Advocacy and Lobbying

A complaint cannot solve everything. Thus LSD combined it with other national and international advocacy and lobbying strategies, supported by an unprecedented media campaign with various tools, as well as the use of social media.⁵ The LSD complaint reached the AfDB 15 days before its Annual Meetings where the main theme was "Energy and Climate Change", so the timing was a great opportunity for advocacy.⁶ Besides, LSD seized every opportunity to put pressure on the banks involved, through bilateral meetings with Sendou project managers, expert panels and/or influential members of the AfDB Board of Directors. The most decisive lobbying meetings were held at the US Treasury Department in Washington D.C., which represents the United States at the AfDB. LSD also went to the respective headquarters of the AfDB and FMO in Abidjan and the Hague. Here, the support of LSD partners Both Ends and the Centre for Research on Multinational Corporations (SOMO), two Dutch NGOs based in Amsterdam, was very decisive for our pressure on FMO. Since the banks care about their image, the naming and shaming strategy obviously succeeded.

On 20 September 2016, four months after the complaint, a big meeting was convened in Bargny by the Prefecture of Rufisque, the department in which the community is located. It was attended by the Mayor of Bargny, the Director of the Environment and Classified Establishments Department (DEEC), the Head of Major Projects at Senegal's electricity company SENELEC, the Administrator (and his staff) of the other big electricity company in Senegal (CES), all the

municipality councillors of Minam and Bargny, the imams and resource persons of the village, and finally representatives of NGOs and associations (including fisherwomen groups, Takkom Jerry, and the Collective of the Affected Community). The Mayor stated that the objective of this meeting was twofold: to provide a space for dialogue between the representatives of the community and the project developers, and to adopt a community position that would allow the Municipal Council to take the right decision on the project.⁷

Therefore, the promoters (CES/SENELEC) recognized for the first time the legitimacy of the community's struggle since the start of the campaign against Sendou, and proposed the following mitigation measures which the Mayor presented the same day:

- An investment of 400 million West African CFA Francs (XOF) (around EUR 600,000) by CES during the construction phase, including 30 million for social initiatives, 12 million for education, 11 million for the youth, compensation for land amounting to XOF 450,000 per plot, 50 million for the modernization of the fish processing site, organization of exchange trips to Morocco or South Africa, etc.
- Finally, the setting-up of a local monitoring committee with the participation of all community representatives.

Investigations

Between 23 and 26 November 2016, expert panels of all the banks—FMO, AfDB, and BOAD—investigated the case in Bargny.⁸ The trip, taking place six months after the complaint had been filed, was a first visit to the community. This field visit mission was accelerated thanks to LSD's lobbying of the FMO expert panel in Amsterdam and the US Treasury Department (through the US representative on the AfDB Board) in Washington D.C., both in October 2016.

All three financial institutions, BOAD, FMO, and AfDB, issued corrective action plans as recommendations to the banks' managements.

The support and advisory role of NGOs have been extremely important in the process: the identification of requesters or community representatives, the clarification of their complaints, the planning and facilitation of field visits, the preparation of a list of stakeholders to be met in Senegal, etc.⁹ As a consequence of the investigations, the bank experts took advantage to improve their understanding of the community's grievances which were raised in the complaints, including the impacts on the environment, on fisheries, on women working in fish processing sites, and finally the land disputes. In addition to meeting with all project stakeholders in Senegal, the panel experts also met with the project's technical advisor, as well as Quantum Power, the major shareholder in London.

The Tripartite Protocol

On the national level, the pressure was such that the promoters (CES and SENELEC) were in a rush to sign a tripartite memorandum of understanding with the Bargny Municipality¹⁰ to address the issues raised in the complaint, which were no more than a synthesis of the mitigation measures set by CES in its new 2017 January action plan laid out as follows:

- Community engagement: CES hired a community officer alongside a new community engagement plan;
- Land: SENELEC increased the compensation package up to XOF 1 billion (around EUR 1.5 million);
- Tax revenue: CES committed to paying approximately EUR 80 million in property tax to the municipality of Bargny for a period of 25 years, representing the project's duration;

- Khelcom fish processing site: CES proposed to modernize the site for about EUR 45,000, and to provide a revolving loan of XOF 30 million for women (around EUR 46,000);
- Hot water discharge: environmental considerations were integrated into the cooling water intake and outlet systems (closed cycle rather than direct discharge into the sea) so as to minimize the plant’s impact on the local marine environment and fishing activities. The outlet system was revised to meet the World Bank guidelines for the temperature of the water discharged;
- Air pollution: the project was redefined to minimize air pollution by implementing some technical mechanisms such as a more efficient burner;
- Implementation of the protocol: finally, a local committee was created to follow up on the implementation of the protocol.

Second Victory for the Community over Donors

After the Tripartite Protocol in March, a second victory was achieved when the board of governors of the AfDB authorized a thorough investigation of the project.¹¹ In April 2017, the

AfDB board of governors authorized experts of the Independent Review Mechanism (IRM) to conduct additional investigations to clarify the issues raised in the complaints filed by local communities affected by the project. Thus, the AfDB stated that the problems should be addressed before the plant could start operating at the end of 2017. In June 2017, as a consequence, the Collective of the Affected Community filed a second complaint.

An outcome not only of this decision was that all three financial institutions, BOAD, FMO, and AfDB, closed the Sendou case on 16 November 2017, 12 June 2018, and 31 January 2019 respectively, and issued corrective action plans as recommendations to the banks’ managements.

In its final report of 2017,¹² the FMO Independent Complaints Mechanism concluded that the Environmental and Social Impact Assessment (ESIA) conducted in 2009 was not fully compliant with the requirements of several performance standards (PS) of the International Financial Corporation (IFC). These are international benchmarks for identifying and managing environmental and social risk, and have been adopted by many organizations



Community protests against the coal power plant in 2018: “Coal kills”. Photo: Action Solidaire

as a key component of their environmental and social risk management. However, PS 1 (2006) — Environmental Assessment and Management Systems—was not fulfilled. The panel acknowledged the real risk of cumulative effects for Sendou II, the community next to Bargny where, according to plans, a new bulk port should be built, which would result in the “thermal pollution” of the sea by the release of hot water.



The fisherpeople fear the environmental consequences of the power plant and the new bulk port. A diminished fish population means a loss of livelihood to the community. Photo: Moussa Ciss

The panel came to the further conclusion that problems related to possible damage to the community, such as the availability of drinking water, were never considered in the various ESIA's, and as a result the project did not comply with this element of the IFC PS 4 (2012) on Community Health, Safety and Security.

The panel believes that as a lender, FMO should have taken steps to ensure that the project had established procedures and actions to minimize economic displacement,

mitigate negative impacts, and provide compensation to any person whose economic rights were affected by the project, regardless of the number of people affected. Also, it confirmed insufficient consultation and communication had taken place with affected communities regarding cultural heritage, and that the threshold requirement for adequate consultation under the IFC PS 8 was not met.

FMO thus suggested an action plan which included an independent advisor to ensure transparent management of SENELEC's compensation funds. Furthermore, the Senegalese government should issue a decree to safeguard the continued presence of women at the Khelcom site and CES was called to formulate a community engagement action plan in accordance with IFC standards. Finally, FMO committed to participating directly in monitoring Sendou's environmental performance and ensuring the project's compliance with IFC standards.

The BOAD has a nascent accountability mechanism, and as such, it aligned its procedure with that of the AfDB. It undertook an environmental and social audit of the coal-fired power plant, which resulted in an action plan summarized as follows:¹³ It was recommended that the Senegalese government formulate a resettlement plan in collaboration with SENELEC and CES for the relocation of persons affected by coastal erosion whose plots of land have been lost because of the plant. Anyone whose economic rights have been affected by the project, for example the fisherwomen, should be provided com-

Independent complaint mechanisms of development banks, backed by a good strategy, provide access to decision-makers and influence national/public institutions and investors.

The complaint was an eye opener for local authorities and investors. It was also an important source of knowledge and learning for local communities.

pensation by the promoters. Furthermore, the promoters are called to produce annual air and water quality monitoring reports. Also, the new mineral port of Bargny and SOCOIM should be included in the analysis of the cumulative impacts of Sendou I and the data in the project's ESIA should be updated, particularly when related to the environmental aspects of the project, the demographic data of the host area (including the Khelcom fish processing site), and the donors' recommendations.

The AfDB is the leading player in this project. Its report came rather late and recommended the following: CES should resettle the 115 households and affected persons to Bargny Ville Verte, and that this be financed jointly by SENELEC, the municipality, and CES.

CES was asked to take up again the periodic monitoring committee meetings in order to speed up the process of reaching consensus. A wastewater management system in the Minam and Bargny municipalities, and the construction of a school in Bargny Ville Verte were further recommended. The AfDB supported CES's project to build a modern fish drying and smoking platform. Additionally, the AfDB recommended the removal of the ash deposit and requested CES to seek a permit for temporary storage of ash at DEEC and supported its project to create a factory to manufacture bricks made out of ash. It also recommended an update of the Environmental and Social Management Plan during the operating period: an inventory of air quality and air emissions monitoring, a sampling of all 11 receptors for 12 months, and the setting up

of a permanent monitoring station in Minam. To address marine impacts, the AfDB requested that CES conduct a baseline study of marine resources as part of project monitoring, and to take samples of marine, surface and groundwater for the monitoring of physical and biological factors. Finally, to avoid the risks of inadequate water supply on the public network, it recommended the construction of a desalination plant worth EUR 3 million.

Lessons Learned from Engagement with International Financial Institutions

In our view, it is always beneficial for a community to use the independent complaint mechanisms of development banks. If the process is backed by a good strategy, it provides access to decision-makers and influences national/public institutions and investors. It is also an important source of knowledge and learning for local communities.

In the case of Sendou, the complaint was an eye opener for local authorities and investors: there were several fact-finding missions undertaken by the banks to the project site, and many interactions and discussions took place at the highest level of the three banks (i.e. the boards of directors) and within the Government of Senegal.¹⁴

In addition, the project promoters drafted a new Corrective Action Plan with the implementation of actions oriented towards women (EUR 27 million to support women's activities, budget support to conduct consultation with local community and budget support for the municipality, etc.), while SENELEC offered EUR 1.5 million to settle the land conflict.

However, these kinds of processes can be complicated, time-consuming, and costly. It took us four years to complete the case and produce mitigation measures and action plans.

Moreover, the community's demands might not be fully addressed, especially if their

expectations are higher or outside of the mandates of the independent complaint mechanisms. This could then lead to a loss of trust in IFIs' accountability mechanisms.

This is exactly what happened on 10 March 2019, when during a workshop meant to evaluate the banks' compliance review reports, Bargny's representatives rejected all the banks' action plans and asked for the project to be stopped.

As of February 2020, Sendou is in its 3rd suspension. Because of technical and financial problems, the plant has ceased operations since July 2019 and a dispute is in process

between the two major shareholders, Nykomb Synergetics AB and Quantum Power in London.

In any case, from the perspectives of the banks, Sendou is classified as a "high risk project" which is actually handled by a focal point whose mission is to advise the banks on how to make a decision going forward.¹⁵

However, from our experience, no investor who cares about its image would like to invest in Sendou, which is facing such a bad reputation both nationally and internationally. So, for us—activists, NGOs, and the local community—Sendou is over!

1 Lumière Synergie Développement (LSD) (2014): *Empiéter sur les droits des communautés, polluer demain*, September 2014. A summary can be found in: Aly Sagne (2014): *Sénégal-BAD. Bargny face à 2 Centrales Electriques à charbon*, The Voice of Communities Affected by business activities, 25 October 2014, available at <https://alysagne.wordpress.com/2014/10/25/bargny-face-a-2-centrales-electriques-a-charbon/>. Last accessed: 06 April 2020. **2** Government of Senegal (2001): *Loi no. 2001-01 du 15 Janvier 2001 portant code de l'environnement*, available at <https://www.sec.gouv.sn/sites/default/files/loisetdecrets/Loi%20n%C2%B0%202001-01%20du%2012%20avril%202001%20portant%20code%20de%20l%27environnement.pdf>. Last accessed: 27 March 2020. **3** The objective of the compliance audit is to verify whether bank policies or procedures have been violated and whether, as a result, harm has been caused to the affected parties. **4** African Development Bank Group (AfDB) (2015): *The Independent Review Mechanism (IRM). Operating Rules and Procedures*, revised 16 April 2015, available at <https://www.afdb.org/en/documents/document/revise-irm-operating-rules-and-procedures-2015-52239>. Last accessed: 27 March 2020. **5** See for example this Lumière Synergie Développement post on Facebook: <https://tinyurl.com/yx2gcbnt>. Last accessed: 12 March 2020. **6** In 2016, the Annual Meetings were held in Lusaka, Zambia. Every year, they are attended by over 2500 delegations from the AfDB and all stakeholders from around the world, including CSOs. **7** Letter of invitation received from the Mayor, see Aly Sagne (2016): *Centrale à charbon. La CES reliance les pourparlers avec la communauté – Bargny dit toujours NIET*, The Voice of Communities Affected by business activities, 20 September 2016, available at <https://alysagne.wordpress.com/2016/09/20/centrale-a-charbon-la-ces-reliance-les-pourparlers-avec-la-communaut%C3%A9-bargny-dit-toujours-niet/>. Last accessed: 6 April 2020. **8** The independent mechanisms are made up of the banks' internal staff and independent experts (usually academics). They are independent of the banks' management and report directly to the Board of Governors, hence their "independent" status vis-à-vis the bank. **9** During their stay in Senegal, the

panels met with all relevant stakeholders: affected communities, local authorities, the Prefect of Rufisque, the Director General of SENELEC, the project promoter, former politicians, the Ministry of Environment and Sustainable Development, the Mayor of Bargny, the Ministry of Energy, the World Bank, the Dutch Embassy, and local consultants. **10** The Minister of Energy and the Director General of SENELEC personally attended the signing of this protocol at the Bargny Municipal Council. **11** Jennifer Patterson (2017): *Sénégal: La BAD va réétudier les doléances que soulève la centrale au charbon de Sendou*, AfDB, 20 April 2017, available at <https://www.afdb.org/fr/news-and-events/african-development-bank-to-further-examine-social-and-environmental-concerns-on-sendou-coal-fired-power-plant-in-senegal-16990>. Last accessed: 12 March 2020. **12** Maartje van Putten, Michael Windfuhr, and Stephen Gibbons (2017): *FMO Independent Complaints Mechanism. Panel Report No. 2. Sendou I Coal Power Plant*. Bargny, Senegal, 12 October 2017, available at https://www.fmo.nl/library/download/urn:uuid:90559906-40f1-4178-83a5-75e4d1a5e8b3/compliance+review+report+sendou_english.pdf. Last accessed: 12 March 2020. **13** AfDB (2019): *Plan d'action concernant le rapport de revue de conformité du projet de la centrale à charbon de Sendou réponse de la Direction*, January 2019, available at https://www.afdb.org/fileadmin/uploads/afdb/Documents/Compliance-Review/Sendou-Coal_Fired_Power_Plant_Compliance_Review_Report_FR.pdf. Last accessed: 12 March 2020. **14** The Prime Minister of Senegal even made a public statement on the project on 25 May 2018: *Energie. Transition au gaz annoncé pour 2021 par le Pm*. Bargny refuse des années de pollution au charbon, *Le Quotidien*, 28 May 2018, available at <https://www.lequotidien.sn/energie-transition-au-gaz-annoncee-pour-2021-par-le-pm-bargny-refuse-des-annees-de-pollution-au-charbon/>. Last accessed: 12 March 2020. **15** All options are considered by the banks (including the banks' withdrawal from the project). But the AfDB and FMO are looking for a new investor to restart the project, while saying that in that case, they will ensure the full compliance of the project with social and environment safeguards.

Richard Ntakirutimana

TWA COMMUNITIES IN RWANDA ADVOCATING AGAINST THE IMPACT OF THE VOLCANOES NATIONAL PARK

This article focuses on the long way of engagement and struggle of the former forest-dwelling Batwa communities in respect of the policy of Rwandan national unity, that attempts to build a nation of one people as Rwandans on the basis that there is no ethnic identity. However, the Batwa are the third smallest ethnic group, the so-called first peoples in Rwanda, who have survived by hunting and gathering in the forests, thus reclaiming their ethnic identity. This article focuses on the impact of the establishment of national park policies and the intervention of the national government in improving the living conditions of the former forest-dependent Batwa communities in light of the national vision of national unity.

The socio-economic situation of the Batwa today as described in this paper is based on recent research findings on the relationship between the Volcanoes National Park and former forest-dwelling Batwa communities.¹ In order to highlight the current living situation, extracts from focus group discussions, as well as personal interviews conducted in the context of this study with members of the affected Batwa communities, are presented in this paper. Since the notion of national parks started in the nineteenth century, the dominant model of conservation has been one that has resulted in “an approach that seeks to preserve wildlife and their habitat through the forceful

exclusion of local people who have traditionally relied on the environment in question for their livelihoods”.² In East Africa, historically, the Batwa were forest-dwelling hunter-gatherers, living and practising their cultural and economic way of life in the high mountainous forest areas around Lake Kivu in Rwanda and Lake Edward in the Great Lakes region of Central Africa; today, the Batwa are found living in Uganda, Burundi, Rwanda, and the Democratic Republic of Congo with an estimated total population of 86,000 to 112,000.³ In order to combat climate change, and forest and biodiversity loss, conservation policies have been adopted across the continent—although in reality, between the years 2000 and 2010, the African continent saw a net annual forest loss of 3.4 million hectares⁴—and such policies have come at a human cost, including, but not limited to, forced land evictions, failed compensation schemes, and



Gathering of community members who met with the author to discuss the situation. Photo: Richard Ntakirutimana

the loss of cultural sites and socio-economic opportunities.

“Fortress conservation” or “the fines and fences” methods to conservation have created tensions and accusations of the local communities destroying ecosystems.⁵ In contrast, local communities portray their lifestyle as protective of the environment, rather than exploitative.⁶ Furthermore, local residents have been excluded from conservation activities or, when they have been included, have found that they have been given ‘privileges’ rather than rights, and more responsibilities than benefits.⁷

Similarly, Rwanda has upheld this conservation approach since its introduction.⁸ The Volcanoes National Park, created in 1924, is embedded in narratives of displacement resulting in ever-increasing marginalization. One report from the International Labour Organization noted that, as a result of a loss of habitat, communities like the Twa in Rwanda increasingly have had to offer their labour for extremely low wages, further exacerbating their tenuous economic situation.⁹

The History of Eviction of the Batwa in Rwanda

The act of evicting Batwa from their original homes likely started in the eighteenth century, being gradually expelled from their lands by agriculturists who converted forests into agriculture area, pastoralists who created pasture for grazing cattle, and European colonizers who encroached on these lands for the purposes of lucrative resources extraction and creation of commercial plantations.¹⁰ Large-scale deforestation, conservation, and creation of national parks became barriers to Batwa surviving as hunters and gatherers. Their integration into Rwandan society remained painful, being perceived as backwards, and they were forced to adopt a sedentary way of life, with pottery providing their basic occupation.¹¹

The evictions which took place were conducted without consultation or compensation. As their eviction took place before they were granted rights in the Rwandan Constitution, finding appropriate mechanisms to undo these violations are still being developed.¹²

Measures Taken by the National Government

The national government of unity and reconciliation led by the Rwandan Patriotic Front (RPF) has introduced a number of policy approaches, such as education and health insurance for all, amongst others. Today, a majority of Batwa have been resettled in separate villages known as *Imidugudu*¹³ but some are living in scattered land that belongs to other communities. The *Imidugudu* policy was a response to the need for providing housing under the pressure of an emergency situation after the war of 1994 against the Tutsi, in which hundreds of thousands of refugees returned to Rwanda.¹⁴ Different from Rwandans, who were accommodated in *Imidugudu* with access to land for farming, the Batwa were given houses only, without land allocation to cultivate food. This approach has been negatively affecting the well-intended policies to improve the economic and social situation of the Batwa. Even though accurate population figures are difficult to determine and estimates vary, the available data shows that in 2012, there were 36,228 individuals living in 9,487 households with an average household size of four people.¹⁵ Compared to the total population of Rwanda of about 7.3 million inhabitants before the genocide against the Tutsi in 1994, the Batwa accounted for only one percent, equal to 73,000 people, whereas the Hutu and Tutsi comprised 85 percent and 14 percent respectively.¹⁶ This clearly shows that the population of Batwa communities is shrinking.

As part of the wider advocacy work, this paper highlights three key themes in particu-

lar: first, that the government's promises of resource-redistribution have not been fully implemented and as a consequence the creation of employment opportunities still poses a challenge; secondly, health risks remain a threat to the communities today in spite of public medical infrastructure; and finally, cultural ties and governance structures upon which the communities would have relied in the forest—to lead them out of crisis or to make collective decisions—have been eroded since those communities were banned from the forest.

The Impact of National Parks

The creation and management of national parks has had negative as well as positive impacts on the life of Batwa communities. The benefit the Batwa communities associate with conservation policy is their inclusion in public health insurance even though this is a scheme implemented nationwide, and not necessarily connected to conservation policies. Meanwhile, conservation policies negatively impact Twa communities, specifically in economic terms. Evictions of the Twa have resulted in high levels of unemployment. Elders of a Twa group in Musanze District stated:

“We don't even have jobs in that park so that we can say that there is an advantage or that we are finding some gains, we have lost so much.”¹⁷

Meat and honey were sources of income for the Batwa, who sold them to other communities. Despite an infrastructure being put in place that includes hotel and conservation centres developed since the creation of National Parks—and where arguably there should be employment opportunities—Batwa have neither benefited nor been employed and thus have no means of improving their social conditions:

“The result is just staying at home, without jobs. Look, nowadays they are building

hotels which are coming from that forest. They are not employing us, they are calling no one among us. They are not giving us any work. We could also work in a hotel, even if they gave me a ground cleaning job (using a broom), that is a job.”¹⁸

Although there was no official research on statistics of Batwa employment in Rwanda, several reports have shown that more than 30 percent of Batwa are unemployed.¹⁹

However, the central issue for the Batwa is their land. To date, the revenues and employment opportunities arising from governmental exploitation of protected areas have not benefited the Batwa. Revenues generated from activities now taking place on the Batwa's ancestral lands should go into a public purse. However, the Batwa have not seen any positive impact of these revenues besides health insurance and school facilities. The result is rising hunger and malnutrition, particularly amongst children, with a majority of Twa now surviving by begging and scavenging the crops that have been left after their neighbours have harvested their fields.²⁰ In a focus group interview, a Batwa woman said:

“I can spend three days without food. Look inside my house. No food, no water even to drink. Children are lying down because of hunger.”²¹

There were accounts by others stating similar problems. Forest conservation has thus undermined the Batwa's right to food by depriving them of access to the land, water, and other resources on which they depend.

Actions Taken by the Community

In order to advocate for their rights, the communities created their own community-based organization in 2001, known as the African Initiative for Mankind Progress Organization (AIMPO). AIMPO grounds its work on the centrality of principled ideas, the belief that an individual can make a difference, and the

AIMPO's advocacy actions led to a senators' report which identifies a range of problems the Batwa are confronted with.

creative use of information. Its core principle is the "Free, Prior and Informed Consent" (FPIC) of the communities it engages with. The organization has a network of about 300 members, who act as community representatives. Membership is composed of elders who have the legitimacy and authority to guide and govern the community despite the impact of assimilation and resettlement policies being implemented by the government. Any community member is encouraged to approach AIMPO for support as well as to submit ideas on a daily basis. In preparation for the annual general meetings all community representatives submit ideas for intervention that have been collected on the grassroots level. These ideas are clustered and democratically discussed and decided upon, based on AIMPO's role and mandate:

- Awareness-raising training workshops are organized either by the communities themselves, supported in terms of management and content by AIMPO, or by participation in training sessions offered by external organizations. Community representatives appoint community members to attend these training workshops based on personal capacities and integrity.
- Collection of cases on discrimination and violation of rights: Over the years, several cases of human rights abuses have been disclosed to AIMPO either by community representatives or by community members themselves. In addition, other cases were discovered by way of conducting research or fact-finding missions. All those cases disclosed or discovered are presented to the respective government institutions

by AIMPO in order to seek response and redress. The organization has since refined its approach in terms of collecting evidence, strengthening social cohesion particularly against intimidation of individual community members, including inviting community-based and private radio, as well as newspapers, to report. As a result, the number of incidences of discrimination and violation has dramatically decreased. For example, AIMPO has commissioned studies on Batwa land rights and started a process of engagement with government officials in which the results of these studies were shared and discussed.²²

- Training of paralegals: It is the role of community representatives to identify members, based on individual capacities and acceptance within their communities, to participate in capacity-building training sessions to become paralegals. The paralegals are highly instrumental in terms of knowledge dissemination about national laws and regulations, and guide the affected individual or groups of community members through legal approaches. In particular, paralegals have helped to educate communities on their rights and work closely with local leaders to resolve land disputes. As a result, we have seen the successful reclamation of land which was once taken by force, or bought from the Twa illegally through treachery on the part of their neighbours.

The Report of the Rwandan Senate

These concerted advocacy actions have motivated the Senate of the Rwandan Parliament²³ to establish an ad hoc senatorial commission to study the challenges that the Batwa are facing, who are currently officially named a "historically marginalized people". The special commission comprised of six senators visited 30 districts of the country in 2018–19 and

held conversations with Batwa community members and non-governmental organizations that strive for the rights of Batwa in Rwanda. Their report has identified a range of problems the Batwa are confronted with that mirror the analysis that AIMPO has come up with over the years. Among the challenges being highlighted in the senators' report are: lack of special policy for historically marginalized peoples; lack of participation in decision-making organs; majority of children not attending schools; unemployment amongst educated Batwa and youth; dispossession of their land and property; sexual violence by members of out-group communities; and discrimination against them by the wider population.

The appeal of the senators was openly discussed in Parliament, with the minister for local governance and the prime minister questioned on the challenges the Batwa are facing and the responses they have taken in order to mitigate the negative consequences. The special senators' commission has provided suggestions and recommendations to government and policy makers as follows: providing basic needs to the families of historically marginalized peoples; providing them training on different skills; supporting their children to go to school; fostering social inclusion through mixed settlements in other communities; engaging historically marginalized peoples in decision-making organs, and providing them land for agriculture.

1 Richard Ntakirutimana and Bennett Collins (2019): Qualifying the Relationship between Volcanoes National Park and Former-Forest Dwelling Twa Communities, Aegis Trust Research and Policy Conference, 24 May 2019. **2** James Igoe (2002): National Parks and Human Ecosystems: The Challenge to Community Conservation, in: D. Chatty and M. Colchester (eds.), *Conservation and Mobile Indigenous Peoples. Displacement, Forced Settlement and Sustainable Development*, New York: Berghahn Books, 2002, pp. 77–96. **3** Unrepresented Nations & Peoples Organization (UNPO) (2016): *Batwa: The History and Culture of a Marginalized People in Central Africa*, 23 March 2016, available at <https://unpo.org/article/19031>. Last accessed: 17 June 2019. **4** Food and Agriculture Organization of the United Nations (FAO) (2010): *Global Forest Resource Assessment 2010: Main Report*, FAO Forestry Paper 163, available at <http://www.fao.org/3/i11757e/i11757e00.htm>. Last accessed: 30 March 2020. **5** K.E. Brandon and M. Wells (1992): Planning for People and Parks: Design Dilemmas, in: *World Development*, Vol. 20, no. 4, 1992, pp. 557–570. **6** J.E. Hough and H.E. Prozesky (2010): 'But We Don't Spoil it, We Protect it': Coleske Residents' Conceptualisations of the Baviaanskloof Nature Reserve and its Protection, in: *South African Geographical Journal*, Vol. 92, no. 2, 2010, pp. 160–172. **7** Agripinah Namara (2006): *From Paternalism to Real Partnership with Local Communities? Experiences from Bwindi Impenetrable National Park (Uganda)*, in: *Africa Development*, Vol. 31, no. 2, 2006, pp. 39–68. **8** See Decree-law of 26 April 1974 confirming and modifying the decree of 18 June 1973 establishing the Tourism and National Parks Authority (ORTPN). ORTPN replaced the National Park Institute established by the decree of 26 November 1934 and the Tourism Authority established by the decree of 4 August 1959 and took over all its rights and obligations falling to Rwanda. **9** International Labour Organization (ILO) (2007): *Equality at work: Tackling the challenges*, Geneva: International Labour Office, 2007. **10** Meghan Laws, Richard Ntakirutimana, and Bennett Collins (2019): *One Rwanda For All Rwandans: Uncovering the Twa in Post-Genocide Rwanda*, in: Hannah Grayson and Nicki Hitchcott (eds.), *Rwanda since 1994. Stories of Change*, Liverpool University Press, 2019, pp. 125–144. **11** Jerome Lewis and Judy Knight (1995): *The Twa of Rwanda. Assessment of the Situation of the Twa and Promotion of Twa Rights in Post-War Rwanda*, Copenhagen: International Work Group for Indigenous Affairs, 1995; J. Lewis (2010): *The Batwa Pygmies of the Great Lakes Region*, London: Minority Rights Group International, 2000; J. Lewis (2006): *Les Pygmées Batwa du Rwanda*.

Un peuple ignoré du Rwanda, in: Séverin Cécile Abega and Patrice Bigombe Logo (eds.), *La Marginalisation des Pygmées d'Afrique Centrale*, Langres, France: Africaine d'Édition/Maison neuve et Larose, 2006, pp. 79–105; Kalimba Zephyrin (2001): *Rwanda. The situation of the Batwa forest dwellers and conservation of the Volcanoes National Park and Nyungwe Natural Forest*, available at <https://www.forestpeoples.org/sites/fpp/files/publication/2010/10/rwandaeng.pdf>. Last accessed: 17 March 2020. **12** Article 34 of the Constitution of the Republic of Rwanda as it was revised in 2015. Available at https://www.constituteproject.org/constitution/Rwanda_2015.pdf?lang=en. Last accessed: 21 June 2019. **13** The term *Imidugudu* refers to the villages as collective settlements under the programme; the singular *Umudugudu* refers to one village. **14** Dorothea Hilhorst and Mathijs van Leeuwen (1999): *Imidugudu, Villagisation in Rwanda: A Case of Emergency Development?* Wageningen: Disaster Studies, 1999, p. 10. **15** Pamela Abbott, et al. (2012): *The Socio-Economic Status and Social Integration of Historically Marginalised People in Rwanda*, Kigali: Ministry of Local Government. **16** Gérard Prunier (1995): *The Rwanda Crisis*, London: Hurst & Company, 1995; Emre Karabacak, (2018): *Colonial Regime in Rwanda and its Effects on the Tutsi-Hutu Relations*, available at https://www.researchgate.net/publication/323686141_Colonial_Regime_in_Rwanda_and_Its_Effects_on_the_Tutsi-Hutu_Relations/link/5aa43b2945851543e63f819f/download. Last accessed: 17 March 2020. **17** Elders focus group discussion, Kabazungu, 2018. **18** Male Batwa focus group discussion, Kagano-Musanze, 2018. **19** The Unrepresented Nations and Peoples Organization (2013): *Alternative Report submitted to the UN Committee on the Economic, Social and Cultural Rights for the consideration of the Initial Report of Rwanda*, 50th Pre-Sessional Working Group, The Hague: UNPO, March 2013, available at https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/RWA/INT_CESCR_NGO_RWA_13550_E.pdf. Last accessed: 26 March 2020. **20** J. Lewis (2006). **21** Interview with female Twa member, Kagano, 2018. **22** See example research conducted by AIMPO and shared in 2003, available at <https://minorityrights.org/wp-content/uploads/old-site-downloads/download-93-Batwa-Land-Rights-in-Rwanda.pdf>. Last accessed: 26 March 2020. **23** The parliament consists of two chambers: The Chamber of Deputies and the Senate. Regarding the information and oversight of government action and functioning, each chamber shall function on its own. Each chamber of parliament is fully entitled to make all investigations necessary to effectively carry out its mandate and review government action.

Allan Kalangi

NO TO ENCROACHMENT

A LONG HISTORY OF RESISTANCE IN THE ALBERTINE GRABEN

The discovery of commercially viable quantities of oil in Uganda's Albertine Graben region in 2006 triggered a mad dash for land, in an area where its people are historically well known for having staged spirited resistance against British colonial invaders in the second half of the 19th century. Prominent in the Albertine Graben is the historic Bunyoro-Kitara Kingdom which at the zenith of its glory was the most dominant empire in the whole of the interlacustrine region.

The people of Bunyoro, under the reign of the mighty Omukama (King) Chwa II Kabalega, resisted colonial domination with a might that took the British by surprise. Omukama Kabalega, and his well-trained army of *Abarusuura* (soldiers), put his own life on the line by mounting a fierce, bloody resistance against the powers of colonialization. On 9 April 1899, Kabalega was captured by the invading colonial forces and was sent into

exile in the Seychelles Islands in the Indian Ocean. That partly explains how the mighty Kitara empire became whittled away to the present underdeveloped kingdom of Bunyoro-Kitara. While Kabalega was incarcerated, the British started oil exploration in his Bunyoro-Kitara Kingdom. The oil exploration efforts started way back in 1910. In 1925, the petroleum potential of Uganda was documented by a colonial government geologist named E.J. Wayland in the publication "Petroleum in Uganda". This included reporting of the existence of oil seepages in Uganda. The British colonial government however never pursued further oil exploration up to production stage before they left the scene in 1962. However, they had other plans for the people of Bunyoro whom they colonized through blood and iron. The British colonialists gave huge chunks of the land in Buyaga and Bugangaizi counties to the Buganda Kingdom which



Children in the Rwamutonga camp for internally displaced people, in Hoima District, in 2016. Photo: NAPE file photo

had collaborated with the colonizers, and went ahead to turn several thousand square miles of Bunyoro Kingdom land into national parks. All these developments had adverse effects on the food production in a kingdom whose main strength for centuries had hinged on food security. Tea, tobacco, and sugar plantations found their way to Bunyoro and stayed even after Uganda had gained independence in 1962.

By the time the current Ugandan government had decided to revisit oil explorations in the Bunyoro sub-region at the beginning of the 21st century, it found a people still suffering the effects of many years of orchestrated, intentional, and malicious marginalization. Matters were made no easier by the current Ugandan President Yoweri Museveni, who keeps referring to the oil in Bunyoro as his and that it must be extracted by any means necessary. In January 2006, the company Hardman Africa—that had been doing oil explorations in the region—struck oil, leading to the government to declare Mputa-1 in Hoima District the first commercially viable oil well in Uganda. The demand for land in the region to be used for oil-related infrastructure intensified as more oil discoveries were made. Multinational companies and local speculators all moved to the area in quest of oil-related opportunities. Before too long, cases of land grabbing hit the area on a scale never seen before.

In this article, I explore how communities in the Bunyoro region have once again mobilized to stage resistance against the new capitalistic trends that threaten to dispossess them of the remaining land. The struggles and successes of people living in Uganda's oil region (Albertine region) against the machinations of the multinational capitalist companies have been looked at in this article mostly from the theoretical frameworks of passive resistance and collective identity. The current political economy of investments in East Africa is characterized by governments allying with

powerful companies and giving them concessions regarding the exploitation of natural resources, usually without much regard for the rights of host communities and the environment. The companies provide the finances while the government enacts the laws aimed at protecting the interests of the investors. This gives the companies a privileged status in areas where they are operational, leaving the host communities at their mercy. Direct resistance to the actions of companies that undermine the communities' property rights is usually dealt with harshly by the state machinery, reminiscent of what the colonial government used to do. This makes passive resistance a better option under the circumstances.

Plans of Oil Extraction in Uganda

Since 2006, the Ugandan government has taken concrete steps to ensure that the nation extracts and relies on its oil reserves in the Albertine region for economic transformation and development. It is expected that Uganda will be producing oil by 2022.¹

Whereas the idea of oil production is enough to excite many Ugandans, who look at it as a solution to their deepening economic problems, the quest for oil production in Uganda has faced many challenges so far. For example, the whole process has been marred with allegations of grave human rights abuses.² Another issue raised concerning oil is the extraction of fossil fuel in an ecologically-sensitive place that is home to a designated Ramsar Site as well as rare flora and fauna.³ The biggest concern however has been depriving the oil host communities of their land to pave way for oil infrastructure, without adequate compensation being paid or alternative areas for settlement acquired for them. Discovered in Uganda in the 1920s by the British colonialists, it took until the 1990s for the Ugandan government to embark on stead-

fast steps towards commercial oil exploration. By 2016, 6.5 billion barrels of crude oil had been confirmed in the Albertine Graben. Out of the 6.5 billion barrels, 1.4 billion barrels of crude oil has been confirmed as recoverable. However, this represents only 40 percent of Uganda's total oil reserves. At the end of the exploration exercise, Uganda is estimated to have about 3.5 billion barrels of recoverable crude oil,⁴ setting the country on a path to becoming one of the top oil producers in Africa.

Oil activities require land for infrastructure, for example oil wells, pipelines, refineries, roads, waste treatment plants, and camps for workers, among others. The intensification of oil activities in Uganda in the last ten years has seen the demand for land skyrocket and unscrupulous dealers devising shady practices of acquiring it from their owners. This situation has resulted in acute cases of land grabbing and violent evictions, leaving a considerable number of people destitute.

Oil activities have once again seen intruders from different parts of the world roaming all over Bunyoro in search of the 'black gold' and its associated business opportunities. The only difference between now and colonial times is

dispossessing them of some of their property. The article looks at some of the injustices meted out to the oil host communities and explores whether the new forms of resistance can result in the communities co-existing coherently and sustainably alongside the oil activities, and eventually triumphing over the negative consequences that are usually associated with the industry.

Historical Perspectives on Bunyoro's Resistance to Foreign Encroachment on its Territory

Traditionally, the Albertine region lay in the Bunyoro-Kitara Kingdom under the overall leadership of a king locally referred to as *Omukama*. Bunyoro-Kitara was the most powerful kingdom in East Africa. The sphere of influence of the Bunyoro-Kitara empire under the Chwezi dynasty extended to the kingdoms of Buganda, Ankole, Tooro in Uganda and to many areas in present-day Western Kenya, Northern Tanzania, and Eastern Congo, as well as in Rwanda and Burundi.⁵ The empire disintegrated about 600 years ago following the fall of the Chwezi dynasty but the Bunyoro-Kitara Kingdom remained powerful up until the onset of British colonial rule in Uganda late in the 19th Century.

In 1870, Omukama Chwa II Kabalega was crowned as king of Bunyoro-Kitara Kingdom. A very development-minded and ambitious leader, he was unfortunate to reign during the time when the British were interested in colonizing the region. Kabalega remains an icon in the history of anti-European imperialism, perhaps with unequalled prowess among all his contemporaries in the 19th Century. Kabalega made a mark in Uganda and Africa in general as a commander who engaged the British imperialists in one of the longest military campaigns, lasting for about 27 years.⁶ In 1899, Omukama Kabalega was wounded in battle and captured. He was then incarcerated

How project-affected people were able to regain their land is a clear success story of passive resistance.

that while the British brought themselves to Bunyoro, this time the Ugandan government is the one that has invited and licensed the oil companies to leave no part of the Albertine Graben unturned in their quest for the fossil fuel.

The aim of this publication is to bring to light how the people in the Albertine region are responding to the new type of intrusion into their territory, which cannot work without

Governments in East Africa ally with powerful companies and give them exploitation concessions, usually without much regard for the rights of host communities and the environment.

in the British-controlled Seychelles Islands in the Indian Ocean. All in all, Kabalega's war against the imperialists lasted for about 27 years.⁷ Kabalega was able to resist imperialism for so long because of having a well-trained and dedicated army (*abalusura*) and having enough food for the population.

The British did not take lightly the fact that an African king could make a spirited fight against their hegemony. After the defeat of Kabalega, the British gave away the huge Bunyoro counties of Buyaga and Bugangaizi to Buganda Kingdom, which had collaborated with them. They went ahead to turn many of the fertile areas that had made Bunyoro a food-sovereign kingdom into national parks. Most grazing lands of the king and his chiefs were also turned into national parks. This had an adverse effect on the population growth of people within the Bunyoro-Kitara Kingdom. The Baganda chiefs which the British sent to administer over the Banyoro did their best to marginalize them, especially in terms of education and economic development opportunities.

Uganda finally got independence from the British in 1962, and the King of Buganda, Sir Edward Mutesa II, was made the first president of the country. This did not make matters easier for the Banyoro who still wanted to regain their lost counties from Buganda. The president, whose allegiance was mostly to his Baganda subjects, could not entertain the pleas of the Banyoro. But the Banyoro were unrelenting and finally in a referendum it was decided that Buyaga and Bugangaizi counties should go back to Bunyoro. The king of Buganda, then president of Uganda, refused to sign the document transferring

the two counties back to Bunyoro. When the Prime Minister Dr. Apollo Obote, who also had the mandate to sign the document, did so, it resulted in open conflict between the two Ugandan leaders and eventually the deposing of the King in 1966, commonly known as the Kabaka crisis. The subsequent leaders of Uganda seemed to be wary of the Banyoro. In 2014 when the author of this article visited the current King of Bunyoro, Omukama Solomon Iguru Gafabusa, he revealed that up to that time, the government had never given them land titles, even for the location of the main palace in Hoima District. The marginalization of the Banyoro by both the British colonial masters and the subsequent post-colonial leaders seemed to have taken a toll on the spirit of resistance amongst its people with many fearing to speak out openly against social and economic injustices.

Owing to the way Bunyoro's military resistance against British imperialism was crushed and the subsequent consequences, it is better to explore other forms of resistance. If the oil host communities dared to protect their land using methods similar to those of Omukama Kabalega, the Ugandan Government would no doubt treat them even worse than what the colonial intruders did to their predecessors. This is where other theories of resistance come in handy. One such theory is that of passive or non-violent resistance. The theory pioneered by the American author Henry David Thoreau calls upon the oppressed to work for self-reliance while resisting joining hands with the oppressor.⁸ According to this theory, the oppressed do not use violence to chase away the oppressor but keep mobilizing themselves against values such as the truth,

unity, and collective action in defending their rights. Passive resistance played a big role in nationalist movements in former colonies in Africa and Asia and it was particularly promoted by Mahatma Gandhi of India as an effective tool against oppression.

The Realities of Oil Host Communities in Uganda's Albertine Region

In order to understand the status of the oil industry in the region, the focus has to be on the key infrastructural developments associated with it. The key developments are the oil refinery and its attendant international airport, the oil processing facilities connected to the Tilenga and Kingfisher projects, and the East African Crude Oil Pipeline. All these undertakings require huge chunks of land, some of which have to be taken from the communities. 29 square kilometres of land had to be set aside for the oil refinery, leading to the displacement of over 7,000 people from 13 villages in Hoima District. The oil central processing facility in Buliisa District requires over 340 hectares of land and has led to the displacement of over 800 people. The East African Crude Oil Pipeline from Hoima in Uganda to Tanga in Tanzania is poised to acquire a 30-metre strip of land housing the oil pipeline on a permanent basis (equivalent to 43.29 million metres of land) as well as access and construction sites on a temporary basis for a period of one to four years during the construction phase. Whereas in all these planned projects compensation of the project affected persons (PAPs) is always included, questions usually arise on the fairness of the compensation packages and the time it takes before disbursement is made.

Away from cases where the government dispossesses people of their land for oil infrastructure in a fairly planned manner, there are worse cases where speculators have dispossessed whole villages of their land with

no compensation plans in mind – under the eyes of state officials. One such case is that of Rwamutonga village in Hoima District where over 1,000 people were violently evicted at night from their roughly 700 hectares of land by local businessmen that had entered into an undertaking with a US-American company (McAlester Energy Resources Limited) that wanted to establish a plant dealing in oil waste treatment.⁹ The people who were evicted in 2014 by a combination of state police and private security guards stayed in a makeshift camp on less than two acres of land. This was given over to them by a volunteer for close to three years before they were able to repossess their own land. How they were able to regain their land is a clear success story of passive resistance which I am going to look at in detail in the next section. The same approach has helped the PAPs get compensation from government when many had lost hope, and led to the cancellation of land titles of suspected land grabbers.

Promoting Passive Resistance

Civil society organizations (CSOs) in Uganda have played a big role in amplifying the voices of the oil-affected communities and discussing with them ways of asserting their rights without invoking the wrath of the government. At the height of oil exploration activities (2010–13), the government implemented a crackdown on NGOs working in the oil region and arrested several of their representatives. But despite that, the NGOs persisted, using courts and other methods to remain in the oil region. Seeing that the issues affecting the communities in the oil region are similar and reoccurring, NGOs such as the National Association of Professional Environmentalists (NAPE) opted to use popular education as a tool for collective empowerment. Under this popular education, community face-to-face sensitization meetings are used, as well as

mass media. NAPE in 2014 established the Community Green Radio in the Albertine region to help in amplifying the voices of oil-affected communities and prepare them to cope with the rapid social and economic changes in their area. The NGOs also facilitated the experience sharing of oil-affected communities in Uganda with oil-affected communities from other countries such as Nigeria.

Through all these experiences, the oil host communities have come to realize that all the good things they were promised may not be forthcoming. In Hoima District for example, the over 70 households that were resettled to pave way for the oil refinery are now complaining that the government has not fulfilled most of its promises to them and that they feel abandoned.¹⁰ The CSOs have helped to

make the oil host communities realize that they have a big stake in fighting for their own human rights and the rights to a clean environment. The realization among the oil host communities, that if they were to lose their land they would lose everything, is rekindling the spirit of resistance amongst the people in the Bunyoro sub-region against the excesses of the oil companies and the government which acts as their protector.

Successful Stories of Resistance

In the Rwamutonga case described above, after the people realized that there was no hope of them being compensated for their lost land, and with the court processes dragging on, they opted to camp nearby and refused to disperse for three years. Helped by NGOs, they spent most of their time telling

their story to whomever would listen, both locally and internationally. They exploited the opportunities provided by Community Green Radio¹¹ which would allow them as much airtime as they wished to narrate their untold suffering. They resisted all attempts of the land grabbers to disperse them. In Decem-



Signposts erected by the residents who were impacted by the oil refinery, in Kabaale Parish, Hoima District, in 2015 before they were compensated for their property lost to the oil industry. Photo: NAPE file photo

ber 2016, one of the land grabbers could not stand the pressure anymore and allowed the evictees to occupy the land he had grabbed from them, totaling about 200 acres.¹² The evictees used this opportunity to reoccupy all the land that they had been evicted from. Their stories of suffering that had been circulating everywhere had even scared away McAlester Energy Resources from beginning works on the oil waste treatment plant. Because of that embarrassment, the company is said to have completely pulled out of Uganda.

The oil refinery is so far the biggest project that has displaced the largest number of people in Uganda's Albertine region. The project required 29 square miles of land and this led to the displacement of 13 villages with over 7,000 people.¹³ The land acquisition process was started with a lot of uncertainty on the part of the project affected persons (PAPS).

Though the Ugandan land law provides for adequate and timely compensation in the case of such projects, the PAPs had to struggle hard before their fate and that of their properties was determined. Some went to court but others preferred to carry out peaceful demonstrations in their communities. They wrote signposts and erected them in different places on the land, demanding compensation before they would consider vacating their

In all the struggles for land in the oil region, it is also important to mention the case of women. For a long time, women have been left out of important decision-making that affects their families and communities. It is notable that women are now at the forefront in this resistance struggle. Women have also come up to voice concerns over compensation money being given to men only, which was the case when the oil exploration process started.¹⁵

CSOs have helped to make the oil host communities realize that they have a big stake in fighting for their human and environmental rights, as well as how they can take the vanguard in defending those rights for themselves.

land. On one of the signposts, the following was written: “We are not leaving our land until we are fully compensated”.¹⁴ At no time was there a violent demonstration, but eventually the authorities got the message that the communities knew what they wanted, and several engagement meetings were held. After a struggle of about four years, the majority of the PAPs were given their compensation packages.

In Buliisa District where the government and Total Plc have plans of establishing an industrial park and an oil central processing facility (CPF), the communities have also been locking horns with the government over compensation issues. For about three years (2016–19) the communities engaged the government and Total on why they could not leave their land and risk becoming destitute. Though on several occasions the government blocked CSOs from talking to the CPF-affected communities, the people held their ground. The majority of them have now been compensated. The most important issue here is not the size of the compensation package but the fact that communities are coming together to speak collectively in the face of injustice and stage passive resistance.

This has been a serious injustice as on some occasions some men would abandon their homes and go to marry other women after getting compensation money. The continued amplifying of voices of women—in oil and other community development debates using mass media, knowledge exchange, and solidarity-building visits—has done much to make the women involved more resilient.

Conclusion and Recommendations

The resistance struggle against the new threat to community and individual land in the Bunyoro sub-region is still not formidable enough. Whereas in the case of Omukama Kabalega he used his powers as king to mobilize the people and lead them to war against the invading British colonialists, the circumstances are now different. The land grabber is less direct and the process of acquiring land from the project affected persons has been formalized into the laws of Uganda. Resisting an oppressor who uses indirect methods requires much planning and education on sustainable resistance approaches. This gives the CSOs a bigger stake in mobilizing the affected communities

and equipping them with the necessary skills to resist the new neocolonial schemes to dispossess them of their land. An approach like the Sustainability School of NAPE, which uses popular education and community radio to form blocks of resistance, is highly recommended. The NAPE-initiated Sustainability School Programme and Community Green Radio use what are known as “sustainability villages” and radio listeners’ clubs to mobilize and engage communities continuously in sustainable development debates. Using this approach, community-based activists are equipped with knowledge and skills to mobilize their fellow community members and lead them into action on seeking solutions to

emerging challenges such as land grabbing. Such actions include sensitizing communities to their land rights, demarcating their land, forming community land associations, and speaking with loud joint voices using the media whenever a threat to their land is identified. Other actions include the communities engaging policy-makers and using courts of law where necessary. So the general recommendation is that different approaches can be employed to tackle the challenge of community dispossession of their land and other properties, but key among them is preparing them to know and appreciate their rights, and how they can take the vanguard in defending them themselves.

1 The Observer (2018): Uganda’s first oil production now pushed to 2022, 20 December 2018, available at <https://observer.ug/news/headlines/59510-uganda-s-first-oil-production-now-pushed-to-2022>. Last accessed: 31 December 2019. **2** Uganda Human Rights Commission (2013): Oil in Uganda. Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Graben. A Special Report, Kampala: UHRC, December 2013. **3** Mark Infield, Paul Mafabi, Lucy Anne Iyango, Vincent Barugahare, and Paul Ouedraogo (2018): Report no. 90, Ramsar Advisory Mission, 4–12 October 2018, available at https://www.ramsar.org/sites/default/files/documents/library/ram90_uganda_e.pdf. Last accessed: 10 March 2020. **4** Directorate of Petroleum (2019): History of Petroleum Exploration in Uganda, available at <https://www.petroleum.go.ug/index.php/who-we-are/who-we-are/petroleum-exploration-history>. Last accessed: 10 March 2020. **5** Bunyoro-Kitara Kingdom (2018): Bunyoro-Kitara Kingdom Profile, 26 May 2018, available at <https://bunyorokitaringdom.org/2018/05/26/welcome-to-bunyoro-kitara-kingdom/>. Last accessed: 10 March 2020. **6** Faustina Mugabe (2019): Kabalega attacks British army base, sparks war with colonialists, The Daily Monitor, 30 June 2019, available at <https://www.monitor.co.ug/Magazines/PeoplePower/Kabalega-attacks-British-army-base-sparks-war-colonialists/689844-5177238-g4g0vcz/index.html>. Last accessed: 10 March 2020. **7** Shane Doyle (2012): Impact of Colonialism on Bunyoro – Part II, The Daily Monitor, 26 June 2012, available at <https://www.monitor.co.ug/SpecialReports/Impact-of-colonialism-on-Bunyoro---Part-II/688342-1435688-sa85wbz/index.html>. Last accessed: 10 March 2020. **8** Henry David Thoreau (1849): Resistance to Civil Government, in: W. Glick (ed.), The Writings of

Henry D. Thoreau. Reform Papers, Princeton: Princeton University Press, 1973, available at https://www.norton.com/college/history/archive/resources/documents/ch13_04.htm. Last accessed: 10 March 2020. **9** Emmanuel Mutaizibwa (2018): Rwamutonga land wrangle and the spectre of violence, The Daily Monitor, 11 June 2018, available at <http://www.monitor.co.ug/SpecialReports/Rwamutonga-land-wrangle-spectre-violence/688342-4605414-14j5qgz/index.html>. Last accessed: 16 December 2019. **10** NAPE Uganda (2019a): This is not the promised land, available at https://www.youtube.com/watch?v=9Y_CDaV75Wc&t=69s. Last accessed: 10 March 2020. **11** Community Green Radio is based in the oil region of Uganda. Available at <http://greenradio.ug>. **12** Francis Mugerwa (2016): Hoima evicted families get back land, The Daily Monitor, 21 December 2016, available at <https://www.monitor.co.ug/News/National/Hoima-evicted--families-land/688334-3492864-fabrsn/index.html>. Last accessed: 10 March 2020. **13** Tom Ogwang and Frank Vanclay (2019): The Social Impacts of Land Acquisition for Oil and Gas Development in Uganda, in: Land, Vol. 8, pp. 109–123. **14** Tom Ogwang (2019): Social Impacts of Oil Developments in Uganda: The Past, Present and Future Scenarios, Toxic News, 29 August 2019, available at <https://toxicnews.org/2019/08/29/social-impacts-of-oil-developments-in-uganda-the-past-present-and-future-scenarios>. Last accessed: 10 March 2020. **15** NAPE Uganda (2019b): Women-led Action Oriented Research on the Negative Impacts of Oil on Women’s Rights, Land and Food Sovereignty in Uganda’s Oil Region 2015/2016, available at <https://www.nape.or.ug/publications/gender/51-women-led-action-oriented-booklet/file>. Last accessed: 10 March 2020.

BIBLIOGRAPHIC NOTES

Andrew Bennie is a food and agrarian researcher and activist based in South Africa. He previously worked at the Co-operative and Policy Alternative Centre (COPAC) as an organizer, researcher, and food sovereignty campaigner. He currently works as a research and advocacy officer at the African Centre for Biodiversity (ACB), and is writing his PhD on food and agriculture struggles from below in South Africa. He also sits on the board of Sustaining the Wild Coast (SWC), which supports the Amadiba community in their aspirations for democratic development.

Nadir Bouhmouch is an award-winning filmmaker, writer, and photographer based in Marrakesh. In 2011, Nadir directed and produced his first film, “My Makhzen & Me”, a web documentary about Morocco’s February 20th uprising. Nadir’s other works include “Timnadin N Rif”, a performative documentary produced collectively by the community of Imider in southeastern Morocco, and “Paradises of the Earth”, a short web documentary series on the environmental causes of the Tunisian revolution. His latest work and first feature documentary, “Amussu”, is currently touring at film festivals. In addition to his work in film, Nadir is also a researcher, photographer, and writer with a focus on cinema, but also on popular uprisings, land rights, and environmental justice in Morocco’s marginalized regions. His writing and photography have been published in Al Jazeera, Le Monde, and the Middle East Eye.

Allan Kalangi is the Manager of the Sustainability School Programme at the National Association of Professional Environmentalists (NAPE). He is also the officer in charge of the Uganda Community Green Radio. He is a journalist by training and worked in print

and broadcast media before joining the NGO sector. He has over ten years of experience in doing advocacy work, especially in the fields of environmental justice, human rights, and community development.

Ines Mahmoud started working as a regional programme manager for the Economic and Migration Programme of the North Africa office of Rosa Luxemburg Stiftung in 2019. She is a political scientist and law graduate and has previously worked with the Middle East Forum of Open Democracy, *transform! europe*, as well as with international organizations in the field of migration. Her main research interests are migration, alternative economy, and decolonial movements.

Richard Ntakirutimana was born in Mbarara-Isingiro, Uganda, in 1988. In 2017 he received an LLM degree in “Human Rights and Democratization in Africa” from the University of Pretoria, Centre for Human Rights, South Africa, followed by a postgraduate diploma on “Human Rights and Development” from the University of Antwerp, Belgium in 2018. He is a human rights activist, co-founder and Executive Director of the African Initiative for Mankind Progress Organization (AIMPO), which focuses on improving the standard of living of the Batwa people in Rwanda. His research concentrates on Batwa indigenous people in Central Africa and more broadly on indigenous peoples in Africa.

Aly Sagne is the Executive Director and founder of *Lumière Synergie pour le Développement* (LSD), and since 2009 has been a board member of the Coalition for Human Rights in Development based in Washington D.C., USA, as well as being a business and human rights practitioner for over 15 years. As

a development finance watcher and founding member of the African Coalition on the African Development Bank, he is involved in research, capacity-building workshops on banking accountability mechanisms for communities and civil society groups, and helps affected communities to file complaints on develop-

ment finance projects. He is a graduate in Physics and Chemistry from Cheikh Anta Diop University of Dakar (UCAD), holds a master's degree in Education and Rural Economics from the National School of Applied Economics in Dakar (ENEA), and also holds a degree in communication.

Disclaimer: The views and opinions expressed in our published works are those of the authors and do not necessarily reflect the official policy or positions of the publisher.

Imprint

MATERIALIEN No. 33

is published by the Rosa-Luxemburg-Stiftung

Responsible: Franza Drechsel

Franz-Mehring-Platz 1 · 10243 Berlin, Germany · www.rosalux.de

ISSN 2199-7713 · Editorial deadline: March 2020

Layout/Production: MediaService GmbH Druck und Kommunikation

Proofreading: Gegensatz Translation Collective, Berlin

Printed on Circleoffset Premium White, 100% recycled paper

“While it’s true that the systemic crisis of capitalism is yet to lead to its total defeat, it is not correct to assume that progressive actors are not advancing in their various struggles against localized neoliberal capitalism. There are a number of cases that can be considered successful which demonstrate those victories in different parts of the world, including on the African continent.”

FREDSON GUIRRAMELA GUILENGUE