

## **Brews Fellowship Report**

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I completed my internship at the Centre for Public Interest Law (CEPIL) in Accra, Ghana, where I did a research and report-writing project for CEPIL's Mining Communities Legal Support Programme. I did this work in partnership with one of my colleagues from the Master of Global Affairs program. The focus of my work was the human rights impacts of the onshore component of a new gas project (including a pipeline and gas facilities) that begins in the offshore Jubilee oil field and stretches across the Western Region of Ghana. The pipeline passes through or near over 60 communities, and its construction requires that land be cleared along its 120 km right of way. The project is being overseen by Ghana National Gas Company (Ghana Gas), is constructed mainly by Sinopec (China), and is financed mainly by the China Development Bank.

The purpose of this work was threefold: 1) to gather information, produce analysis, and make recommendations that CEPIL and other civil society actors could use in their advocacy work related to the oil and gas sector; 2) to document the extent and nature of the human rights impacts and the surrounding events so that CEPIL could assess whether to offer pro bono legal services to affected communities; and 3) to help CEPIL consider what other assistance it could offer communities affected by the oil and gas sector (for example, in the past it has trained individuals in mining-affected communities to act as human rights paralegals).

My work with CEPIL had an in-office research component, a field research component, and a writing component that included the production of a preliminary report to inform our field research, and a final report for publication. The research component of the work was significant, both because of the complexity of the gas project itself, and because of the need to familiarize ourselves with the national and regional contexts. We conducted preliminary research on the following:

### The gas project

- the roles and social, environmental, and transparency records of the various corporate and governmental actors associated with the gas project;
- a history of the gas project from the discovery of Jubilee oil field to the present day (the gas project is still being constructed);
- the route and construction of the gas pipeline;
- project-related consultations, impact assessments, and compensation paid;
- project-related work done by other civil society actors;
- public reactions to the gas project;

### Ghana

- human rights record (with a focus on the extractive sector);
- governance system (national, regional, and local);
- formal and informal justice systems;

- major challenges (corruption, party politics, poverty, administrative problems, etc.);

#### Law

- applicable national legislation (on topics including environmental protection, local content, consultation, and compensation);
- land title and tenure systems;
- applicable international human rights and environmental law;
- relevant legal actors (eg. the Ghana Commission on Human Rights and Administrative Justice);

#### The oil and gas industry

- social and environmental impact patterns in the industry;
- applicable corporate social responsibility instruments;

#### The Western Region (includes eight impacted districts)

- demographic information on the population of the region (ethnic, religious, and linguistic composition, gender, age, etc.);
- development information (education and literacy levels, health issues, infrastructure, basic services, etc.); and
- economic information (main industries, employment rates, standard of living, income levels, access to credit, etc.).

Our preliminary research was so extensive partly because we suspected that direct causes of the human rights impacts would be obvious – for example, most of the economic rights violations were caused by bulldozers destroying people’s farms and other property – but that the indirect causes, those that determined the severity and scale of the violations and the impunity that has accompanied them, would be more complex and diffuse. We would have to understand these causes in order to make useful recommendations.

Using this information, we then conducted analysis regarding:

- what the major project-related risks, vulnerabilities, and impacts were likely to be at both the regional and district levels;
- whether and how these risks, vulnerabilities, and impacts might vary depending on individuals’ gender, age, physical ability, or sexual orientation;
- what communities we should visit on our field research trip;
- what information we should seek during our community visits;
- how we should design our discussions with the communities (eg. large groups, small groups separated by gender, individual interviews, etc.); and
- what support we would need (eg. interpreters of both genders, presentations by the CEPIL staff lawyer accompanying us, assistance from local contact people, etc.).

After our preliminary work and proposed field research design was approved by CEPIL's director, we spent 7 days traveling to communities along nearly the entire length of the pipeline. During our 6 days of consultation time we met with people from 15 affected communities in groups ranging from 3 people to over 100 people. In total, we met with nearly 300 people. Most of these people were tenant farmers or landowners.

As we conducted our interviews, a clear and troubling pattern of practices and impacts emerged that included:

- widespread clearing of crops belonging mainly to subsistence farmers with little or no advance notice;
- little or no consultation with affected community members prior to the implementation of the gas project;
- unclear, inconsistent, inaccurate, and inappropriate land assessment and crop enumeration practices;
- a failure by the company to consult or negotiate with affected people about compensation;
- grossly inadequate, incomplete, and delayed compensation for some affected people, and no compensation at all for others;
- a total failure to compensate land owners;
- extensive damage to or destruction of essential private and community resources such as drinking water sources, fishing spots, and roads, which was typically not compensated for or remedied;
- a general inability on the part of those affected to find alternative farmland or employment;
- serious financial hardship among those affected, leading to their inability to afford basic expenses like food, school fees, and medicine;
- a lack of informed participation and consent by affected people throughout the process;
- an inability on the part of those affected to access and communicate with the companies involved;
- little employment of community members through the gas project, and a general absence of perceived benefits among local communities;
- the frequent failure of traditional and elected leaders to advocate for the interests and rights of affected community members;
- a general lack of access to justice and outside assistance; and
- widespread feelings of anger, despair, and profound anxiety about current and future financial security among those affected.<sup>1</sup>

Many of these impacts have particular gravity for the least powerful members of the communities: women, children, the elderly, and people with physical or mental challenges.

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<sup>1</sup> This list is taken from the final report by Christian Vandergeest and me. I wrote this portion of the report.

Following this trip, we significantly re-organized and updated our preliminary report to include our findings, extensive analysis of the causes of the impacts, an assessment of the various actors' compliance with domestic and international law, and a lengthy list of recommendations for government, Parliament, and civil society.

None of our findings were particularly surprising to me, though I still found the field research experience shocking and affecting in terms of the injustice and human suffering that it revealed through individual stories. One thing I thought a lot about during the summer is the relationship between development, law, and justice, and what the promise and limits of law are, particularly in the realm of protecting economic, social, and cultural (ESC) rights.

This project reaffirmed my lack of confidence in corporate social responsibility mechanisms as effective tools for addressing the impacts of the extractive sector. It also served as a reminder of the complicated challenge of holding Chinese corporations accountable for their impacts, given that they so often straddle the space between (and fall between the cracks of laws and policies addressing) state and private actors. This is a compelling and increasingly urgent global issue.

This work also taught me a lot about the common challenges of working in a developing country, particularly problems with infrastructure and utilities, access to information, resource shortages, corruption, weak and ineffective state institutions, and impunity. On a related note, this work also showed me first-hand the consequences of the dominant funding practices of major donor organizations that fund work in the global south, particularly the tendency to fund things in a piecemeal, project-by-project fashion that leaves little or nothing for the inevitable costs associated with overhead, time spent applying for funding, or for salaries for support staff. This method of funding is particularly inappropriate for NGOs whose work is tied to the timelines and resources of court systems, and whose opposition in the courtroom may be well-funded corporate or government actors. The case that CEPIL will build from our research will likely spend many years in the system and may be passed between several lawyers; funding arrangements that are reliant on annual applications and approvals will keep the case in a state of constant insecurity and will represent a huge drain on the energy and resources of CEPIL, which is already heavily overburdened and understaffed. This makes me consider how accountability moves in multiple directions; CEPIL must be accountable to its funders, but funders must also be accountable for the expectations they raise, for the work they may leave wasted or unfinished, for the energy they have diverted from other worthy initiatives, and for the huge influence they may have over whether or not people get access to justice.

One positive aspect of this project was how it called on and developed my research, writing, and advocacy skills, as well as how it challenged me to think carefully about what I had to know to do this work well. There was a notable learning curve, since while much of the content I had to work with was familiar to me (particularly the content relating to human rights and the extractive sector), I had an enormous amount to learn about Ghanaian law, politics, demographics, infrastructure, geography, culture, and governance challenges, as well as everything related to the gas project itself. The success of our work was also heavily dependent on the participation of local contact people who serves as guides,

interpreters, facilitators, and organizers during our field research. This made me think about how unfortunate it is that organizations like CEPIL rely so much on short-term foreign interns to do projects like this, and wish that more opportunities like this were open to Ghanaian researchers and students, who would be able to do the work more efficiently and inexpensively, and who could probably dedicate more appropriate periods of time to it. In that regard, something I reflected on was the importance of the local in “global” work and institutions, and how we define things like expertise, efficiency, and qualifications.

Our work met the major goals that CEPIL set for us. CEPIL decided to take on the communities’ cases pro bono and is currently using a draft version of our report to obtain funding for the work from Oxfam America. While the report itself has not yet launched, I discussed the findings with the man who leads the human rights work of the Ghana Catholic Bishops’ Conference, and he expressed interest in doing advocacy work with the report. Further, when this report is launched and the lawsuit is underway it will help to share the experiences of the impacted people more widely throughout the country. These are all indications that the Brews Fellowship was money well-awarded and spent, and I am very pleased.

The summer also gave me an unforgettable chance to get to know Ghana, which is so different than anywhere else I have lived in ways that were both wonderful and challenging. I made some dear friends and colleagues while I lived there, and thanks to the famous Ghanaian hospitality, I saw more of the country and became integrated into local life much more than I had expected to in such a short period of time. I also did some work with Amnesty International Ghana while I was there, which gave me further insight into the human rights issues facing the country and the excellent grassroots work that Ghanaians are doing in response.

Overall, I had an excellent summer doing work that I found interesting and fulfilling, and which I expect will have some positive impact on the lives of those affected by the gas project. I am very grateful to Robert Brews and to the Faculty of Law for their support for this work.



*Me interviewing a woman whose farm was destroyed to make way for the pipeline. To my left is Rosemary, a local student who worked as my interpreter.*



*Local men tell my research partner, Christian, how they have been impacted by the gas project.*



*Some local girls in one of the communities impacted by the gas project.*





*The point where the onshore pipeline begins.*



*My partner and I at a meeting with members of two affected communities.*



*A water body on the edge of a small community that has been rendered useless by the gas project. The water from stream was formerly used for drinking, cooking, fishing, and cleaning. Local community members now have to walk 2 km each way to access the nearest clean water source.*



*The “road” meant to replace one isolated community’s main road to the highway. The old road was destroyed to make way for the pipeline. This new road is of very poor quality, and is often flooded and unusable, making access to local markets and services difficult or impossible.*



*Some festival-goers laughing at my first taste of kenkey with hot pepper sauce after inviting me to share a meal with them.*