DIAMONDS, LAND USE AND INDIGENOUS PEOPLES: THE DILEMMAS OF PUBLIC PARTICIPATION AND MULTI-NATIONAL DIAMOND CORPORATIONS

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ABSTRACT

Increasingly, non-governmental organizations, local indigenous groups and other interested stakeholders have tried to influence both multinational mining corporations and national governments in sharing information and decision-making authority over whether mine development, environmental and labor acquisition should proceed. Two case studies are examined to highlight the challenges of incorporating participatory strategies in addressing these issues. It will be argued that often these participatory approaches—often clothed in normative and pragmatic clothing—only obscure the inherent nature of power relations and political underpinnings of injustices.

INTRODUCTION

By some trick of nature, most of the world's diamond producing geological formations lie in the least developed regions of the planet where traditional, land-dependent peoples make their homes. With recent technological advances, multi-national mining corporations (MNMCs) are becoming more adept at locating these features. Since diamond mining and processing requires huge capital investment over a number of years before any diamonds are brought to market, the MNMCs compete mainly with each other. However, consumers, NGOs, local indigenous groups and other interested stakeholders are attempting—in varying degrees of effectiveness—to hold both the MNMCs and national governments accountable by sharing decision-making authority over how the mine development, related environmental management, and labor acquisition should proceed. This is due, in part, to the rising concern over blood diamonds.

This article examines two relevant case studies in which MNMCs had to interact with indigenous people over the future of diamond bearing land. In each case, the national government of the land in question also played an important role. The purpose of analyzing these cases is to reveal key dilemmas about how to feasibly involve indigenous people and other interested stakeholders in plans for new mine development. The first case study focuses on Debswana (a public-private partnership of DeBeers and the Government of Botswana) and their chosen path of action in the Central Kalahari Game Reserve (CKGR), home to several San (Bushmen) communities. The second case study focuses on Diavik Diamond Mines Inc. (DDMI), a subsidiary of Rio Tinto, and Aber, a Toronto based firm, both of whom entered into a joint venture to recently develop a large mine on Lac de Gras in a region of the Northwest Territories of Canada where five First Nation tribes have lived for hundreds of years. Diamonds were originally discovered at both sites around the start of the new millennium. Not surprisingly, initial prospecting and feasibility testing were done with no invited input from local indigenous populations. In the case of Debswana, indigenous input has largely been excluded, resulting in negative press and increased public relations costs for DeBeers; Gope, the site of a potential mine in the CKGR, has not yet been developed but permits for development have been issued. In the case of Diavik, development plans slowed as the companies and relevant governments strived to structure a workable participation plan.

These examples were selected, for the most part, because they highlight in many important respects the vexing issues that indigenous publics often face when dealing with MNMCs, regardless of location. While these examples, no doubt, represent different cultural and political contexts, they do, as pointed out by Saleem Ali (2003) in his extensive research on this subject, mirror broader trends in the interactions typically occurring between indigenous publics and mining corporations.

While both DeBeers and Rio Tinto have corporate social responsibility principles in place and have attempted to initiate community involvement programs, in some cases they have experienced serious erosion of stakeholders' trust. These examples, we contend, underscore the need for research that is attentive to the many challenges of indigenous peoples impacted by global production supply chains. Furthermore, this comparative case study will inform this broader topic, providing a critical examination concerning the efficacy of such participatory approaches.

Our case analysis is presented in the following sections. First, we articulate the historical context of both case studies in Africa and the Northwest Territories. We attempt to sort out the substantive challenges of what indigenous publics pose for MNMC investments, particularly in regard to specific participatory strategies that claim to "increase the involvement of socially and economically marginalized peoples in decision-making over their lives" (Guijt, 1998, p. 1). Some of these approaches are rather straightforward in nature (e.g., Third Party Mediator, Impact Benefit Agreements, etc.), while others are touted as innovative and original (e.g., participatory mapping and modeling and Participatory Rural Appraisal). We will raise salient concerns that these approaches—usually wrapped in normative theoretical and pragmatic clothing—often regard indigenous publics as homogeneous and harmonious in nature, thus masking their diverse interests based upon gender, class, age, ethnicity, and religion. Moreover, these participatory approaches tend to be rather naïve about the inherent nature of power relations and how such participatory processes often result in merely legitimizing mining corporations to enhance their own self-interested organizational profile with the broader citizenry and the nation in which they are operating. As polemic as this may sound, it is a reality that cannot be ignored in building and sustaining any authentic attempt to involve those publics directly impacted by these powerful institutional actors.

HISTORICAL CONTEXT AND MODERN BUSINESS CHALLENGES

The Political Economy of Diamonds

Diamond mining is of major economic importance in today's globalized world. With rough diamond production on the rise, new market forces in place, and new technologies to locate diamond pipes, it is an interesting time for all companies and independent dealers involved in the diamond supply chain. Historically, DeBeers has controlled most of the world's diamond supply, but in the past decade this scene has changed drastically. As recently as 1993, DeBeers controlled about 80 percent of the total value of the approximately $5.5 billion world market in rough diamonds and with the exception of one mine in Australia, it either owned all of the world's major diamond mines, or co-owned them with the governments of the countries in which the mines were located. Yet, by 2000, due to major new opportunities and obstacles created by the chaotic combination of political and economic changes resulting from the end of the Soviet regime, the temporary peace in Angola, the discovery of diamond-bearing pipes in

Canada, and the realization that the diamond trade was infected with conflict diamonds, the cartel toppled and brought DeBeers share of world market value down to only 50 percent (Shor, 2005). DeBeers, nonetheless, has more experience than any other diamond mining company in partnering with national governments, especially in Africa where paternalistic democracies with histories of corruption are common. DeBeers is also still by far the largest diamond mining corporation in the world but other big players include Alrosa, Southern Era Resources Ltd., Rio Tinto, BHP Billiton, Lev Leviev, and Anglo American.

Conflict Diamonds and the Kimberley Process

In December of 1998, Global Witness, an international human rights watchdog NGO, brought the world's attention to the issue of "blood diamonds" or conflict diamonds, the sale of which was fueling terrorist activities in Sierra Leone, Angola and the Democratic Republic of Congo (DRC). The U.N. Security Council had already prohibited import of diamonds from Angola that were not accompanied by a certificate of origin issued by the government of Angola; this was meant to prevent UNITA, the rebel group then waging civil war against the MPLA (government of Angola) from marketing diamonds sourced from the state-owned diamond fields of which they had taken control. However, Global Witness (a NGO watchdog organization) reported that U.N. member states, including those where important rough diamond trading centers were located, "were doing very little to enforce the U.N. embargo…and are wittingly or unwittingly providing the diamond industry with wherewithal to exploit loopholes…to maintain the multi-million dollar trade" (Witness, 1998).

At first, diamond companies were slow to move on this ethical issue, and in October 1999, a coalition of four NGOs including Global Witness, launched a public awareness campaign targeted at jewelry consumers. With no reliable way to authenticate the origin of rough diamonds, and the atrocities of war in Sierra Leone becoming more and more apparent, the Fatal Transactions Campaign caused the leaders of the Diamond industry to realize the severity of the problem and the urgent risk it brought to their business. Meanwhile, a Canadian NGO, Partnership Africa Canada, published a report that expanded the definition of the problem to a pan-African one (Taylor & Mokhawa, 2003), and the U.S. Government conducted congressional hearings on the matter. All of this pressure resulted in the formation of the World Diamond Council (WDC), a representative body comprised of diamond manufacturers and industry organizations, and the commencement of the Kimberley Process Meetings, a series of inter-governmental meetings attended by the World Diamond Council, NGOs and representatives from the U.N.

After two years, the group had developed a scheme that would allow for free trade of diamonds mined in conflict-free areas by using a chain of warranties and certificates that would accompany each diamond up to the cutting factory. Fifty-three nations ratified the Kimberley Process in November 2002, and the new certificates took effect in January 2003. Around the same time, Canada took advantage of its position as the most developed of the conflict-free diamond producing regions, and implemented the Voluntary Code of Conduct for Authenticating Canadian Diamond Claims (the Code), a system in which Canadian diamonds are accompanied from mine to retail by a serialized certificate that in turn allows retailers and consumers to call the implementers of the Code to authenticate a diamond in question. Botswana also made an attempt at branding its diamonds through a program called *Diamonds for Development* to ensure consumers that Botswana diamonds are "clean" (Taylor & Mokhawa, 2003); however, this program is far less sophisticated that Canada's branding initiative for obvious reasons related to differences between the capacities of these two governments.

Mining Companies and the Emergence of Corporate Social Responsibility

Multi-national natural resource firms have been moving to implement corporate social responsibility (CSR) principles and practices in response to a variety of pressures and an evolving perception of the role of business in society. For example, the self-organized Global Mining Initiative (GMI) is investigating how the mining industry can play a role in the transition to sustainable development (M. MMSD, Minerals and Sustainable Development, 2002). Given that mining is an industry prone to serious environmental harm and human accident, adopting CSR effectively and convincingly is a challenging and daunting endeavor for mining companies. One scholar has argued that learning is a critical part of the process as MNMCs engage in the challenges of defining their position and strategizing for the impact on sustainable development; they should be honest and transparent in their approach to these challenges (Hamann, 2003). Within the mosaic of CSR and the search for corporate practices that support sustainable development without damaging profits lies the particularly contentious issue of company-community relations. Given that all diamonds are extracted from land and understanding that the communities physically surrounding this land are the ones most impacted by the presence and activity of a diamond mine, a normative rationale for public involvement in management decisions would be that these communities should have a say in how the company treats them and how the diamond-rich land is managed. Given that every community is different and that many of the communities surrounding diamond mines are inhabited by unique indigenous peoples, it can be surmised that CSR and public participation strategies are likely to be more effective if customized to respect the culture and context of each community as suggested by both Alterman (1982) and Hamann (2003).

Although interactions between resource extraction companies and indigenous peoples have historically been characterized as hostile, there is a critical need and a growing public expectation for ethical, respectful engagement by each company with indigenous communities "in a manner consistent with their wishes and needs as *they* perceive them" (Lertzman & Vredenburg, 2005). Voluntary Environmental Initiatives (VEI) and related Best Practice Frameworks (BPF) are now in vogue, especially when companies are faced with the decision of how to participate in dialogue, development, and implementation of these types of programs. Given their significant power advantage, it can be tempting for corporate leaders to exclude small community groups and concerned laypersons from these decisions or to co-opt their input. However, as Christmann and Taylor (2002) have contended, capacity-building through VEIs can be viewed as a useful stance that can help environmentally harmful industries improve their technical knowledge by learning from local groups (Christmann & Taylor, 2002) meaning that public participation is justified on a substantive rationale (Beierle & Cayford, 2002). Additionally, assuming the validity of this logic, this type of open learning approach to involving the public is assumed to build needed trust in the community and facilitate acceptance of the company's presence and agenda, constituting a strong instrumental rationale for pursuing public involvement (Beierle & Cayford, 2002). One recent study put it this way: "Firms that rely on their reputation for environmental responsibility as a source of competitiveness will benefit more from a focus on building capacities than on a defensive strategy because defensive actions may result in scrutiny and attacks from NGOs (Christmann & Taylor, 2002; p. 131).

Given this state of affairs, the pivotal question is how diamond mining companies can design and implement ethical and effective public participation programs that successfully enable indigenous peoples to participate in management decisions. Further, would such programs make any difference in the lives of indigenous peoples? To contribute some answers, we now turn to a pair of contrasting case studies in which mining companies sought to involve impacted indigenous groups in prospecting activities, operations, and remediation for diamond mines that impacted their lands and their lives.

DEBSWANA, DEBEERS, AND THE SAN PEOPLE

Botswana is more productive than any other country in the world when it comes to gem-quality rough diamonds. In 2003 the diamond industry represented 83 percent of the nation's export earnings (MBendi, 2004) and accounted for 35-40 percent of the country's gross domestic product (Shor, 2005: p. 212). "Botswana president Festus Mogae made it clear in a November 2002 talk in Antwerp that diamonds have been the key to his country's rapid development and ascendance into a middle-class society, according to World Bank classifications" (Shor, 2005; p. 212). Since 1967, DeBeers has championed a 50-50 joint venture with the Republic of Botswana, called Debswana, which owns and operates three major diamond mines – Orapa, Jwaneng, and Letlhakane – as well as a new, smaller mine – Damtshaa. Exploration activity has been completed at Gope, a site that lies 50 km inside the boundaries of the Central Kalahari (called Kgalagadi in Botswana) Game Reserve (CKGR).

> Gope Exploration (Pty) Ltd submitted an application for a mining lease in 1999 to mine for diamonds at Gope in the Central Kgalagadi Game Reserve. During the year the Environmental Impact Assessment report was reviewed. An environmental management program was still outstanding by year end. (DOM, 1999)

Gope Exploration (Pty) Ltd is a joint venture between DeBeers Prospecting Botswana (Pty) Ltd and the Botswana subsidiary of Falconbridge Ltd. of Canada but no extraction has occurred there yet according to DeBeers. There is a disagreement as to why mine development has not proceeded at Gope, but there is no doubt that the decision to hesitate is at least partially due to the initial capital investment required to reach the diamond-bearing pipes (kimberlites) beneath the desert in an environmentally approved manner:

> DeBeers and Falconbridge are investigating the feasibility of the Gope cluster in the Central Kalahari Game Reserve. Although this project has potential for a large low-grade operation, development is subject to environmental issues, yet to be resolved. The economic GO25 pipe is blanketed by an extensive cover of Kalahari sand and underlying basalt. Some 78 Mt of sand and 90 Mt of basalt would need to be stripped prior to exposing GO25 for open pit mining. $80 million has already been spent on the feasibility study. Although the feasibility study has been completed, plans for development are being assessed in light of current economic conditions. In the light of DeBeers' impressive 1999 results and long term commitment to Botswana, it appears that the Gope

> mine might well become a reality in the near future. (MBendi, 2004)

An additional barrier to development at Gope is the controversy surrounding the rights of the San or Baswara peoples (internationally known as Bushmen) to the CKGR and the process of negotiation that was underway in 1998-2001 between the Government and the San communities to plan for sustainable use of natural resources and wildlife inside the CKGR by the San communities (DITSHWANELO, 2006).

Relocation of the San Communities

Several San communities have resided inside the CKGR since its designation in 1961, and the San peoples have lived in Southern Africa for at least 40,000 years (DITSHWANELO, 2006). According to international investigations, throughout Botswana's history the San have been economically, politically, and racially marginalized; excluded from decisions about land and other resources; and exploited. "Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress" (BDHL, 2005). The British-controlled government (Botswana gained its independence in 1966) originally drew the boundaries around the CKGR to protect the food supply of some isolated San groups who were still living by their traditional hunter-gatherer methods (BDHL, 2005). However, between 1999 and 2001 most of the San who were living in the Reserve were relocated to several new settlements for those who chose to remain inside the Park. In response to the cessation of government services, First People of the Kalahari (FPK), a local grassroots group representing the collective voice of several San groups, coordinated with DITSHWANELO (The Botswana Centre for Human Rights), and several other organizations who had been party to the CKGR management negotiations along with the San communities themselves, to file a suit against the Government of Botswana. The case, which got underway in 2004, is still not resolved but will eventually give a ruling to address the following issues (DITSHWANELO, 2006):

> On 23 January 2003, the grounds of the application were commonly agreed upon by both parties to the CKGR case. These were that the court determines:
> 1. Whether it was unlawful for the Government of Botswana to terminate basic and essential services to the residents of the CKGR in January 2002;
> 2. Whether the Government has an obligation to restore services to the residents;
> 3. Whether the residents were in possession of their land and were deprived of such possession forcibly, wrongly and without their consent; and
> 4. Whether the Government's refusal to issue game licenses to the residents and to allow them to enter the CKGR is unlawful and unconstitutional.
>
> On 4 May 2005, the grounds for the application were summarized during the hearing by Justice Phumaphi as being to determine:
> 1. Whether residents had been forced out of the CKGR;
> 2. Whether termination of services to them by government was unconstitutional; and
> 3. If they had been deprived of land they had lawfully occupied.

Ultimately, DITSHWANELO (2006) wanted to resolve the issue of co-optation of the San by resuming peaceful negotiations and dialogue between the Government and interested parties. The general belief was that democratic learning and reasonable consensus would be possible if the Government could respect and invite public input.

Corporate Social Responsibility, Public Involvement and DeBeers

To some extent, DeBeers tried to distance itself from the CKGR controversy, but the situation has promoted the publication of numerous articles questioning the company's commitment to Corporate Social Responsibility (CSR) and the establishment of an international NGO campaign by Survival International targeting DeBeers with protests at retail jewelry stores in London and New York. Interestingly, jewelry trade publications recognized DeBeers as a champion of sustainable development in Africa, with particular emphasis on the success of Debswana as an example of "good corporate citizenship". The public-private company reported to "improve the lives not only of its 6,500-plus employees but also the communities around its mines," and DeBeers pre-tax contribution to "corporate social investment projects for its mining communities" is lauded as it is more than the 1 percent accepted minimum expectation (Sanchez, 2006).

Concomitantly, Nicky Oppenheimer, Chairman of both DeBeers and Debswana, consistently praised the Government of Botswana for the "vision and political leadership" it showed in establishing and continuing to nourish a public-private partnership with DeBeers. For instance, in a speech to the Botswana Investment Forum, he publicly declared his trust for his "Government colleagues," and emphasized that "pragmatism and sound policy are bywords in the Botswana context when it comes to relations between government and foreign business such as DeBeers" (Oppenheimer, 2005). A diplomat and tycoon, he has also been consistent in his ability to avoid making any public statements about the ethics of decisions made by his governmental colleagues with regards to the San and the CKGR. In response to an article titled 'Dying for DeBeers' that was published in *The Ecologist* in September 2003, he did comment on the Government's role stressing that it is democratic and fair, without clarifying his personal stance on the underlying morality of their actions:

> To satisfy both its own and other concerns, DeBeers has also sought, and received, assurance from the Government of Botswana that its relocation policy is not linked to any past, present or potential mining activity, of any kind, in the area. The Government has given further assurance that the resettlement programme is designed to give the Bushmen access to health and educational services available to all other Botswana people. Whilst we acknowledge that the policy is controversial and may not be welcomed by all parties, this is the decision of the democratically elected Government of Botswana. (Oppenheimer, 2004, p. 36)

The majority of this response was, of course, to refute accusations by Survival International that DeBeers' interest in mining diamonds at Gope was the driving motivation behind the relocation of the San peoples. After protests by Survival International at the opening of their London diamond store in 2002, the London *Financial Times* wrote that the company's marketing strategy to promote diamonds as 'a symbol of love, money and power' lost much of its intended effects (Taylor & Mokhawa, 2003: p.281). It has been argued that even though diamonds from Botswana do not fit the official definition of conflict diamonds, the international NGO community could "broaden the definition of conflict to include the forced removal of indigenous peoples from their ancestral homes" (Taylor & Mokhawa, 2003, p. 281).

Consideration of the DeBeers Community Policy brings a new and worthwhile dimension to the struggle between the various publics involved in the CKGR conflict: Can DeBeers indeed truly design and implement an effective public participation program in Botswana? In light of the Guiding Principles that make up the backbone of the company's Community Policy, many have argued that DeBeers is not abiding by the basic principles of sustainable development (and democracy) that are implicit in its identity and brand contract with customers. Putting aside the true reasons that diamond mine development has not proceeded at Gope, an environment of conflict and mistrust has been created by avoiding solicitation of input and involvement from surrounding communities while partnering avidly with a government that has marginalized these communities for many years. Not surprisingly, one could argue that the instrumental, normative and substantive rationales for designing a public participation program, if carefully designed, could begin to rebuild some trust between the San and the Government of Botswana, improve the public image of DeBeers, show deference to the Universal Declaration of Human Rights, and seek to incorporate indigenous knowledge of technical, environmental practices that could improve the efficiency and effectiveness of environmental management of a mine at Gope, or so it is contended.

DIAVIK AND THE DENE PEOPLE OF THE NORTHWEST TERRITORIES

Canada is the newest member of the world's diamond producing countries and is now the third most productive diamond producer by value globally (Santarossa, 2004). The first discovery was in 1991 at Point Lake near Lac de Gras, the site of current operations of a joint venture co-owned by Diavik Diamond Mines Inc., a subsidiary of Rio Tinto, with a 60 percent share and Aber Diamond Mines Ltd. with a 40 percent share. There are now three large, open-pit and underground mines total: Ekati (a joint venture of BHP Billiton Diamonds Inc. which holds an 80 percent share, and two geologists who hold 10 percent each), Diavik, and Jericho (both owned by Tahera Diamond Corporation and located in Nunavut and Ontario, respectively). There are other mines in development by DeBeers at Snap Lake and Victor (which will be the second diamond mine outside of the Northwest Territories, NWT) and additional projects in the advanced exploration stage in other regions of Canada. Diamond mining accounted for slightly more than 20 percent of GDP of the NWT in 2002 (Santarossa, 2004). Between 1998 and 2001 the number of diamond industry jobs increased by over 700 percent in the NWT with a high percentage of these new jobs being filled by local Aboriginal peoples (Santarossa, 2004). The Diavik Mine employed an estimated total of 625 people in 2006, 37 percent of whom were Aboriginal (Santarossa, 2004) and produced more than 7 million carats in 2004 alone (Shor, 2005).

Aboriginal Communities of the Lac de Gras Region, Northwest Territories

The Aboriginal tribal groups in the vicinity of Lac de Gras refer to themselves collectively as the Dene. The modern Dene have depended on the land and other natural resources of this area for about 2,500 years and their ancestral predecessors arrived in the region approximately 12,000 years ago (www.explorenwt.com). The Inuit arrived later around 1000 years ago (www.explorenwt.com), after the Dene had settled into traditional ways of hunting and gathering in the regions they still occupy today. Dene communities moved seasonally with the Caribou migration as these populations along with fish from the regions many lakes and rivers were their main source of food. There are several Dene groups who occupy lands throughout the NWT including the Dogrib, the Yellowknives, the Chipewyan, the South Slavey and the North Slavey (Tupper & Neamtz, 2002). When European explorers and fur traders arrived in the region, they depended on the Dene to teach them basic survival skills, and it was not uncommon for French men to have children with Aboriginal women; people who descended from this ancestry are referred to as the Métis (mixed-blood).

Modern Aboriginal Government in Canada

The federal government in Canada has recently started to restructure and decentralize in response to the culture and history of the Aboriginal peoples of its three northern territories. In 1998, the Government of Canada initiated a long-term, broad-based policy approach to culturally sensitive sustainable development in the Northern Territories called "Gathering Strength—Canada's Aboriginal Action Plan". The Department of Indian Affairs and Northern Development (DIAND) in Ottawa is the lead department for federal affairs in the north and holds the primary responsibility for implementing the plan. Federal services and communication channels for the NWT, the Yukon, and Nunavut are made available through the Northern Affairs Program (NAP) which aims "to devolve its resource management responsibilities to strong territorial and Aboriginal governments and to work with these governments to achieve common objectives" while establishing support for legitimate implementation of sustainable development (DIAND, 2005). In the Lac de Gras region there are five, strong Aboriginal government organizations: The Dogrib Treaty 11 Council, the Lustel' Ke Dene First Nation, The Yellowknives Dene First Nation, the Northern Slave Métis Alliance, and the Kitikmeot Inuit Association.

Recent organization and improved communication between Aboriginal governments and the federal government has contributed to the successful negotiation of Aboriginal land claims. For example, the Dogrib Treaty 11 Council was the fourth Aboriginal group in the NWT to pursue land claims with the Government of Canada, and signed the Tlicho Land Claims and Self Government Agreement with DIAND on August 25, 2003 which defines the rights of Dogrib citizens and gives the Council authority in decisions about development on Dogrib lands (which include East Island where Diavik Diamond Mine is located) (Plainspeak, 2003). These types of agreements are giving Aboriginal groups significant legal power to participate in decisions made by MNMCs.

Setting Precedent: Public Involvement in the Development of Ekati Diamond Mine

BHP [Billiton] Diamonds Inc. (BHPB) in conjunction with Dia Met Minerals Ltd. was the first MNMC to apply for a diamond mining permit from the Government of Canada which they did in the summer of 1995 by submitting an Environmental Impact Statement (EIS) to the federally appointed Environmental Assessment Review Panel (EARP) of four experts. Following the EARP's endorsement, the federal Cabinet announced its decision to support the proposal in August of 1996. The response of Aboriginal peoples to the work of the EARP was disappointment and fear of co-optation, expressed eloquently through an article titled "Diamond Mining and the Demise of Environmental Assessment in the North" by Canadian Arctic Resources Committee (CARC) research director, Kevin O'Reilly which appeared in the Fall 1996 issue of *Northern Perspectives*.

> The Northern Environmental Coalition (CARC, Canadian Nature Federation, Ecology North, and

> World Wildlife Fund Canada) was visibly disappointed with the panel's superficial report and overly general recommendations. Feeling powerless, some environmental and Aboriginal groups openly discussed litigation as they digested the long-term meaning of the report.
>
> We conclude that the environmental assessment of the BHP diamond mine was fundamentally flawed; the process was neither rigorous, comprehensive, nor fair. This, we believe, is why the recommendations of the four-person panel are weak and insipid... Environmental assessment in the North is in crisis, the timing of which could not be worse. Additional diamond, base, and precious metal mines and associated infrastructure are planned for the Slave Geological Province north of Yellowknife… How will Ottawa respond? (O'Reilly, 1996, p. 1)

Ottawa responded by approving the mine in principle, pending additional implementation agreements from BHPB, including the drafting of a legally binding environmental agreement and a socio-economic agreement with the Government of the NWT. The Department of Indian Affairs and Northern Development (DIAND) also responded to aid in the implementation of further public consultation.

> On September 23, 1996 DIAND convened a workshop to discuss an environmental agreement for the BHP project. The Aboriginal organizations and territorial government were invited to participate in the discussions. It rapidly became clear that DIAND was stretched very thin on this process and that the Aboriginal organizations did not want to be simply consulted, but demanded

> direct participation in all the negotiations. DIAND reluctantly gave in but would not allow the Aboriginal organizations to become signatories to the agreement. The legal counsel for the Dogrib Treaty 11 Tribal Council suggested an implementation protocol with Aboriginal signatories as an alternative to ensure that there was direct participation in finalizing the agreement and then implementing it through a funded working group with Aboriginal representation. The protocol and a draft agreement were signed on October 18, 1996 after several furious rounds of negotiation and drafting. A legal and technical review was subsequently carried out by all the parties and the final agreement was signed on January 6, 1997. (O'Reilly, 1998, p. 2)

It is clear that the Environmental Agreement went well beyond what government and BHP had ever anticipated. It would be fair to say that all parties tried to negotiate in good faith and that gains were made in meeting some of the public concerns as a result of the direct participation of the Aboriginal organizations (www.diavik.ca). In the end, reluctantly, BHPB did finally agree to negotiate Impact Benefit Agreements (IBAs) with the most affected Aboriginal communities through an industry advisory board to help with monitoring an environmental management program at the Ekati mine.

Unmet Participation Needs in the Northwest Territories

Canadian Arctic Resources Committee (CARC) is a thirty-year-old grassroots advocacy organization that is "dedicated to the long-term environmental and social well-being of northern Canada and its peoples" (www.carc.org). One of their programs, mining and sustainability, focuses on policy research and advocacy to ensure that mining takes place in a responsible manner. They maintain offices in Ottawa and Yellowknife, work with an extensive board and advisory council of policy experts from around the nation, and publish a newsletter, a quarterly magazine, books relevant to the environmental and social well-being on the North, and occasional reports. They also partner with other environmental NGOs (Ecology North, World Wildlife Federation of Canada, and the Canadian Nature Federation) to form the Northern Environmental Coalition (NEC) giving a collective, multi-dimensional voice for protection of caribou and other wildlife resources. CARC's executive director made the following statement about mining companies' role in the well-being of the NWT:

> It should be noted that Ekati and Diavik mines are governed by agreements that provide for some substantial social benefits – training, trade certification and community programmes, for example. These agreements, and the companies' willingness to contribute to the new diamond cutting and polishing industries, are definitely steps in the right direction. What is needed here is some territorial and federal policy governing the kinds of social support and economic diversification objectives that need to be met in the context of diamond mining – or any other mining, for that matter. (Wristen, 2003, p. 2)

While this comment may appear to be satisfied with corporate efforts at addressing public concerns, an independent academic review of Ekati, Diavik, and other environmental agreements in Canada revealed three major areas in which working with indigenous publics is terribly lacking: resources, expertise, and knowledge (O'Faircheallaigh, 2006A). In short, these environmental agreements were never designed to promote – or even encourage – any authentic participation to give indigenous advocacy organizations a political voice against such powerful institutional actors.

KEY ISSUES AND DILEMMAS OF PARTICIPATION IN THE FACE OF POWER

These two cases offer how respective MNMC's use participatory strategies to respond to indigenous peoples. Robert Chambers (1997) has argued that, generally speaking, participatory strategies face many traps and problems that make any approach fraught with inherent difficulties. He listed the following factors worthy of note: (1) who participates and missing the poorer and women; (2) failing to facilitate an ongoing process; (3) not challenging the distorting effects of power relations; (4) the application of rigid rules and formulaic approaches that will actually lower levels of participation; and (5) "that words will be used without the reality of changed behavior, approaches, and methods" (p. 41). Although these points certainly have much merit, we believe that Cooke and Kothari come closer to pinpointing some other key issues that are sadly overlooked when applying participatory strategies to engage indigenous publics in the decisionmaking process:

> [We need to question] the naivety of assumptions about the authenticity of motivations and behavior in participatory process; how the language of empowerment masks a real concern for managerialist effectiveness; the quasi-religious associations of participatory rhetoric and practice; and how an emphasis on the micro level of intervention can obscure, and indeed sustain, broader macro-level inequalities and injustice. (2004, p. 13-14)

Of course, the point being made is an obvious one: do participatory approaches run the risk of merely reinforcing the interests of those corporate actors and thus the manipulation of "local knowledge" of marginalized groups in order to foster a façade of stakeholder influence over development initiatives (Arnstein, 1969)?

There are, we admit, obvious national and cultural differences between these two case studies, especially in the case of Canada whereby the Canadian government has granted concessions to indigenous publics in the Northwest Territories. Even given these national and cultural differences between Botswana and Canada, we observed that the participatory approaches—regardless of the specific strategy developed—never once even questioned the instrumental and hegemonic ethos of the mining corporations. Put bluntly, while the notions of corporate social responsibility and public involvement are laudatory, it is somewhat unclear who is being empowered and whether the polemic issue of non-participation (and non-compliance) can in itself be a statement about the usefulness of any strategy that does not challenge the prevailing status quo. We found that the approaches implemented by the institutional actors in both these case studies made the dubious assumption that by identifying the appropriate stakeholders a consensus could emerge that could be conceived as fair to all parties involved. It was a rationale, particularly with the Botswana example, that regarded equal bargaining power as a given and that inequalities between stakeholders could be corrected with the appropriate managerial formulaic strategy. Nicholas Hildyard and his colleagues used the following orotund tone to make exactly this same point:

> Facilitating [participatory] measures may be important in negotiations but they are not enough to grant marginal groups the bargaining power they

> require to overcome the structural dominance enjoyed by more powerful groups. On this view, participation requires wider processes of social transformation and structural change to the system of social relations through which inequalities are reproduced. Behavioral changes, though necessary, are not enough. (2001, p. 69)

A similar notion was echoed by David Mosse when he asserted that "public participatory…methods are unlikely to prove good instruments for the analysis of local power relations since they are shaped by the very relations which are being investigated" (1995, p. 29). We are not basing these points on a mere apercu; rather we are contending that these case studies reflect a "low processing capacity" (Brinkerhoff and Crosby, 2002) in that the power levers of the mining corporations remained comfortably intact and the market values of which they are a part were unexamined or simply ignored.

We state this in light of the broad litany of participatory tragedies associated with development projects that can range from third party mediators[1], impact benefit agreements[2], citizen juries[3], scenario development[4], and community indicators and monitoring[5], to the recent focus by the World Bank on participatory rural appraisal (PRA)[6]. Notwithstanding the importance of these differing approaches and their supposedly positive efficacy on including indigenous publics, we contend that public involvement strategies and their effectiveness are contingent not only on the historical and political context of the country in which mining corporations are functioning, but also—as Covey and Brown (2001) have so cogently argued—on the stark reality that a history of power imbalances and rights issues are likely to obscure discussions of any converging interests between the respective government, mining corporation, and indigenous groups.

This point is especially pertinent to the DeBeers corporation and its dealings with Botswana in that, according to Malan's (2005) research, this corporation can best be viewed as a "corporate colonialist" who preyed on the government's desire for additional revenue. The asymmetries of power in this case study clearly favored the corporate mentality of DeBeers; in other words, any participation would be determined by how well it actually reduced potential social conflict, and, at the same time, enhanced the effectiveness of DeBeers' primordial market goals. On the other hand, Rio Tinto in Canada attempted to display itself as a good corporate citizen with its emphasis on enforcing corporate social responsibility principles (Malan, 2005). Yet this all begs a more practical question: Is the focus on corporate social responsibility merely a managerial solution and strategy to what should be political and distributive issues (Guijt and Shah, 1998)? It is on this precise point that Francis Cleaver offers this astute insight—one that cannot be so easily brushed aside:

> A more dynamic vision is needed of institutions and community, one that incorporates social networks and recognizes dispersed and contingent power relations, the exclusionary as well as the inclusionary nature of participation. We need a much better understanding of local norms of decision-making and representation, of how these change and are negotiated, of how people may indirectly affect outcomes without direct participation…[there is a] need for a radical reassessment of the desirability, practicality and efficacy of development efforts based upon community participation. This involves rethinking not just the relationship between the differently

> placed individuals and historically and spatially specific social structures, but also the role of individuals, households, communities, development agencies and the state. (2004, p. 54-55)

This rethinking will also require, as these case studies clearly illustrate, sensitivity to the following considerations that warrant serious attention.

The uniqueness of cultural social structures. The concept of fit between programmatic approaches and indigenous peoples deserves careful consideration in order to engage in any critical learning (Korten, 1980). The specific focus on social structures has recently been highlighted by relevant case studies other than these featured here (Fraser et al., 2006; Lertzmann and Vredenburg, 2006; Banerjee, 2001). Simply put, "the degree to which profit-driven mining companies can understand and respect values so different to their own will probably be a litmus test for evolving CSR agenda" (Hamann, 2003, p.248). This point, while appearing self-evident, does not address the issue that indigenous publics' needs and wants are often disaggregated based upon gender, religious, and other related factors.

The special nature of relationship to the land. For thousands of years many indigenous peoples have developed a strong bond with the land they inhabit. Interestingly enough, this issue has often been ignored as the exploration of this land has revealed its economic potential to the profitable industry of the diamond trade (Schor, 2005). Some mining companies have found (much to their dismay) that by ignoring or dismissing entirely this relationship it has heightened political controversy and called into question the company's primary goals (Ali, 2003).

Attitude of the Federal Government. One of the central differences between the case studies is, of course, the way the federal government interacted with indigenous populations in the context of land claims. The Canadian government for example, did acknowledge the rights of Dene and Intuit communities to be involved in those decisions about the development of their land. The Canadian government, in short, perceived decentralization as a way of institutionalizing cooperative interactions that could help to alleviate some of the financial and social conflicts with the federal government (Wristen, 2003). The Government of Botswana, on the other hand, took a paternalistic view and was reluctant to engage with the indigenous peoples about their legitimate rights to the land in the Central Kalahari Game Reserve. Although it has been argued that the unique history and political landscape of Africa does not necessarily exempt it for initiating CSR (Lund-Thomsen, 2005); however, given the legacy of colonialism associated with the history of diamond-mining in Africa, CSR's may be too conservative an approach altogether (Malan, 2005).

While this is hardly an exhaustive list of the contextual factors that can have a direct bearing on involving indigenous groups, such factors do—when taken seriously—raise critical substantive issues about the broader hegemonic political and economic forces that can transform any well-intentioned participatory scheme into a "legitimatory ideology" (Ramos 1981) that promotes largely cosmetic and administrative changes as a way of achieving a predetermined economic and political outcome (i.e., the securing of compliance and control by existing power structures).

When all is said and done, what connects these two case studies more than anything else is how participatory discourse—regardless of how it is nuanced in different political contexts of mining development—can have the proclivity to depoliticize the fundamental complexities of power and power relations. Of course, such a depoliticization carries a hefty price tag that can conceal (sometimes explicitly or subtly) the manifestations and political underpinnings of oppressions and injustices. This litany of complaints may sound overstated when considering the beneficial effects that participatory strategies can have on giving indigenous public an authentic voice in the decisionmaking process. Yet, for all the talk about public participation (in all its hybridity), in the end both DeBeers and Rio Tinto both tried to appropriate indigenous knowledge and experiences into a more comfortable discussion of fostering a sustainable system rather than discussing the disconcerting plight of indigenous people as an integral product of grinding poverty (Campbell, 1997). This point alone should make us pause—as these two case studies make clear in varying degrees of intensity—about the genuine difficulties in implementing such participatory initiatives when they are politically mediated, as Alberto Ramos (1981, p. 4) has reminded us, through the ideological prism of "a crypto-political phenomenon [of market values], i.e., a disguised normative dimension of the established power configuration."

CONCLUSION

There is an ongoing debate about whether participation in development initiatives has become nothing more than a managerial exercise "on toolboxes of procedures and techniques" (Cleaver, 2004, p. 53). Following this line of reasoning, there is, not surprisingly, a call for a fundamental re-analysis of participatory approaches and what they hope to achieve (Cooke and Kothari, 2004; D. Mosse, 1994; Nelson and Wright, 1995). Specifically, in regards to participatory approaches used by mining corporations to engage indigenous publics, it is hoped that these strategies could serve as a pragmatic complement to *Breaking New Ground: Mining, Minerals* *and Sustainable Development* (2002), the final report of the Mining, Minerals and Sustainable Development Project of the International Institute for Environment and Development, and its follow up report: *Finding Common Ground: Indigenous Peoples and Their Association with the Mining Sector* (2003). We are not so confident, given our analysis of these two case studies, that these participatory endeavors will quite have the impact that many were hoping for in promoting genuine public involvement. Our purpose here is to stress the limitations of participation when addressing indigenous publics in the face of powerful institutional forces. What links these two case studies is the illustration of this very point. We think Foucault offered a partial reason for this state of affairs when he correctly noted that "power is tolerable only if it masks a substantial part of itself" (1979, p. 86). To be sure, participatory approaches can give a public serious voice in questioning a top-down development approach (Chambers, 1997), but as witnessed in these case studies, they often do little in revealing the wider power relations in society (Kothari, 2004).

Our case analysis adds fuel to a challenge that warrants more debate within the public administration (and public policy) communities:

> The generalities and histories of development in general, and participatory practices in particular, [demonstrate] how a misunderstanding of power underpins much of the participatory discourse. The identification of the (mis) interpretations of how and where power is expressed within participation compels us to reconsider the notion of empowerment, and the claims to empowerment made by many participatory practitioners. Since an understanding of the concept of empowerment is based on particular relations, of its root concept,

> ‘power’, and since this…has been simplified in the theory and practice of participation, the meanings ascribed to the conditions of empowerment and the claims made for its attainment for those who have been marginalized must also be subjected to further scrutiny. (Cooke and Kothari, 2004, p.14)

Few have stated it better.

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NOTES

1. Social conflict has been an ongoing issue concerning indigenous rights (Ali, 2003). Understandably, third party mediation has been promoted as a way to resolve goal disagreements and allow for communication in situations of distrust between parties. But, as Thomas (1995, p. 130) so aptly explained, for mediation to be appropriate, “the opposing parties to a dispute must have comparable power, their dispute must have reached an impasse, and they must be prepared to compromise.” However, even in developing countries where the democratic ideal of coproduction is widely accepted, indigenous peoples have been excluded and marginalized throughout history. Moreover, many of these populations, such as the relocated San, are politically weak in a paternalistic governance system. In such an environment where interactions between mining and indigenous groups are fraught with a history of distrust, employing a third party facilitator who is respected by the indigenous communities raises serious concerns whether such an approach can reduce the barriers of distrust and enhance accountability (Ventriss and Pecorello, 1984;

Ventriss, 1987; Mosse, 1995).

2. Impact Benefit Agreements (IBA) are contracts signed between indigenous communities and mining companies "in order to establish formal relationships between them, to reduce the predicted impact of a mine and secure economic benefits for affected communities (Sosa and Keenan, 2001, p. 1). It should be noted that except in cases where an indigenous group has established a legal claim to the land, these are not required by law, but under certain circumstances – such as in the decentralized governance system in Canada – may put pressure on mining companies to negotiate them. The intense negotiations and ongoing implementation are regarded as expensive and difficult to enforce, however.

3. This approach is sometimes referred to as citizen panels which can enhance the ability to overcome the issues of proper representation and political complexity that sometimes lends to cooptation of under-privileged groups (Ventriss, 1987). One scholar defined it as "a group of randomly selected people, gathered in such a way as to represent a microcosm of their community, who are paid to attend a series of meetings to learn about and discuss…a specific public policy issue and make public their decisions" (Crosby, 1995, p. 157). It has been suggested that perhaps citizen juries can serve as a way to incorporate local knowledge of indigenous publics into the decisionmaking process itself (N. Robert, 2004). A major flaw in this well-meaning approach is that if participants realized that they are being paid by a mining corporation, they may be voicing an opinion that merely echoes what the mining corporation wants to hear and do (Cooke and Kothari, 2004).

4. The use of scenario development is an "archetypal image of the future based on interpretations of the present" and that acts as an "internally consistent story exploring a path into the future" (Anastasi, 2002, p. 202). This approach

allows, it is claimed, for culturally and economically diverse viewpoints to be incorporated into stories of various alternative futures. According to Anastasi (2003, p. 205), it deals effectively in situations that lack a public language and it gives citizens the opportunity to project their views using visual techniques to produce their own interpretations of various scenarios (Kasemir et al., 2003). For instance, by integrating techniques like collages, which rely upon non-verbal communication, scenarios can be developed by indigenous groups to inform decisions of mining owners. Notwithstanding the innovative aspects of this perspective, it is questionable how such scenarios can recover the ideological underpinning of power relations and how they are played out in mining diamonds.

5. It has been argued that monitoring approaches may not be validated by indigenous cultures, but by merging indicators with technical and legal required environmental impact assessments, this may offer one way to address the barrier of political complexity. Brinkerhoff and Crosby (2002, p. 222-223), for example, have offered these salient suggestions, or conditions, that relate to this point:

- [A policy-monitoring system] must provide a user-friendly means of understanding the current status of the policy, both for reformers tracking progress and for the other stakeholders to whom information is disseminated.
- Include policy reform stakeholders as participants in reviewing implementational progress in getting future performance targets, and in some cases in conducting, monitoring and evaluation.
- Feed information on progress into implementation diagnosis and [community] problem-solving.

It is worth noting that this view presupposes that local knowledge is absent any discursive and embodied articulations of power that can readily become accepted as cultural norms. It is no wonder that under these assumptions power and inequalities remain unchallenged (Kothari, 2004).

6. Participatory Rural Appraisal (PRA), as championed by Robert Chambers is regarded as “a family of approaches and methods to enable rural people to share, enhance, and analyze their knowledge of life conditions, to plan, and to act” (1992, p. 1). Or put in slightly different terms, it is a method of validating local knowledge in order to empower local groups. It stresses the importance of “reversal of learning” (valuing indigenous knowledge over technical, instrumental approaches to knowledge), triangulation (the emphasis on building trust, gaining knowledge of the local context, and employing different methodologies to obtain information), and the importance of visual over verbal data (the stress on participatory mapping, matrices, and diagrams).

The World Bank has found PRA useful as it tries to be more responsive to public concerns. It has, at the same time, generated many critics who voice similar concerns articulated by an internal World Bank assessment of PRA, finding it valuable as a “process technique, but deficient in raising social factors such as gender and poverty issues. One critic has contended that PRA promotes a “processual promise land” to rural populations, but in the end offers only a discourse of obfuscation leaving untouched the prevailing structures of power (Cleaver, 2004).

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