

Placating Metolong Dam committees to implement labour broking!

Abstract

In an attempt to achieve public participation the government of Lesotho established affected communities committees in Metolong Dam project. The functions of the committees were to monitor negative social and environmental impacts of the project and simultaneously become stakeholders' fora. Trade unions were excluded in these meetings. By closing the representation gap left by traditional trade unions the Transformation Resource Centre (TRC) as a non-governmental organization became a defacto trade union in the Metolong dam water supply project in resisting the informalization of work discussed in those meetings. This became the most compromised position by the organization because there was neither mandate sort from the precarious workers nor was feedback given as they were unorganised. Metolong Dam committees defected to the neoliberalists' side while the TRC became the vanguard of the affected communities and precarious workers. This article explores how placation and manipulation of dam committees succeeded to implement labour broking. It attempts to close the niche that community representatives in the dam affected areas blind folded collaborated with Sinohydro to exploit workers. Its analysis challenges the dam committees as lacking essential elements of public participation. The methodology used was purposive sampling and action participation.

Introduction

Construction of large dams such as Metolong Dam in Lesotho attracts diverse opinions and expectations of people from different walks of life. Non-governmental organisations worry about the disturbance of the biophysical environment and the rights of communities affected by such projects. Communities turn to be divided those who want the dam to continue because it is development that will bring employment and boost local businesses while others are uncertain about the future without agricultural fields. Trade unions think of organizing workers into a union. Neoliberal economists consider it as a boost to growing economies like Lesotho because there is always inflow of global finances in the form of grants, loans and customs revenue. The unemployed forces see nothing but jobs, while labour brokers tussle for a lucrative tender to exploit workers.

The objective of the paper is to advocate for proper public participation process and highlight how a distorted one led to uncelebrated employment conditions such as labour broking. It argues that the form, content and conduct of public participation in Metolong culminated in placation and manipulation of the affected community committees which in return facilitated labour broking in post the dam wall construction phase.

The paper is structured into the background of Metolong Dam, the demographic data which highlights the desperation level of the people in the catchment while the methodology discussed how the data used was collected. The theoretical framework was public participation and its general challenges were discussed and then deficiency in the Metolong Dam public participation was presented as case study which led to labour broking.

Methodology

The methodology used to collect data was through action participation in the stakeholders meetings. Babbie and Mouton (2001) point to the fact that participation action research

occurs when an outsider is working with the marginalized grassroots in the rural areas faced with social and economic exploitation. The people of Metolong fell in category explained. And the researcher was from Transformation Resource Centre actively involved in resolving the community issues. And the social problems were the radical changes that people had to adapt to because the dam was coming permanently in their ways of life. Inundation of fields, forests and grazing land economically changed their livelihoods forever. Benya (2009) used the methodology to experience and observe how women working underground cope with the masculine mining industry. Mantashe (2008) suggests that in a qualitative research where the researcher has insider perspective documentation of what the researcher knows has happened takes place.

Both Benya (2009) and Mantashe (2008) agree with Babbie and Mouton (2001) that data gathered in qualitative research improves the existing theory. I totally subscribe to these principles alleged by the trio as this paper will contribute to unpacking public participation in the context of large dams where it integrated labour issues.

Nevertheless complementary data was collected by questionnaires from ten purposely selected participants. The data collected by questionnaires was intended to fill the gaps of information collected in the action participation setup; this approach would attain triangulation strategy. A glaring lacuna in the participation action research was the absence of background information about knowledge of public participation by dam committee stakeholders and participation of trade unions.

The participants were chosen from six key stakeholders in the project: the MA represented the proponent, the Sinohydro for the construction companies, Joint Dam Committee represented the affected communities, employees who attended meetings during the project, the TRC representing NGOs and the LEWA as the then most representative union. They were people who had been part of dam committees meetings except for LEWA. Half of the participants, five, provided information while the other half did not and amongst them were Sinohydro and MA. Since the bulk of the information collected came from action participation their responses would only give their organizational understanding or position on public participation, labour broking and exclusion of trade unions in the dam committees meetings, however complementary data received was sufficient to draw conclusion in a qualitative study.

Over and above these two research techniques was the validation forum which was meant to share the findings of the research. By that time invitations were made to the same participants and extended to the broader civil society which included labour and NGOs in water sanitation and hygiene. The government ministries of labour and water as well as the Chinese high commission were invited. The MA was in attendance while the Sinohydro and its embassy boycotted the event.

It can be concluded that information collected was representative and the validation gave all the stakeholders the opportunity to make recommendations before the report was published. Important to note was the presence of Lesotho Highlands Development Authority which is responsible for the Lesotho Highlands Water Project (LHWP) Phase II which had started.

Background

Demography

Metolong village is found in the rural North East of Maseru, about 40km from the capital city along Phuthiatsana River. The majority of the population lives on subsistence agriculture; 64.1% of the households reported by Metolong environmental and social impact assessment studies (ESIAs) to have no member in decent employment, only 12.6% of them were regular salary earners (SMEC, 2007). Conventional unemployment rate (seeking employment in the last three months) reported by ESIAs amounted to 28% and 11.8% of women were classified as housewives (SMEC, 2007). Prior to the dam construction Metolong village was accessible by gravel road and had no electricity supply. The tarmac road was only constructed from Maseru to the dam wall. It can be deduced from these statistics that people who are very close to the city to be without basic services and income put them in a desperate situation to accept anything.

Metolong Dam Water Supply Programme (MDWSP)

The construction of the Metolong dam came after construction of two dams under the LHWP. The LHWP gained negative publicity from its failure to involve the affected communities in decision making. The Government of Lesotho learned the hard way; as a result Metolong Dam Water Supply Programme (MDWSP) had Resettlement and Compensation Policy (2011) which incorporated participation of affected communities and non-governmental organisations.

The MDWSP was fully owned by the Government of Lesotho aimed at supplying water for local consumption in the capital city and four other towns in the lowlands. Metolong dam is built on the Phuthiatsana River. The demand for portable water increased due to industrialization and urbanization, in Maseru, Teyateyaneng, Mazenod, Morija and Roma.

The Metolong Authority (MA) was the MDWSP implementing agency established by an act of Parliament (2010). The authority established affected communities dam committees, the Dam Committee and the Joint Dam Committee. These committees met monthly on Tuesdays and Thursdays respectively. The project had dam committees which served both as community consultation and stakeholders fora.

The Dam Committee was formed by total of 23 community representatives from each village in the catchment. The dam committee was the working committee answerable to the Joint Dam Committee. The committee was the direct link between the MA and the community. The Joint Dam Committee was made of five community councils. Each council had the minimum of three representatives: an area chief and two councilors as local authorities and three office bearers from the Dam Committee. The Joint Dam Committee met on Thursday to approve or reject recommendations of the working committee.

The major reason for having community representatives meetings was to monitor social and environmental impacts of the dam wall construction and associated advanced and post construction infrastructure as recommended by the environmental management plan. In these monthly meetings, the committees were expected to report affected assets to the contractors and provide feedback responses and resolutions made to the communities. Different stakeholders participated in these meetings for group consultation. It was in these fora that

the MA used to communicate decisions reached on the MDWSP by its board of directors and management team.

However, trade unions were excluded in these fora despite the fact that at times they became quasi-industrial relations department that discussed recruitment of casual workers and their work related complaints (Masoebe, 2016). Exclusion of trade unions meant their voices were not heard as a result decisions made were not inclusive thus incomplete public participation.

Transformation Resource Centre (TRC) had been part of the MDWSP from inception of the Metolong ESIA prior to 2008 as a non-governmental organization. As Nyalunga (2006) puts it, NGOs are key agents of participation as they assist governments to account to the people and deliver on the services. It was advocating for the protection of human rights and lobbying for direct benefits of the communities affected by this capital project. Hoover, (2006) argue that the World Commission on Dams (WCD) recommendations support the notion of beneficiation because the affected communities are the ones carrying the burden of social and environmental costs and risks.

As Webster (2011) states the absence of trade unions in the workplaces, even in fora where labour matters are discussed creates a representation gap which must be filled. At times the TRC had to close representation gaps that emerged on labour matters during the monthly stakeholders meetings because traditional trade unions never participated. Tough meetings focused mostly on monitoring social and environmental impacts of construction activities it was still necessary to have unions on board.

The MDWSP had a number of components given to different multinational companies; advance infrastructure construction such as roads were allocated to EXR Construction, construction of the dam wall was done by Sinohydro, installation of pipelines were shared by WBHO and UNIK Construction, water treatment plant assigned to CMC, installation of electricity to all houses in the catchment executed by Rural Maintenance and LSP Construction (the only local company).

These stages had complicated and secretive operational arrangements which involved main contractors, subcontractors and labour brokers. Construction work by its nature is precarious; it worsens even further by the engagement of labour brokers or subcontractors. Labour Broking suppresses the wage share of the employee because of the link created between the employer and employee.

The most representative trade union that was organizing workers in the MDWSP was Lesotho Workers Association (LEWA). Conditions of employment were not conducive to the extent that LEWA led workers to a strike which saw the state intervening on the side of the Sinohydro. The aftermath of the strike led to the decline of LEWA membership and emergence of rivalry trade union Construction Mining Quarry and Allied Workers Union (CMQ) which failed to gain recognition from the Sinohydro and other subcontractors. The government of Lesotho demonstrated the characteristics of global regimes, which favored big corporations, eroded the bargaining power of trade unions and indeed the social standards of employment took downward spiral and non-formal employment rose (Hoffer, 2010). The then Minister of Energy Meteorology and Water when he justified his bias intervention said he wanted to assure the Chinese government tight security for her nationals (Maama, 2012).

Conceptual Framework

The approach to understanding how labour broking occurred post the dam wall construction was based on discussing public participation theory. Proper public participation was discussed with its challenges. The main challenges are placation and manipulation of the committees found in Arnstein ladder of citizen participation. It is argued in this paper that distorted public participation was used to solicit support of the dam committees on labour broking.

Public Participation

Heller (1998) argues that participation is “how people interact with each other in an organizational context, more especially it encompasses a range of behavior and choices rather than a standardized type of interaction between people. First of all, there must be access to information and the process of decision-making; this can lead to involvement and consultation yielding various degrees of influence. Beyond this participation can lead to agreement, consensus, or equality among people or groups, and finally there are degrees of self-determination and autonomy,” (p.6).

Babooa (2008) argues that participation should involve a group of people making their own contribution in resolving a problem. Babooa (2008) further segment public participation into different categories of citizen participation and community participation. The former requires a wider populace contributing on national governance issues while the latter is confined a group of people with similar characteristics such as culture, within a certain geographical place like municipal ward and having similar interests. However the terms will be used interchangeably in this article.

Phamola (2016) in his questionnaire response defined public participation as meaningful contribution in planning, implementation and management of projects. Letlama (2016) understands it to be “informed active participation as a right in decision that affects the public.” He mentions its components to be informed participation, right to participate, ownership of decision and empowerment by authorities.

Public participation in Lesotho is a fundamental human right recognized by the constitution of the land. Section 20(1) states that: *Every citizen of Lesotho shall enjoy the right: (a) to take part in the conduct of public affairs directly or through freely chosen representatives*, (GoL, 1993). The Environment Act also upholds public participation as its key principles of environment management which can be redressed in a court of law; section 4 (4) (d) states that: *The court shall in exercising its jurisdiction, be guided by the following principles of sustainable development: “the principle of public participation in the development of policies, plans and processes for the management of environment”*, (GoL, 2008). However there are no guidelines how public participation should be conducted.

The paper subscribes to public participation process which is about ownership of all the decisions, in this case the Metolong Dam committees and other stakeholders. Proposals presented to the meetings should indeed be proposals and not decision put in disguise. The deliberations should be placation and manipulation free from technocrats’ strategies. The state or multinational companies’ parties should not use hegemonic influence to drive decisions in their favor. Representatives should have equal status in the meeting.

Public participation should not only be confined to the general public excluding workers because they are part of the society; in fact the Australian Standards of Public Participation (2008) list the Austrian Federation of Trade Unions as part of 'organized public'. Workers' participation is common in the workplace through collective bargaining but Anstey (1989) suggests worker participation in the boards where an elected worker director can participate in the running of the company. This concept has its own advantages and disadvantages which will not be discussed in this article.

Challenges of public participation

Even in the industrialized countries public participation is still being implemented, while in other cases it is being resisted at local, national and international levels, (IPAT, 2015). Some of the challenges are attributable to perception that the power of the authorities is being opened for public scrutiny. Public participation by nature is costly, time consuming and results in negative reaction if community interests are not taken into consideration (Babooa, 2008).

Strauss (1998) considers democratic participation as squarely contradicting the popular consultative committees or representative participative bodies which had been used in the European countries, the United States of America and Japan companies in the 1990s. These committees varied in structure from one country to another and from one company to another but had similar characteristics; such as representing employer and employees, sharing of information and discussing trivial welfare issues of workers. However, these committees to the large extent were not functional because their suggestions were ignored and they lacked power to block management actions. Key decisions were made by management in their caucus and then brought to consultative committees for rubber stamp.

Heller (1998) best articulates this inappropriate management participation strategies as 'creating a feeling of participation' in two folds; the first being psychological participation and the second being objective participation. In general terms there is a thin line between bogus participation and real participation. Psychological participation is tantamount to manipulation because it creates perception that one has contributed in jointly made decisions whereas it is not the case. Objective participation is directly proportional to the perception created in psychological participation.

Hoover (2006) using the World Commission on Dams framework says the reality of public participation was not seen in the LHWP as the people had no platform to discuss how they were to be affected by the dams. He cites the words of his informants to show the negative consequences that it brought to the people who were involuntarily removed from their ancestral lands. Greyling (2006) in the same note lamented the absence of public participation in the LHWP as completely deplorable; considering the significance of the project it could have qualified it as a success story.

It can be summed up that there is no greater difference between proper public participation and bogus participation because they both require the public to share views on the problem but the difference is on ownership of the process by all parties.

Public Participation deficiency in the MDWSP

Similarly, meetings of both the Metolong Dam Committee and Joint Dam Committee are considered by the dam proponent representatives as a platform for participation by the

community and other stakeholders in the project. However, they had no decision making powers. The fora were used to a smaller extent to synthesis community interests but to a greater extent channel decisions made by the proponent of the dam and agents (construction companies) to the communities. In actual fact the meetings were just placating and manipulating the community leadership. Placation occurred when the committees saw themselves as not excluded from the project. This pacified them not to resist the project. Sentiments expressed by some of the members of the Joint Dam Committee were that they have successively ensured that the majority of unskilled labour working in project was from the Metolong catchment (Pule and Taibosch, 2015).

When inside the bureaucracy the community leadership was easily deceived to believe that predetermined decisions made by the proponent and his agents are made by the meetings. Heller (1998) says the role of managers in a meeting is to ensure that the decision go the desired route. These decisions disguise as proposals made to the committees. Questions about the proposals were readily provided. Counter proposals were diplomatically not accepted rather the house would be steered to diverging scenarios, should there be members supporting the desired proposal then the MA used them as reference points and even quote their words.

The MDWSP had vertical organogram, at the apex was the state represented by the minister of water as the principal. The minister delegated his political power to the board of directors. The twelve members' board was composed among others by civil servants and political appointees, one community representative and an NGO representative (not from TRC) (Government of Lesotho (GoL), 2008; Metolong Authority, 2009). Below the board was the CE of the MA who was assisted by management team (legal, environmental and publicity). Between the management team and the dam committee was the community relations manager (CRM).

The data collected from some of the participants complimenting the action participation study shows that, the Dam Committees' decisions goes through the community relations manager (CRM) to reach the chief executive (CE) office as recommendations and not demands (Phamola, 2016). The trend was that the deliberations of stakeholders were independently reported by the CRM to the social and environment manager who works on them before tabling them to the CE (Mohapi, 2016).

The MA management team advised the CE on issues worth going to the board and those they could resolve internally. The Joint Dam Committee has its own secretary who recorded the minutes of the meeting. The CRM would respond to community requests as part of matters arising from the minutes as there was no correspondence from the committee to the authority. Principles of public participation require representation and transparency in the decision making, which did not happen when the management made such decision. Nhyalunga (2006) suggests that the people should be involved in the budgeting of local councils, which means there should financial disclosure; which was the case in the MDWSP.

Even on formally made submissions of disputed issues or complaints decisions were made without formal hearings. On land related disputes parties would be advised to refer their matters to the courts or land tribunal. On labour disquiets raised in the dam committees meetings the authority sat with the relevant contractors in the absence of trade unions and made resolutions. And the committees never challenged how the decisions had been reached.

The other deficiency of public participation in the MDWSP was about representation in the decision making body. There is complete disconnection between the so-called community and NGO representatives in the Metolong board of directors and the constituencies (the community, the dam committees and the NGOs) whom it can be legally claimed had given them status (Metolong Authority, 2009). This lacuna is attributed to the kleptocratic manner in which the appointments to the board were made (Lenka, 2015). At time this disconnection was used in defense by the MA. The CE of the MA once alluded to this fallacy of representation claiming that the MDWSP was democratic in decision making because it had both NGOs and community represented in the board, when responding to the concern that the MDWSP was not people oriented (Ronald, 2015).

Labour broking and Manipulation

As we have discussed the weakness of Metolong Dam committees in the public participation process we move to how the committees were manipulated by the Sinohydro to implement labour broking. The role played by the MA was discussed because of its noninvolvement strategy yet it was the custodian of the project.

Current trends in the labour market influenced by neoliberal characteristics of cost reduction on labour to maximize profits and decentralization of non-core operations of business enterprises result in triangular employment, subcontracting, labour broking and even self-employment. Webster (2008) describes this type of employment as having decent work deficit. He says they have four gaps required by the International Labour Organisation (ILO) decent work agenda: “an absence of sufficient employment opportunities, inadequate social protection, the denial of rights at work, and shortcomings in social dialogue” (Webster: 2011, P5).

Standing in Webster (2008) says “the pursuit of flexible labour relations at the centre of emerging labour markets all over the world poses a particular difficulty for the ILO; that of identifying employers and employees. Flexibility has meant a growing fuzziness, with labour externalization and a global resurgence of labour broking employment, employment agencies and labour subcontracting. ILO conventions began to look inapplicable for rather a lot of work statuses” (Webster: 2011, P5).

The Sinohydro had the obligation to repair houses damaged by blasting of quarry for the construction of the dam wall. On its own volition it wanted to outsource the repair work to unemployed local builders and had a tailor made operational plan. The Sinohydro in a disguised manner tabled the proposal of repair of house before the dam committees meetings as if requiring the inputs from all stakeholders on how best the work can be done. The Sinohydro lamented the work done by its employees when repairing houses inside 500m radius; that it was sloppy. As a result it advised outsourcing all the repair work to the local builders as the best option. The discussion shifted from doing the work perfectly to the neoliberal thinking of job creation. The focus was on, how the locals could have snatched the opportunities of self-employment and generated income which would have gone miles to support their basic needs.

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The Sinohydro had fully flagged guidelines on how this process had to be carried out and was providing answers to all questions to ensure the plan was executed as planned. The guidelines amongst other terms dictated that the builders would be paid daily wages and the number of days of engagement for the repair per house was determined by the company. The Sinohydro provided all repair materials but would not provide protective clothing, tools and lunch (sectorial practice) and unpaid supervision would be done by the owner of the house.

The first counter proposal by the TRC was that the Sinohydro instead of outsourcing the repair work, it should employ those local people and provide them with all benefits that accrue to their employment (protective clothing, tools, meals and rest days) and remunerate them properly. The second one was; if the Sinohydro chooses the outsourcing route it should be done properly by paying the total cost provided by the quotation of the local subcontractor and not dwell into the minutiae of how the work was done.

The main contractor in response said it had put the first proposal (employment) to a test when repairing some of the houses but that took forever. Surprisingly it was the TRC which had been persuading the company to speed up the repair of houses while the community representatives were bystanders. It was outrageous to hear the Sinohydro justifying the reason for outsourcing as in efficiency of employed personnel the committee could not say a word. The basic question that could have been asked was how did you finish the dam wall with inefficient workforce?

The position of the Dam Committees

The dam committees did not support the second proposals on the basis that builders would demand exorbitant amounts because they were dealing with a giant company. The committees were being protective to the Sinohydro and abandon their role of representing the community interests. The alienation of the committee members to the exploiters side remains a puzzle because their siting allowances were issued by the MA and not the contractor.

The logic assessment that could be made on the manner in which the committee members handled this issue is that they may have been haunted by the fear that the company would leave without repairing the houses because the Sinohydro strongly opposed counter proposals made by the TRC. It could be said their fear and desperation cohosted them to adopt the notion of half a loaf better than no bread.

The second possibility could be that the dam committees were curtailed by their shallow knowledge of new dynamics in the labour market such as flexible employment. As Letlama (2016) indicated public participation needs empowerment of the community by the different role players. The effort applied by the TRC in resisting informalization of repair of houses might have needed a number of lobby sessions with the community leadership. Considering the fact that neoliberal strategies seems to have more goodies and advocates than the decent work agenda.

Role played by the MA

The non-involvement approach of the MA on outsourcing process of the repair of houses as the custodian of the project was quite disturbing because it was obvious the Sinohydro was flouting the process for two reasons. Outsourcing means allowing the work to be done by an independent person in his own way as long as he is in the agreed parameters and delivering the set objective. All components of the MDWSP were outsourced to independent companies (including the Sinohydro) so both the MA and the Sinohydro mastered the procedure.

Secondly, subcontracting is not employment there is no stage where the client and service provider should discuss the finer details such as daily wages and number of workers per house; payment ought to be per units completed. The MA was using similar model in the installation of electricity to houses and even construction of toilets in the post dam wall construction phase.

Unlike in other phase where the MA was not present when exploitative terms were dictated by the employer or labour brokers to the employees, this arrangement occurred in its forum. It is incomprehensible why the MA did not counter the Chinese company on these hegemonic tendencies.

Exclusion of trade unions

Despite the fact that the LEWA and the CMQ were not invited to dam committees meetings there is no evidence that shows that they were ever made an effort and were expelled. Three documents explaining the structures and business process of the MDWSP: the parliamentary act, the compensation policy and the board charter categorically states that stakeholders' engagement was pivotal. They cannot be exonerated from the fact that they considered the meetings as not important.

Nevertheless, it is highly probable that the MA management deliberately left out the trade unions from the meetings. This can be drawn from former employee of the MDWSP, Phamola (2016) whose response on whether the nonparticipation of trade unions in the dam committees failed the working class; he said "no, dam committees were only dealing with compensation, resettlement, development and mobilization of unskilled labour from villages and not interested in management of labour grievances in the labour force."

Asked by the trade unionist attending the validation forum why the MA did not include the trade unions in the dam committee meetings, Ntsika said the authority considered the labour matters only limited to the workplace. Thus the MA exclusion trajectory contrary to all legal instruments it had to abide by.

The Dam committees troubled by the fact that CMQ was organizing workers and were paying subscriptions of M20.00≈ R20.00, which they considered exorbitant and there was a work stoppage attributable to the union, made an attempt to discourage workers from joining the union (CMQ), Ntsika (2015). The resolution was that committee members would visit workers during working hours and address them. The flop came as a result of legal advice which the MA management received from its labour consultant that, the act would be considered as union bash.

Achievements of dam committees

Though Ratau (2016) does not acknowledge that the committees were guided by the TRC to fight underpayments of employees of a labour broker L'Afrique, which was under Rural Maintenance (PYT) LTD during installation of electricity to houses, it one of the success he counts. The TRC had provided them with copies of minimum wages gazette and interpreted it.

There were handful successes which the dam committees made against the Sinohydro such as ill-treating unskilled casual labourers by giving degrading examinations. Another credit was defining the meaning of unskilled labour employment.

Conclusion

Metolong Dam committees meetings cannot qualify as citizen participation podium rather they were largely community consultations used by the Metolong Authority to placate them. And as a result the community failed to attain most benefits that they requested from the MDWSP. The dam committees' cooptation, manipulation and placation by the authority made them vulnerable to resist labour broking, but to join the forces implementing it.

The Methodology applied to in this research to assess the public participation approach in the Metolong Dam project indeed unearthed a number of shortfalls in conducting meetings, the inability of the committees to make decisions and the structural problem between the community, the dam committees, NGOs and the Metolong Board of Directors.

The TRC attempt to close the representation gap, on labour matters, in the Metolong Dam committees meetings was abridged by unorganized workers in the shop floor; there were no forward and backward linkages, between the TRC and the precarious workers.

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