

Experience of Alternative Justice

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For the past three years, I have headed the Center for Analysis and Resolution of Conflicts at the Pontifical Catholic University of Peru (PUCP). I am responsible for mediating conflicts between mining companies and farming communities.

The law must provide society with solutions to conflicts between its members. Civil jurisdiction usually belongs to the State. But today the Peruvian government fails to ensure that civil jurisdiction administers justice in a timely manner and at an affordable price. We frequently see that justice delayed is justice denied.

This has led many to see the need for a system of justice which goes beyond individual entitlement in order to appreciate interlocking needs and interests. Thus, an alternative system has been created which has enabled us to resolve conflicts quickly with positive results for everyone.

In Peru, mining is a main source of income. However, conflicts frequently arise when mining companies try to exploit lands where farmers have lived and worked for centuries. For the past three years, I have been working to resolve these types of conflicts.

At first, it was difficult to find solutions to these tensions. The farmers constantly threatened to block the streets or to occupy the mining lands. The mining companies did not take seriously the needs of the people. This led to violent reactions on both sides.

The main dilemma our Center faced was how to resolve these conflicts, and to find the best solution to the underlying problems. My task was to identify opportunities for mediation.

For example, we were able to find a solution to a conflict in a village in northern Peru that I will refer to as "Navarra." With 600 inhabitants, its main economic activities are agriculture and breeding cattle. It has two canals, which begin at a place called "La Paila."

In 1998, a gold mining company received approval of its environmental impact study and authorization from the Minister of Energy and Mines to begin operations in this area. The population of Navarra had not been informed of the arrangement.

Upon reviewing the agreement, the people realized that the environmental impact study had failed to analyze how the essential water supply system would be damaged. Because of this omission, the agreement did not require the company to compensate the villages for this damage. Realizing that they risked losing their water supply, the farmers appealed to the authorities, but unfortunately they did not receive any response. Exasperated, the farmers began protesting, blocking the streets and occupying the mining area. Clashes between the mining company and the farmers became violent, people were injured, and the protest leaders were imprisoned and prosecuted. Frustrated by the government's indifference, the farmers mobilized again, and occupied the mine.

Finally, the mining company decided to invite the farmers to dialogue with company directors. After several meetings, the parties agreed to form a negotiation team with representatives of all sides of the conflict. As these were closed meetings, politicians, journalists, NGOs, community leaders and public representatives were not included. However, they did request the support of our Conflict Resolution Center.

We helped them to find an alternative approach that enabled them to go beyond the significant imbalance of power between the parties in order to build a relationship of trust.

This method of conflict resolution not only brings relief to an overwhelmed judicial system, but also is a path toward effective problem-solving. It involves all parties in the process, making them real leaders in promoting peace and social justice.

In my experience, the role of a mediator is to: generate trust by creating an atmosphere in which parties can move from confrontation to cooperation; ensure effective communication by encouraging an open exchange of information and appreciation of the other party's interests; encourage realistic and enforceable solutions that can satisfy all parties involved.

Based on the promises made during negotiations over the last three years, we have been able to reach a number of agreements. Some goals have already been accomplished, others are in progress, and a few issues are still being negotiated.

Our experience with both the mining company and the people from Navarra has been very fruitful because we have seen that dialogue has led to a peaceful resolution of this conflict.

Mediation has also been profitable for both parties. The company has been able to continue its mining activities and the villagers have been able to maintain a vital water supply through the construction of a 2.5 million cubic meter reservoir. Other important community development projects have also been realized, including the construction of a hydroelectric dam, a new road, a drinking water system, primary and technical schools, medical outreach and other improvements. A process has also been set up to ensure that all parties fulfill their commitments under the agreement.

To conclude, I would like to share a village resident's impression on the role of our Center in helping to resolve these conflicts: "The Center fulfilled a very important role in the process of negotiation. It enabled us to transform conflicts into possibilities for the development of our community. This gave us the opportunity to learn and to grow while also advancing the interest of the company, the community and all the organizations involved."