

From legal caravans to revising the Mining Code: Lessons from experience with legal empowerment in communities affected by mining, Mali

Amadou Keita, Moussa Djiré and Lorenzo Cotula

A 'Legal tools for citizen empowerment' publication ● 2014



Abstract

In Mali, political democratisation marked the start of a process to establish a legal system that takes account of the interests of all citizens. Widespread illiteracy, severe poverty and a lack of legal awareness have not been conducive to creating ownership of legal reforms at the local level, however, especially in rural areas. The *Groupe d'Etude et de Recherche en Sociologie et Droit Appliqué* (GERSDA) responded to this situation, by developing a programme to strengthen the capacity of rural people to exercise their legal rights. Activities focused on communities affected by mining, where legal and capacity issues are particularly urgent.

A central component of this work is the 'legal caravan' – a legal literacy training and advisory facility that travels around rural areas. The legal caravan uses problems identified by local actors to demystify the law in local languages. It also facilitates local debate on what 'law' is, and raises local awareness about legal rights and procedures to exercise them. The legal caravans were complemented by legislative studies, development of learning materials, support to community paralegals, rural radio programmes and input into the revision of Mali's Mining Code.

About the authors

Amadou Keita is the General Coordinator of the *Groupe d'Etude et de Recherche en Sociologie et Droit Appliqué* (Research and Study Group on Sociology and Applied Law, GERSDA), based in Bamako, Mali. He holds a PhD in law and political science. He was the Dean of the Faculty of Public Law at the University of Law and Political Science and currently serves as a judge in Mali's Constitutional Court.

Moussa Djiré is Vice-Chancellor of the University of Law and Political Sciences in Bamako, Mali, and member of the *Groupe d'Etude et de Recherche en Sociologie et Droit Appliqué* (GERSDA). He holds a PhD in international relations and foreign policy and specialises in land issues, natural resource management and local development. He is the regional coordinator of the project 'Securing land rights in West Africa'.

Lorenzo Cotula is a Principal Researcher in Law and Sustainable Development at the International Institute for Environment and Development (IIED). He leads research, capacity support and policy work on topics at the interface between law and international development. He also steers 'Legal Tools for Citizen Empowerment', an initiative to strengthen local rights and voices within natural resource investments in low and middle-income countries.



Acknowledgements

This publication was funded by UK aid from the UK Government; however, the views expressed do not necessarily reflect the views of the UK Government.

Acronyms

| | |
|--------|---|
| ECOWAS | Economic Community of West African States |
| EITI | Extractive Industries Transparency Initiative |
| FDS | <i>Fondation pour le Développement au Sahel</i> |
| GERSDA | <i>Groupe d'Etude et de Recherche en Sociologie et Droit Appliqué</i> |
| IIED | International Institute for Environment and Development |
| NGO | Non-governmental organisation |

1. The issue

In Mali, political democratisation in 1991 marked the start of a process to establish a legal system that takes account of the interests of all citizens. Widespread illiteracy, severe poverty and enduring lack of knowledge about legal norms and mechanisms have not been conducive to creating local 'ownership' of legal reforms, however, especially in rural areas. Weak institutional arrangements, inappropriate legislation that is at odds with local practice, and vague and incomplete legal texts also make it more difficult for rural people to use the law. The training of jurists – lawyers, judges, government officials, academics – provides limited opportunity for legal professionals to understand the reality of rural areas.

As a result, the national legal system remains distant from the concerns of most rural Malians. When people feel disempowered by measures taken by local administrators and judges, they typically either resign themselves to 'the will of God' or seek justice through measures outside the legal sphere. In the latter case, resistance often ends up working against local people, by diverting attention away from the issues that people wanted addressed. This situation calls for appropriate mechanisms to develop and strengthen the capacity of rural people to use legal tools, when doing so would support their pursuit of justice and accountability in the management of local affairs. It also calls for a new generation of jurists trained to take better account of the workings of law in rural areas.

The *Groupe d'Etude et de Recherche en Sociologie et Droit Appliqué* (GERSDA) sought to respond to these needs, by developing a programme to strengthen the capacity of rural people to exercise their legal rights. GERSDA is a non-profit, action-research group, linked to the Faculty of Public Law of the University of Legal and Political Sciences in Bamako. Most GERSDA staff are lecturers from the university, while a few others are legal practitioners (lawyers or judges). The capacity building programme was developed in collaboration with the International Institute for Environment and Development (IIED), as part of the IIED-led 'Legal Tools for Citizen Empowerment' initiative.¹

The emphasis was on an iterative approach to develop locally appropriate tools. Activities focused on communities affected by mining, namely in the Sikasso and Kayes Regions. The reasons for this geographic focus are partly related to the importance of gold mining in Mali's economy. Mali now has six working mines and two in development. Mining is a major source of revenue for the national budget, and one that looks set to grow following the expansion of this sector in recent years. Yet the situation of the villagers that live in mining areas continues to cause disquiet, particularly with regard to the compression of their land rights, to their limited

1. www.legal-tools.info.

participation in economic benefits and to environmental degradation associated with mining activities.

Mining projects typically also bring together actors linked by very unequal power relations, including mining companies and affected people. In this context, savvy use of the law can provide opportunities to address power imbalances. Yet those imbalances can undermine the ability of affected people to exercise their rights as citizens, and to defend their interests in relation to powerful actors. Finally, reforms in Mali's mining sector are providing new opportunities for justice and accountability.

A central component of GERSDA's capacity building programme is the 'legal caravan'. This is effectively a legal literacy training and advisory facility, consisting of mobile teams of lecturers, students and legal practitioners who travel around rural areas to promote debate and awareness on state law. The legal caravan uses problems identified by local actors to demystify the mechanisms of the Malian legal system in local languages. It also facilitates local debate on what 'law' is, and raises local awareness about legal rights and about the administrative and judicial procedures necessary to exercise rights. The legal caravans provide opportunities to strengthen capacity not only in rural areas but also among students of the University of Legal and Political Science in Bamako, who are able to get first-hand experience on the workings of law in the field.

GERSDA organised the first legal caravans in February 2008, focusing on villages around the mines in Morila and Kalana, which are both located in Mali's Sikasso Region, in southern Mali. Another set of legal caravans was organised in the same sites in November 2008. In 2011, legal caravans were organised in the mining areas of Kayes, Sadiola and Keniéba, in the Kayes Region, western Mali, and in Sikasso Regions.

The legal literacy trainings provided with the caravans were complemented by other activities, including legal studies, development of learning materials, support to community paralegals, the development of radio programmes and input into the revision of Mali's Mining Code. Taken together, these activities constituted a coherent package, ranging from field to national levels, and from helping to push the boundaries of existing law to influencing law reform.

This note discusses lessons learned through the process, focusing on the legal caravan component of the programme. Section 2 presents the key features of the approach, including its achievements and limitations. It also briefly discusses the other components of the programme. Section 3 distils key lessons learned, and the conclusion in Section 4 outlines key steps for moving forward.

2. The approach

2.1. The 'legal caravan' and its rationale

The 'legal caravan' approach was developed with three objectives in mind. Firstly, to inform villagers in mining areas about their rights under applicable national law and the procedures for exercising them, as well as about features of Mali's wider legal system, in order to enable those villagers to better exercise their rights in the face of mining developments. Secondly, to address specific issues causing concern in people's daily lives, namely through provision of tailored legal advice. Thirdly, it was to give students from the University of Legal and Political Sciences experience of real-life situations by participating in training and advisory sessions.

Each legal caravan involved a legal literacy training session of three to five days. Caravans were preceded by scoping visits to relevant communities. These assessed local demand and identified main concerns, to enable informed planning and preparation. They were also preceded by advertising campaigns to raise local awareness about the forthcoming caravan. The trainings were run and coordinated by GERSDA staff. Two or three groups were responsible for delivering different modules, reflecting complementary areas of experience and expertise. All sessions were conducted in Bamanan, the main language spoken in the sites covered.

A learning manual, published in 2010 in both French and Bamanan, provided the basis for some of the training. External experts have also contributed to the caravans, particularly a judge. This contribution was greatly valued at the village level; it is rare for villagers to have the opportunity to exchange directly with a serving judge and understand the reasoning that judges follow in deciding cases. One IIED researcher participated in a legal caravan in 2008 and provided technical input throughout the process.

In each site, all villagers were invited to attend the sessions. This approach differs from initiatives that focus on training a small group of community representatives, such as paralegal programmes. By training and supervising a core group of community members who can then make their know-how and expertise available to community members, paralegal programmes may be more cost-effective and may better pave the way to long-term sustainability of interventions. Paralegal programmes effectively involve 'delegated' capacity building, however. Collective capacity is strengthened only insofar as the paralegals act in the best interest of all diverse groups within the 'community'. If appropriate mechanisms are not put in place to ensure that paralegals are accountable to their community, paralegal programmes could also strengthen the capacity of those community members that are already advantaged – for example, because they can read and write – and therefore further marginalise poorer groups within the community. By providing a space open to all villagers, the legal caravans are an attempt to reduce delegation.

More generally, legal literacy training that is open to the entire village community can provide a space for local debate about more fundamental questions, beyond the practical need for support created by mining developments. Facilitating inclusive debate on the law at the village level is a key step in creating local 'ownership' of the national legal system, and in helping rural people to use the law.

In practice, efforts to be inclusive and participatory often had to come to terms with the reality of highly stratified rural societies. Although the arrival of the legal caravans was pre-announced on rural radios, customary chiefs played an important role in helping to disseminate information about the caravans. This sometimes led to women and youth being under-represented at the sessions, and it is recognised that not all villagers were able to participate in the relevant sessions. The timing and location of the sessions can also affect the ability of different social groups to participate. In addition, the level of active participation during the sessions varied. As a general rule, men tended to be more vocal than women, although the trainers sought to promote inclusiveness during the sessions.

Examples of more fundamental questions discussed during the legal caravans include what 'law' is, what is its social and political function, and what are the differences and commonalities between state law and customary law. These questions were discussed in the early phases of the training, using images and participatory techniques to facilitate debate among participants. In addition to photos of courts and legal processes, the trainers used images of 'law' that the audience was familiar with – including the *vestibule*, which is the place where a customary chief and the council of elders administer traditional justice in rural Mali; and images of livestock grazing on fields after harvest, which traditionally often takes place on the basis of 'manure contracts' (*contrats de fumure*) between herders and farmers.

Interestingly, some of the thoughts shared by participants on what constitutes 'law' mirrored, albeit in simpler terms, some of the main strands of jurisprudential thinking. This includes some strands of legal positivism (one villager effectively said that law is 'orders backed by sanctions') and legal pluralism (reflecting the plurality of legal systems applied in rural Mali, and the legal recognition of customary rights under Malian law). In addition to stimulating local debate, discussing these issues also highlighted the fact that, far from being a distant and inaccessible phenomenon, the law is something that villagers already experience in their everyday lives.

The training sessions also covered selected topics of Malian law. The topics were selected in response to local concerns, as documented during the scoping visits. They mainly related to the national constitution; decentralisation; the framework law on agriculture; laws regulating natural resources, particularly legislation on land, mining and environmental protection; and use of legal procedures. GERSDA staff explained key features of Malian law in these areas. Villagers shared their experiences with the application – or non-application, or misapplication – of these laws on the ground. They also asked numerous questions. Many such questions related to mining developments; for instance, questions about compensation for loss of land or damage to crops, or what to do in the case of pollution of water sources.

Many other questions were about the villagers' wider life experiences, however, such as why marriages should be formally recorded, and how.

In addition to strengthening local capacity, an important objective of the legal caravans was to strengthen the capacity of an emerging generation of Malian jurists to understand the working of law in rural areas. Much Malian law is still influenced by the law of France, reflecting an historical legacy and resulting in legislation that has only tenuous links with the reality on the ground. Studying law in Mali involves much use of concepts and text books imported from overseas. This situation contributes to the gap between the national legal system and the rural world.

To help address this problem, GERSDA involved law students in the implementation of each legal caravan. The students were selected from among the more senior students enrolled at the University of Bamako. The selection was based on an open call for brief essays, in which interested students were encouraged to discuss legal issues related to the concerns of rural people. The calls were heavily oversubscribed, resulting in a very competitive exercise. This response confirms the strong interest among the new generation of jurists to develop practical skills of direct relevance to the concerns of Malian people.

During the training sessions, the students mainly observed debates among villagers and inputs from GERSDA staff. Students took a more active role in the other component of the legal caravan, namely the provision of tailored legal advice. This component primarily took place in the lodgings of the legal caravan team, before or after the training sessions. The team responded to requests for advice coming from villagers who were grappling with legal issues. The students received the requests for advice and examined them as legal case studies, under the supervision of lecturers and legal professionals. The reflections developed were then communicated to the person concerned.

2.2. Complementary activities

In addition to the legal caravans, the programme involved a set of complementary activities. Facilitating local debate and making information available through the legal caravans are an important part of legal empowerment but they alone cannot lead to sustainable change. The programme therefore also included a set of complementary activities. In other words, the legal caravans provided the locally-grounded entry point for an integrated programme, involving interventions at both local and national levels.

Socio-legal study and training manual. Before initiating the legal caravans in mining areas, GERSDA prepared a socio-legal study to identify the most effective levers for protecting local rights under Malian legislation and assess their relative strengths and weaknesses (Keita *et al*, 2008). The study was published and widely disseminated, both nationally and internationally, in English and French. Levers examined through this study included mechanisms to scrutinise contract negotiations and to protect local land rights, including through obtaining fair

compensation and redress for land expropriations. They also included mechanisms to obtain compensation for environmental degradation associated with mining developments, and to maximise local participation in the revenues generated by the mines. The first set of legal caravans, held in February 2008, provided an opportunity to test ways to strengthen local capacity to engage with the law, including in these thematic areas.

Building on the socio-legal study and the on-the-ground testing of training methods, in the period 2009-2010, GERSDA developed a learning manual for trainers working with communities affected by mining (GERSDA, 2010). The manual combines a simplified discussion of legal issues and mechanisms, making use of visuals, and all linked by a storyline about the experience of a hypothetical village affected by mining. The manual was written in French and translated into Bamanan. Given the difficulty of translating complex legal concepts, the translation involved a process of cross-checking for both accuracy and accessibility. The Bamanan version was also tested during the legal caravans in the mining areas in Kayes.

The learning manual provided the basis for trainings at subsequent legal caravans, though to respond to local demand in the new sites, these caravans also covered topics not included in the manual. The manual also constitutes a resource that can be used in further capacity building activities, in the sites covered to date and beyond.

Paralegal programme. In collaboration with the Fondation pour le Développement au Sahel (FDS), a national NGO that works on local capacity building in mining areas, GERSDA also trained community paralegals to support rural people in their dealings with government agencies and mining companies. Compared to GERSDA, FDS has a stronger field presence in mining areas and has worked with villagers in those areas for a longer period of time. The training of paralegals was based on the manual, discussed above. It followed and complemented the capacity building work carried out through the legal caravans, by investing in a core group of community members who could receive more 'advanced' training and can make their expertise available to villagers after the end of the project.

The paralegals were selected by the villagers themselves, with support and facilitation from FDS, as part of a separate FDS-led project. FDS continues to support and supervise paralegals in these sites.

Work with rural radios. To increase the outreach of the legal caravans, the caravan teams worked with local radio stations in Morila and Kalana. The radio stations provided media coverage of all the sessions, presentations and local debates in these two sites. The team also developed tailored radio programmes, working with a local radio station in Morila and with local radio stations in Kalana. The latter regularly broadcast recordings of the presentations and debates long after the caravans had moved on.

Feeding into legislative reform. The above interventions are all targeted at the local level. Yet local-level action alone cannot address the challenges created by mining

developments in Mali. This is partly because the legislation then in force provided those people affected by mining operations with only weak legal rights. The socio-legal study carried out at the start of the project enabled the team to identify areas where legal reform was most needed. Unlike the ECOWAS Mining Directive, for example, the then applicable Mining Code of 1999 did not recognise the principle of free, prior and informed consent, and made no provision for legally required sharing of benefits with local communities. The French version of the socio-legal study (Keita *et al*, 2008), discussed above, provocatively referred to local communities in mining areas as 'the forgotten of Mali's golden manna'.

For this reason, GERSDA complemented the grassroots process with national-level advocacy. The conditions were favourable because Mali was in the process of revising its Mining Code. A visit by GERSDA and IIED staff to the Department of Mines also revealed that the then national director of geology and mining had been reading and underlining the socio-legal study produced by GERSDA, and claimed to have delivered presentations based on that study.

Building on the socio-legal study, GERSDA produced a briefing note comparing Mali's Mining Code of 1999 and the ECOWAS Mining Directive of 2009, and highlighting the legal reforms needed to bring Malian legislation in line with the Directive. The Directive was considerably more progressive than the Mining Code then in force in Mali, partly because of its references to free, prior and informed consent, respect for human rights, and community participation in the economic benefits created by mining.

GERSDA's alliance with FDS resulted in a direct connection being made with the Malian Parliament. In 2011, GERSDA presented its comparative analysis of the Mining Code and the ECOWAS Directive to members of the Parliamentary Mining Commission. In January 2012, GERSDA presented its analysis more formally at a parliamentary hearing convened to discuss a new Mining Bill. In addition to the provision of legal expertise, the hearing also created an opportunity to feed insights gained through village-level work into an important national policy process.

A new Mining Code was adopted in February 2012 (Law No. 2012-015 of 27 February 2012) and its implementing regulations were enacted in June the same year (Decree No. 2012-311/P-RM of 21 June 2012). The new Mining Code of 2012 confirms most of the provisions of the former one. It also contains more progressive provisions, however, including those relating to compensation for land acquisitions and to investor obligations relating to the conduct of mining activities, namely with regard to the compulsory financing of community development projects. Arguably, the insertion of these more progressive provisions owes much to the advocacy and policy advice coming from several civil society organisations active on this issue, including GERSDA.

3. Promising results, with some limitations

3.1. Demystifying the law

The legal caravans broke new ground in both their composition and mode of operation. Part of their interest lay in the encounter they facilitated between law lecturers, students and practitioners on the one hand, and local communities on the other. Each time, legal professionals spent several days in the field, discussing the law with local communities.

This encounter was greatly valued both by the host communities and by the jurists. All the villagers we spoke to said that this was the first time anyone with any real knowledge of the law had talked to them about it. Having the information presented in the local language, Bamanan, and in simple terms, helped them to see how the law can be used as a resource to defend their interests, particularly within the context of mining operations. After the first round of legal caravans in 2008, one participant said: "We now know that we are also sons of this country, and that we have rights to claim". For some people, the information came too late, as they had already lost their land to mining operations. But even these villagers valued knowing that they can demand compensation for damage to property and the environment.

Villagers also valued newly gained awareness in areas less directly relevant to mining operations. Women understood the important role that having civil status records can play in protecting their rights, for example, especially in marriage. A representative from a women's association in Morila said that she now understood the usefulness of civil status records, and that she would not allow any of her daughters to marry unless the marriage was conducted in the town hall.

The legal advice sessions provided tailored, on-demand assistance to people on issues that were not necessarily dealt with in the training sessions. For example, people from a village not involved in the caravan sought advice regarding how they could get their hamlet upgraded to a village. In one site, mine workers about to lose their jobs asked the team for advice about the labour inspectorate and labour court procedures. A person from Sanso, who wanted to start a small business, asked the team to explain the procedure for setting up a private enterprise.

Beyond awareness of specific rights and procedures, the caravans also provided space to discuss the underlying logic and principles of national law, an important aspect in promoting local appropriation of the law. One important difference between so-called 'modern' law and customary law in Mali is that the former regards form and procedure to be as important as content, while the latter focuses more on content. Also, 'modern' law usually leads to one party being deemed to be in the right and the other in the wrong, while the primary aim of customary law is to achieve

reconciliation and social peace. Some participants questioned why a problem with ins and outs that appeared obvious to them could not be resolved in a particular way because of 'formal' or procedural problems. Lengthy discussions with the judge and professors helped clarify these matters, however, pointing out that form and procedure may play a role in ensuring that all rights are duly considered.

Having listened to a judge's presentation on legal procedures, which included a strict ban on people taking the law into their own hands, one village chief from the rural commune of Sanso asked him with an ironic tone, "So you mean to say that if I catch an armed thief in my home, I have to ask him politely to give me his gun and follow me to the police station 30 kilometres away?" The judge responded, "You can do what you like [...] there is an argument for legitimate defence but if you kill or seriously injure him, I may have to put you in prison until the investigation shows that this really was a legitimate case of self-defence. I do not have to believe your initial statement or those of the first witnesses, as there is no presumption that he was a threat. You might have been getting rid of a rival or a creditor who had come to get his money back. I have to be sure about the facts of the matter. This can take time."

Discussions in the training sessions also touched on corruption in the legal system. While recognising that there are 'rotten apples' within the judiciary, the judge noted that corruption is also due to litigants, because corruption requires a briber as well as a corrupt judge. For instance, one of the parties involved in a court case may persuade people who know the judge to intervene on their behalf and offer gifts. But people need to be aware that a judgment obtained through corruption can be appealed in a higher court, and that this court's decision can in turn be overturned by another, higher court. There is therefore no point in attempting to 'turn' the judge, especially when one cannot be sure that the other party is not doing the same thing. These points were discussed with humour and irony, which kept people engaged.

Any concrete outcomes of the legal caravans will depend on how villagers use the greater awareness. As will be discussed, greater awareness is only one part of legal empowerment, and awareness alone is unlikely to change power relations. But anecdotal evidence suggests that the caravans may have helped villagers to become more confident in talking about the law, and to realise that the law is something they already experience in their everyday lives. This would challenge earlier perceptions that the law is a distant and inaccessible phenomenon beyond the reach of rural villagers. This shift in confidence and perceptions may well have more lasting reverberations than greater awareness *per se*.

On another level, reflection on using the law as a resource also prompted local discussion about the need to be better organised for collective action, particularly when faced with more powerful actors like mining companies. There was a recognition that greater awareness of rights can only make a difference if right-holders are well organised. These discussions were particularly lively in the four villages around the mine in Morila, where at the time of the second legal caravan communities were deeply divided over how to share the financial contributions made available by the mining company.

After the second legal caravan in Morila, some villagers sought to set up an association for villages around the mine, and asked GERSDA to help them. The initiative ultimately failed, because of divisions among the villagers and because key villagers behind the initiative moved to another area. The paralegals in Sadiola created an association that is officially registered at the Prefect's office in Kayes, however, following the legal caravan in their area and the training organised by GERSDA and FDS.

The legal caravans have left long-lasting, positive memories in the villages visited. Several years after the passage of the first caravan, the mayor of Kalana, who now serves as the Deputy President of Yanfolila district council, told us that, "Your visit to Kalana was a historic event. It clarified some very important issues for people in Kalana ... You could say that you demystified the law ... The mayors from neighbouring communes that followed the event on the radio have been complaining about the fact that we have not organised a caravan in their area ..."

The legal caravans were framed as legal literacy training camps and yet learning was a two-way process. Students and trainers gained much insight from local debates about the experience of mining operations, about law and about local organisation. They also gained insight from the specific concerns, challenges and aspirations of rural people. Their professional reflection on, and engagement with, the law and their teaching experiences at the university back in Bamako were enriched by the legal caravan experience.

Similarly, IIED staff involved with the process learned much from their involvement with one of the caravans and from the overall set of local-to-national activities. Local discussions about 'law' were a real eye-opener because once law is demystified, villagers that many assume to know little about the law contributed very insightful views.

3.2. Limitations of the approach and challenges for genuine community empowerment

The achievements discussed above should not hide the limitations of the legal caravans. Some limitations are intrinsic to the approach and others are associated with the challenges of sustaining genuine community empowerment.

Access to information and greater awareness of the law are clearly not enough to promote legal empowerment. The need for action beyond awareness was one of the factors that led GERSDA to develop the partnership with FDS. FDS is an organisation well-known in the field sites and has stronger operational capability than GERSDA – an outfit linked to the university in Bamako – could have. The training of community paralegals who could provide ongoing support to villagers fit within this context.

Another significant limitation relates to the fact that, while it is important to help villagers to use the law more effectively, it is also important to recognise that the law

only gives limited rights to people faced with mining developments. Grassroots work to strengthen local capacity to use the law therefore needs to be complemented by national-level action, to ensure that legislation responds to local concerns and aspirations.

In light of these considerations, GERSDA initiated its work with parliament to help the legislature ensure compliance with the progressive principles embodied in the ECOWAS Mining Directive. GERSDA's discussions with Members of Parliament fed into the review of the Mining Code. Some of GERSDA's suggestions have been integrated in the new version of the Code, adopted in 2012. The new code requires a community development plan, formulated by the mining companies and implemented by a technical local development committee that includes representatives of local communities.

4. Conclusion

GERSDA's experience with the legal empowerment of rural people represents an iterative process that resulted in a coherent set of interventions from local to national levels. The experience has strengthened capacity in target areas, promoted a new spirit of citizen engagement and facilitated partnerships in the mining sites and among the implementing organisations. It has created new momentum for action at the local level and fed into national law-making.

While these are important achievements, it is important to recognise that this is only the beginning of a legal empowerment process in communities living in mining areas. The failure of efforts to establish an association to bring together villages and facilitate collective action around Morila mine reminds us of the importance of divisions within and between 'communities'. Also, irrespective of the importance of its social function, law alone cannot improve local livelihoods. Legal empowerment initiatives need to be complemented by action to promote concrete and substantial improvements in people's living conditions. If communities manage to negotiate favourable community development agreements with mining companies and if these deliver concrete benefits, living conditions may improve, and so may people's trust in legal tools as an avenue for empowerment.

GERSDA's experience also shows that when an organisation uses evidence, credible experts and constructive debate to disseminate the law and protect local people's interests, it can influence national legislation and get its proposals for change taken into account. Real change on the ground, however, requires constant vigilance by the authorities responsible for enforcement, as well as by NGOs. It also requires the 'appropriation' of legislation by local communities. The process is consequently far from over: there will soon be a need for the caravans to get back on the road, researchers pick up their pens, and development NGOs step up to their microphones once more.

References

Literature

GERSDA, 2010, *Manuel à l'Intention des Formateurs des Communautés Vivant dans les Zones Minières*, Bamako/London, GERSDA/IIED, <http://pubs.iied.org/G02753.html>.

Keita, A., Djiré, M., Traoré, K., Traoré, K., Dembelé, D., Dembelé, A., Samassekou, M., Doumbo, M., 2008, *Communautés Locales et « Manne Aurifère » : Les Oubliées de la Législation Minière Malienne*, London, IIED, <http://pubs.iied.org/12554FIIED.html>.

Legal instruments (in chronological order, most recent first)

Decree No. 2012-311/P-RM of 21 June 2012, containing implementing regulations to the Mining Code of 2012.

Mining Code of 2012: Law No. 2012-015 of 27 February 2012.

ECOWAS Mining Directive of 2009: Directive on the Harmonisation of Guiding Principles and Policies in the Mining Sector, 26-27 May 2009, Economic Community of West African States, C/DIR.3/05/09. http://www.comm.ecowas.int/sec/en/directives/ECOWAS_Mining_Directives.pdf.

Mining Code of 1999: Ordinance No. 99-032/P-RM of 19 August 1999.