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Chinese multinationals: Threat to, or opportunity for, trade unions? The case of Sinohydro in Ghana

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Chinese multinationals: threat to, or opportunity for, trade unions?

The case of Sinohydro in Ghana

Glynne Williams
Steve Davies
Julius Lamptey
Jonathan Tetteh

GLOBAL LABOUR UNIVERSITY

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CHINESE MULTINATIONALS: THREAT TO, OR OPPORTUNITY FOR, TRADE UNIONS?

THE CASE OF SINOHYDRO IN GHANA

Glynne Williams
Steve Davies
Julius Lamptey
Jonathan Tetteh

The paper is based on a report for the Building and Wood Workers' International, BWI

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ABSTRACT

There is a growing literature on global Chinese companies, but this tends to be at a very general level. There is little research to date on the effect of Chinese involvement on workers and their unions. Although focussed on one company, SINOHYDRO, this paper addresses questions of importance to construction unions globally: What is the impact of growing Chinese MNC involvement and how should unions respond? This paper puts the experience of workers at SINOHYDRO in Ghana into perspective and argues that: there is value in standardising and formalising industrial relations practices in MNCs through an International Framework Agreement; without workplace militancy and solidarity there is little chance of progress in bargaining; it is important that guidance and best practice notes on public sector contract compliance are available to unions at a local level; greater co-ordination and co-operation between the various levels of the union movement is essential; and despite their reputation for anti-union behaviour, in certain situations Chinese companies are prepared to recognise unions and enter into dialogue with workers' representatives at workplace level.

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1. INTRODUCTION

1.1 The study

This paper is a case study of employment relations and social dialogue within one Chinese construction multinational corporation (MNC) operating in Ghana. By focussing on this case study the authors hope to illustrate some more general points about the role and activities of Chinese MNCs in Africa, and their attitude towards, and engagement with, trade unions.

The paper provides a profile of employment and industrial relations at the Chinese multinational construction company, SINOHYDRO, in Ghana and an evaluation of the advances made since union organising began. It expands on an earlier study on SINOHYDRO in Ghana, which highlighted the success of the Construction and Building Materials Workers' Union of Ghana (CBMWU) during the construction phase (Otoo *et al.*, 2013). Our research includes a retrospective study of the Bui Dam project, and a consideration of the longer-term implications for Ghanaian (and global) unions.

In particular the study aimed to:

a. show an empirical picture of the behaviour of SINOHYDRO in terms of labour relations and use of local sub-contractors.

b. examine any decent work deficits around SINOHYDRO's operations especially in relation to national labour laws and trade unions.

c. provide the Building and Woodworkers' International (BWI) with an elaborated case file that can be used for its SINOHYDRO Corporate Campaign.

The key questions the case study addressed include:

a) What is the employment policy of SINOHYDRO in its operations?

b) How is the local labour force used? What is the supply chain structure of the operations?

c) How does the company treat or deal with national trade unions?

d) If a collective agreement exists, to what extent are its provisions implemented?

1.2 Background

There is a growing literature on the global impact of Chinese companies, but this has tended to be at a very general level (for example, Nolan, 2012). The industrial relations aspects of Chinese involvement remain under-researched (Cooke *et al.*, 2015), in particular the implications for local workers and their unions. Through a detailed analysis of the activities of one Chinese MNC in Ghana, this paper makes a contribution to this area of research.

SINOHYDRO is a Chinese state owned company with a global presence. It is now part of the Power Construction Corporation of China – a company with 120,000 employees worldwide (Financial Times, 2015). It has built 70% of China's hydropower capacity and was heavily involved in the controversial Three Gorges Project (Tan-Mullins and Mohan, 2013). SINOHYDRO'S biggest project in West Africa is the Bui dam in Ghana. This is of crucial importance for both countries. Despite an emerging oil industry, Ghana has been stricken by an energy crisis that has impeded growth, and the 400MW of additional generation capacity is a significant boost. For China, electricity generation has become a major export, second only to electrical goods (Bosshard, 2011).

This paper focuses on a single company, SINOHYDRO, but addresses questions of importance to construction unions globally: what is the impact of growing Chinese MNC involvement and how should unions respond? BWI affiliates have been organizing Chinese MNCs for almost six years and have signed around 25 collective agreements, mainly in Africa. A BWI international conference on Chinese MNCs in 2014 decided to launch a SINOHYDRO Campaign, which aims to push the company to respect workers' rights and at the same time target its project sites for organizing. Together with the Swedish union-backed NGO, *Union to Union*, BWI convenes an annual Anglophone Africa Construction Network meeting at which one of the key items of business has been organising in Chinese MNCs, including SINOHYDRO. At the last meeting in July 2015 it was reported that BWI affiliates had increased membership in, and signed collective bargaining agreements with a number of Chinese MNCs. This included an increase of 2000 members covered by five collective bargaining agreements (CBAs) at SINOHYDRO (BWI, 2015), such as the agreements signed with the company by the Uganda construction union (UBCCECAWU) and the Kenya Building, Construction, Timber and Furniture Industries Employees Union, as well as the one signed by the CBMWU in Ghana (BWI, 2013).

The Bui project has attracted a great deal of attention and there are a number of existing studies that examine the way in which the project was initiated and the early implications for industrial relations. In particular, Otoo *et al*. (2013) provide a useful study of management-labour relations up to 2012 (Otoo *et al*., 2013). The aim of this report is to put this experience into perspective: to investigate the lessons that can be learned for trade unions at the national and international level.

1.3 Threats and opportunities

Commentary on the rise of the Chinese multinational has swayed between extremes. On the one hand, the award of major public contracts to Chinese companies is often tied to long-term concessions that may be to the detriment of the host country (in the case of Bui, finance was secured against the sale of cocoa beans). Since they are not bound by the internationally recognised precepts of good governance that have been established over time, they may also gain a

competitive advantage by undercutting nationally accepted standards (this is discussed in more detail below).

It is argued that the success of China's construction companies in Africa (particularly state-owned enterprises, SOEs) is due to five factors (Centre for Chinese Studies, 2006):

- cost competitiveness in overall bidding price
- access to cheap capital through Chinese state-owned banks
- access to skilled low cost labour
- access to cheap Building materials through supply chains from China; and
- political support from the Chinese government channelled through Chinese embassies and Economic and Commercial Counsels in the respective African countries.

On the other hand, the fact that their operations are supported by the Chinese state has enabled these companies to take on projects that national governments have been unable, and international authorities such as the World Bank have been unwilling, to fund. Not only do they generate skilled and relatively well-paid employment, but the resulting infrastructure development is also the much needed key to further economic development. In other words, Chinese companies have demonstrably been a force for progress (Alden and Davies, 2016).

It is worth noting that Chinese strategy is long-term. As well as the more obvious needs of securing access to raw materials and expanding the market for Chinese goods, the aim is also to consolidate relations with African countries by demonstrating the superiority of this model of economic development (Cooke, 2014). Therefore the success of these initiatives is crucial for the Chinese state, no less than for the individual Chinese companies.

The more strategically important among these companies act with state support and have access to preferential state finance (Gallagher and Irwin, 2014). The Chinese government has encouraged investment in Africa and construction is one of the main sectors targeted (Adisu *et al*. 2010). Companies have therefore been able to assess risk differently from their prudent Western rivals. Without the pressure to comply with other norms of 'corporate social responsibility' they have also tended to downplay the environmental and social costs of capital projects. These factors put them in a very strong bargaining position in developing economies, whose overwhelming priority is modernization.

1.4 Some challenges to union organizing in MNCs

As production becomes increasingly integrated into the global economy, it also becomes more fragmented. Unions face employers that are often capable of 'regime shopping' (Streeck, 1991) for more profitable conditions, but whose

operations are also dispersed between innumerable firms. The advent of global unions is, at least, recognition of the scale of the challenge, but unions have limited tools at their disposal. For example, global unions have now negotiated over 120 international framework agreements (IFAs) with multinationals. These typically stipulate adherence to International Labour Organisation (ILO) core labour standards and also contain some commitments on monitoring, enforcement and provision of information.

These are modest provisions. Moreover, codifying rights at this level means little to workers unless implementation is subject to inspection and enforcement. As in the case of unilateral corporate codes of conduct, this is not to be taken for granted, but is invariably the result of pressure. In the case of the right to freedom of association, this is a 'chicken and egg' problem; the right can only effectively be put into practice where there is already some level of union organization. However, acknowledging these limitations, IFAs do potentially provide an organizing tool for unions in otherwise hostile environments.

The same set of rights is endorsed by the International Finance Corporation, the World Bank institution that lends to the private sector. The Organisation for Economic Cooperation and Development (OECD)'s 'Guidelines for Multinational Enterprises' also refers to ILO standards, requiring firms, for example, to "respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organisations of their own choosing" (OECD, 2011).

As this report goes on to suggest, commitments such as these, whether applied directly to the company or via the project financing agreement, would not only have led to benefits for workers at the start of the Bui project, but would almost certainly also have improved the company's performance.

1.5 Are Chinese companies different?

Chinese investment in Africa is far more diverse than is commonly acknowledged, with an estimated one million migrants involved (French, 2014). Overall, Chinese outward foreign direct investment remains low compared with many other major economies and Africa accounts for only a small proportion of this (Nolan, 2014). Nevertheless, for the reasons discussed above, Chinese state-owned companies have captured increasing market share in Africa and have played a major role in infrastructure development.

Chinese companies present a new challenge to trade unions, mainly because of the relationship between industry and state in China itself. Strategically important companies are state-owned and all Chinese multinationals act with state support. Party influence still runs deep in these companies. In state-owned enterprises, appointments to senior management are often vetted.

Workplace unionism in China has, historically, been incorporated into the management structure: a 'transmission belt' for management, rather than an independent voice for workers. The trade union role has latterly been extended

into what may be termed collective bargaining, but this does not signal a relaxation of state control (Lee *et al*., 2016). China has not ratified key ILO conventions, for example C87 on Freedom of Association, and is not a signatory to the OECD guidelines. Since Chinese multinationals' overseas projects are often funded by Chinese institutions, the (limited) mechanisms for appeal that are available in World Bank funded projects are not options.

This means that there is no equivalent pressure on these companies to observe accepted standards in overseas operations as there is for many equivalent companies in the west. Neither Chinese companies nor Chinese lenders currently endorse specific labour rights, nor is this likely.

There is some evidence that Chinese companies bring with them a hostile attitude to independent trade unions. In 2009, Baah and Jauch reported that most Chinese MNCs in Africa were anti-union and 'workers who joined trade unions risked losing their jobs' (Baah and Jauch, 2009). Although not all Chinese companies in Africa behave in exactly the same way:

> There are some common trends such as tense labor relations, hostile attitudes by Chinese employers toward trade unions, violations of workers' rights, poor working conditions, and unfair labor practices. (Jauch, 2011)

Enforcement of standards within host countries is therefore largely reliant on a combination of state regulation, trade union representation and pressure exerted by external pressure groups. Smaller multinational companies – especially from countries like China and India, with little pressure from their home country - are likely to fall through the regulatory net (Akorsu and Cooke, 2011), while large multinationals have been subjected to more scrutiny and are more susceptible to reputational risk, but are also more able to set the agenda. For example, Baah and Jauch (2009) report that employers resisted attempts to reduce the proportion of posted Chinese workers that can be employed.

Although the widely reported tendency of Chinese companies to import the bulk of the workforce appears to be exaggerated (Jackson, 2014), particularly in Ghana, immigration regulations are relatively strict (Mohan and Tan-Mullins, 2009), there is certainly a preference for using expatriates for particular skilled or quality-critical jobs. This may be a rigid two-tier system, with quite different pay, conditions and forms of management (Baah and Jauch, 2009). Adisu *et al* (2010: 5) note that:

> The preference to hire Chinese nationals and long hours of work expected by Chinese managers is causing conflict with local labor laws and cultures.

2. THE GHANAIAN CONSTRUCTION SECTOR

2.1 Size and importance of the sector

Construction is a barometer of economic activity. In 2013 the annual growth rate of the construction sector in Ghana was 8.6%, compared to nil growth in 2014 (ISSER, 2015). Although the Ghanaian economy overall has slowed since 2013, with a decline in GDP growth in both 2014 and 2015, it is expected to revive in 2016 (Okudzeto *et al.*, 2015), with a corresponding boost to the construction sector. The sector currently accounts for 13% of GDP (Ghana Statistical Service, 2015) and employs approximately 8% of the working population (close to the global average), 317,525 workers in 2010 (LO FTF, 2014).

Despite its size, the industry is under-developed, with a reliance on low technology, labour–intensive methods and a shortage of key skills (Ofori, 2012). In the market for larger and more competitive contracts, local contractors are often at a disadvantage.

2.2 Labour market

The formal labour market in Ghana accounts for only a minority of workers. Estimates of the size of the informal sector vary between 80% (Osei-Boateng and Ampratwum, 2011); and 88% (Goldberg, 2012) of workers. Informality means that workers have no recognized status and are therefore unable to access rights that would otherwise apply. Informal employment is growing in Ghana and in many other countries and, according to one account, this is partly attributable to the international lenders:

> "…due to strict constraints imposed on public employment by structural adjustment programmes, the use of casual workers remained as the only option in order to sustain some essential services" (Koçer, and Hayter, 2011).

Construction provides an example of how informal employment is integrated into the value chain: a single global company may serve as principal contractor on a large project, but completion may rely on hundreds of separate contractors, including labour-only contractors. Even in many industrialized economies such as the UK, some type of informal employment in construction is often the norm (sometimes framed as 'self-employment'), with heavy reliance on poorly paid and vulnerable migrant labour (Davies *et al.*, 2011).

Ghana's labour inspection regime is under-resourced and geographically patchy. A study for the ILO (Stiedl and Tajgman, 2003) reported that labour inspection was "widely absent in urban centres and likely to be non-existent in rural areas". Most infringements are not identified or tackled. A range of civil society organisations has attempted to fill the gap and in some cases have played a successful advocacy role. However, without collective organisation and collective power, and without access to information and advice, workers are inevitably at a

disadvantage (Interview: Chief Labour Officer). That leaves trade unions as the only credible social actors with the capacity for the task of monitoring and responding to any potential breaches of labour standards.

2.3 Unions and collective bargaining

Ghana gained its independence from the former colonial power (the UK) in 1957 and has had over half a century to develop its civil society and independent social dialogue institutions. The International Labour Organisation (ILO) says that "Ghana has enjoyed a rich history of social dialogue institutions" (ILO, 2006). 800,000 workers are reportedly members of trade unions: 7.2% of the total work force. The proportion of waged workers (in the formal economy) that are members of trade unions is estimated at 48% (LO FTF, 2014). This figure is higher than that for most African countries: apart from South Africa, Egypt and Mauritius, trade union density as a proportion of total employment is less than 5 per cent in the rest of Africa (ILO, 2015). However, it masks a huge gap between the unionised (largely public) sector and a largely non-organized informal sector.

The construction industry represents a particular challenge to unions in Ghana and worldwide, since the temporary nature of projects makes organising a never-ending task; workers may need to be recruited several times in the course of one year. The current estimate of 6.6% density in construction is lower than the national aggregate union density (LO FTF, 2014) and reflects the difficulties of reaching a short-term and deregulated workforce. The complexity of subcontracting on large projects and the use of informal and casual labour means that, in the absence of employer recognition, it may be extremely difficult to identify potential members. Where an employment relationship exists, it is between the worker and the contractor.

The regulatory framework for industrial relations is set by the national Labour Act 651 (2003), which sets out the right to join a trade union and specifically deems unfair "any kind of threat to intimidate the worker during negotiations of a collective agreement" (article 127). However, since workers are vulnerable in the early phase of an organizing campaign, a flexible strategy is necessary. The Construction and Building Materials Workers Union (CBMWU) aims to prepare the ground before approaching anti-union employers openly. This often needs to be done secretly to prevent victimisation of members and activists (Interview, General Secretary). Tactics in Chinese companies have included:

- Meeting workers outside the work premises.
- Hiding the identities of identified union sympathisers.
- Union officials disguising themselves as construction site workers.
- Using the media to get the attention of politicians,
- Lobbying of Chinese embassy officials.

- Reporting any unfair labour practices or breaches of labour law to both the National Labour Commission and to the ministry responsible for public works, the Ministry of Works and Housing. (Baah and Jauch, 2009)

Unions also emphasise the value of international cooperation. The construction unions have attempted to establish dialogue with their Chinese counterparts, but this has not yet been productive: perhaps not surprising given the organisation of the All-China Federation of Trade Unions (ACFTU) and given state-sponsorship of contracts. The General Secretary of one construction union visited China in 2014 in an attempt to establish such a dialogue, but reports that the official sent to meet him was "not in any leadership position to take decisions". Further contact has been attempted via the Chinese embassy. Within Africa, the issue has been debated at BWI's Anglophone Africa Construction Network. The CBMWU has also linked with its Nigerian counterparts to develop strategy on anti-union Chinese companies. Faced with multinationals that are extremely powerful with respect to national governments and relatively impervious to civil society pressure, the forums ultimately targeted are ECOWAS (the Economic Community of West African States) and now the Forum on China-Africa Cooperation (Interview, General Secretary). Attempts to expand these discussions to West African Francophone countries have not yet been successful, in part because of lack of adequate funding.

Despite these obstacles, CBMWU organising campaigns in Chinese companies have resulted in the signing of ten collective bargaining agreements (see appendix). The union acknowledges the role of the Chinese embassy in facilitating dialogue, particularly via the China Chamber of Commerce in Ghana.

3. THE BUI DAM PROJECT

3.1 Initiation and progress

The economics of power generation have changed in recent years, but the potential of the Black Volta river has been recognised for many decades. Ghana's largest dam (Akosombo) was built further downstream in the 1960s. A number of proposals have been undertaken for a dam at Bui, the first in the 1920s, but none of these have attracted finance. An agreement with Halliburton was aborted in 2001. Most recently, support from the World Bank was withdrawn following an adverse environmental impact assessment (Odoom, 2015).

The project finally received the green light when SINOHYDRO submitted an unsolicited bid in 2005. The bid was accepted and the Ministry of Energy signed contracts for an environmental impact assessment in December 2005, as well as for an updated feasibility study in October 2007 (Hensengarth, 2011; Water Technology, 2015).

The Bui dam is the largest Chinese investment in Ghana and the largest foreign investment in Ghana since the construction of the Akosombo Hydroelectric Power project in the early 1960s (Baah *et al.*, 2009). The cost of construction –

total US$790 – is covered by the government of Ghana and by loans from the China Exim Bank. These loans - a commercial loan of US$292 million and a concessionary loan of US$270 million at 2% interest - are amortized over 20 years and are linked to a deal for the sale of cocoa over this period as collateral (Baah *et al.*, 2009; Essel, 2013).

3.2 Background of project

The Bui Power Authority (BPA) is the public body set up by the Parliament of Ghana in 2007 to plan, execute, and manage the Bui project (Bui Power Authority, 2015). The BPA is solely responsible for the supervision of the construction and for managing the performance of the main contractor, SINOHYDRO. Workers on site are employed by SINOHYDRO (or its subcontractors), but the contract specifies the BPA's responsibility for ensuring compliance with relevant employment regulations, including payment of the minimum wage and enforcement of construction safety standards (Baah *et al.*, 2009). The BPA was also tasked with putting in place a resettlement package for affected communities and managing the environmental impact of construction.

Preparatory works began in January 2008 and in December 2008 the river was diverted. In this same year, President Kufuor cut the sod for work to begin on the dam. Construction on the main part of the dam began in December 2009 (Water Technology, 2015). The project was completed on time and the first generating unit was trialled in May 2013 (Essel, 2013). The dam was inaugurated in December 2013 (Ghana News Agency, 2015).

Subsequent work involved the construction of a separate, smaller power plant that will provide an additional 4MW, including power for the Bui site itself (Ghana News Agency, 2015). This work was still in progress at the time of the fieldwork (October 2015) and scheduled for completion in October 2015 (although workers on site reported that it would continue until December and is now complete).

By generating up to 400 megawatts, the main Bui turbines increase capacity in Ghana by 22 percent, up from 1,920 MW in 2008 to 2,360 MW (Assante, 2014). The project also includes the development of an irrigation scheme for agricultural development, resettlement and community support program, and gives an opportunity for enhanced ecotourism and fisheries (Bui Power Authority, 2015; Baah *et al.*, 2009). The expected life of the dam, according to specification, is fifty years, with a further probable useful life of ten to twenty years (Ghana News Agency, 2015).

3.3 Subcontracting

SINOHYDRO, as the main contractor, is responsible for project management and for the management of subcontractors. The Bui Power Authority, as the public body in control of the project, is responsible for managing the contractor's performance. This includes adherence to relevant legal requirements, including environmental and labour law. The relationship between the two organisations is close and BPA has a detailed involvement with the management of the project.

For example, most of the 55 subcontractors involved in the project were "nominated by" the BPA. "BPA has the final decision of recommendation for subcontracting" (Interview, Administration Manager). Despite this intervention, almost all contractors were from China and the local companies contracted were associated with other construction work off the main dam site, including access roads and Building work connected to the resettlement project. Local companies had a very low profile on site and the Ghanaian workers interviewed were not aware of any Ghanaian contractors.

Other local contractors were responsible for providing materials, but even in this case there may have been a preference for Chinese companies and products. A local union representative claimed, for instance,

…they … order some [cement] from China and use some from Ghacem, Tema. They carry the cement tank for loading at Tema. The cement from China comes in a sealed sack. They have a warehouse where… they mix together cement from China and Ghacem

4. MANAGEMENT AND LABOUR AT BUI

4.1 A two (or three) tier workforce?

Although, the project is naturally capital-intensive, employment creation featured prominently in debate, with projections of jobs for 3,000 workers (including about 2600 Ghanaians). In fact, SINOHYDRO's direct workforce peaked at approximately 1,800 in 2012 (Otoo *et al.*, 2013). Management claim a total number of 7,000 over the lifetime of the project: 6,500 direct and a further 500 through the 55 subcontractors working at Bui (Interviews).

This is a multinational workforce, but with a clear national division of labour. There is a defined demarcation between the roles allocated for Chinese, Ghanaian and Pakistani workers. At the beginning of the project, as of July 2008, 560 Ghanaians and 110 Chinese were employed. By January 2013, a total of 1,836 workers had been employed directly, comprising 1,676 Ghanaians (including 22 women), 100 Chinese (including 15 women) and 60 Pakistanis (none of whom were women) (Otoo *et al.*, 2013). As at September 2015, there were 200 Ghanaian workers, 17 Pakistanis, and about 40 Chinese workers. Most of the Ghanaian workers are skilled.

In all departments, supervisors and instructors are Chinese SINOHYDRO employees, who are responsible for both Ghanaian and Pakistani workers. The decision to employ specific nationalities for certain types of roles is based on assumptions about strengths and weaknesses. For example, a manager explains:

> *SINOHYDRO pays attention to workers' education on safety, technician skills, and labour regulation and discipline. Chinese workers are good in these skills*

However, these workers are not permanently based at the Bui project site but are moved around by the company as needed, returning to China when their task is complete. Union representatives indicated that the Pakistanis were employed as excavator operators, pay loader operators, heavy duty drivers, caterpillar mechanics, and warehouse workers. These expatriates are not members of the union, and continued working during the strike.

Ghanaians – the majority of the workforce – are employed across a range of jobs, including skilled trades, general labour and clerical/administration roles. Specialist skills include plumbers, electricians and mechanics, as well as sprayers, welders, carpenters, drivers and excavators. Service workers, such as office assistants, cleaners and cooks are also Ghanaian.

4.2 Employment status and job security

A year after the start of the project, none of the 560 Ghanaian workers on site had been issued with SINOHYDRO employment contracts. This placed them in the category of casual workers.

Most of these workers were unskilled and were mainly engaged in temporary Building work on site. Workers also complained of long working hours with no overtime pay. Most of the Ghanaian workers received US$ 3 per day for an average of between nine and ten hours of work (or US$ 81 per month)" (Baah *et al.*, 2009: 44).

Their insecure status and lack of formal contract was the main grievance that led to the subsequent unionisation campaign. After the conclusion of the collective agreement in 2009, all workers were employed on permanent SINOHYDRO contracts. This remained the case in 2015, although, given the approaching end of the project, these contracts were now renewed monthly as against the six-months and yearly renewal previously. Workers' contracts are terminated in line with the provisions of the Labour Act. Redundancy payments are based on a formula related to the current year's pay and the number of years served.

Employment security remained a major concern. By November 2015 approximately 140 Ghanaian workers were employed on site (retained staff included the local union chairman and a former union secretary). Although temporary employment is the norm in construction projects, there are concerns in this case about how the company reduced the workforce. There have been a number of dismissals and most of these have been on grounds of misconduct. The union representatives on site claimed that this route was used in order to avoid redundancy costs. The company was not willing to confirm or deny this.

4.3 Pay and benefits

Before unionisation, pay levels were set unilaterally by SINOHYDRO. Pay was supposedly based on the skills and competencies of the workers and management argued that they were in line with the average wage in the construction industry in Ghana. It is clear, for example, that the collective

bargaining agreement is modelled on other similar agreements and that there is also collaboration between Chinese employers on pay (Baah *et al.*, 2009).

Workers are paid based on skills grade, job performance, and working time (including overtime). This is done in accordance with the Collective Agreement between SINOHYDRO and the union. The agreement has helped to reduce labour unrest and led to improved efficiency in solving problems. Both union representatives and the employer consider the Collective Agreement to have had a positive impact. In the view of the administration manager:

> *Collective Agreement is very good. Through cooperation we can solve the labour problem by negotiation. Both sides have one regulation to solve the problems and efficiency of solving problems is high. Unions can give good advice on solving the problem […] Workers benefit from negotiation.*

Workers' understanding of the detail of the Collective Agreement is uneven. Although some workers were aware that there was an agreement, they had very limited knowledge of the content. This lack of awareness among some workers may be a consequence of the seasonality of jobs. However, as one worker who was a former local union secretary, reported, copies of the Employees' Booklet have been made available for workers to provide them with information about the company and project, and their rights, responsibilities and benefits. Notwithstanding this, there was some indication from some workers of dissatisfaction with the effectiveness of the unions, one commenting that "*the TUC has not been beneficial per our dues paid to them.*"

A lack of pay transparency has reinforced divisions between national groups. Ghanaian workers interviewed complained of the preferential treatment of expatriate Chinese and Pakistanis working on site – often workers with an established track record on other projects. Ghanaians claimed that these groups were paid more than local workers and paid in dollars, rather than in Ghanaian Cedis. Management, on the other hand, claimed that all workers were paid on the basis of skills grade, performance in job, working time, with the implication that any differential can be explained by reference to these factors.

Despite this clear division between local and migrant workers, there were also Ghanaians, primarily skilled mechanics, who hoped for opportunities to work as an expatriate on other SINOHYDRO contracts. These individuals noted the opportunities available within the company to develop skills. Promotion opportunities existed (although less common with the scaling-down of work from 2013), with decisions taken by supervisors and based on the individual worker's performance.

Negotiated increases meant that, by 2012, wages at Bui were 50% higher than the national minimum wage (Otoo *et al.*, 2013). However, since then there have been disputes about the way in which annual increments in the minimum wage are implemented. The local union claims that wages are in line with those paid at other Chinese companies in Ghana.

The lowest level of weekly pay (including overtime) for a regular working week is GH¢500, but this is achieved through long hours. Daily pay is significantly higher than the GH¢7 minimum wage rate (labourer, GH¢11; semi-skilled, GH¢11.7; and skilled, GH¢13.1). Nevertheless, overtime comprises a large proportion of wages. Workers are expected to be available for overtime, although this is officially voluntary. Workers need to give prior notice to their immediate boss should they become unavailable for work. Overtime pay is an important addition to workers' basic monthly pay so, "*It is difficult for the worker not to participate*" (Union Secretary). There is some evidence that workers tend to attribute continued low earnings to tax, rather than to the hourly pay rate. Acting on members' demands, the local union attempted to gain exemption from tax for overtime pay, but without success.

The basic working month ranges between 20 and 23 days, excluding weekends and holidays. Additional days are worked as overtime. SINOHYDRO employees' pay is based on this number of days work, whereas the Ghanaian national minimum wage is calculated based on 27 days per month. Not only do national regulations stipulate that this is based on 27 days[1], but this is also stated explicitly in the SINOHYDRO collective agreement. Respondents reported that there is a widespread belief on site that the money due for the remaining days is shared between TUC and Chinese officials.

Following negotiation SINOHYDRO's legal representatives, the company accepted that payment based on 27 days was applicable in this case. However, the consequence of this was that workers who had been paid for 22 days and were no longer working for the company would be entitled to claim their balance in back pay. The company claimed that this was not affordable and an alternative compromise settlement was adopted. Rather than paying 27 working days, the company agreed to pay 22 working days, but with an additional monthly bonus to meet the difference. This became effective 2014 for all workers who were currently working with the company.

Benefits enjoyed by workers include paid annual leave of 18 days for junior staff and 21 days for senior staff, up to eight days sick leave a year, maternity leave, medical care[2], risk allowance[3], and (at the start of the project) subsidized accommodation[4].

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[1] The disparity between the 27 days basis of the national minimum wage and the actual basic working month leaves the situation open to confusion and, in a situation of distrust, suspicions among some workers about the reasons for the disparity. http://www.mywage.org/ghana/home/salary/minimum-wages/minimum-wages-faq

[2] The medical centre provides only routine first aid to workers. The company has registered its workers under the National Health Insurance Scheme. It pays GH¢6 for workers' annual subscription renewal.

[3] The company provides risk allowance particularly carpenters, masons, welders, electricians (direct current and alternating current), and labourers

[4] The company formerly provided subsidized accommodation on-site for its workers. Prior to their ejection by the BPA, residents (junior workers) were given GH¢60 for two months as compensation for the end of the accommodation. Senior staff, who were ejected earlier, had already been given an allowance. None of the senior staff is a member of the local union and moreover, subsidized accommodation is not included in the collective agreement.

At the time of the study, there was only one female worker. Although female workers were entitled to maternity leave, most do not benefit from it. The local manager sees this as a matter of choice.

> *There is maternity leave but female workers quit the job when they are due for childbirth. After childbirth, they may not have the interest of coming back to work with the company. In each year, workers are entitled to one month's basic salary which the company does not give it out unless applied for. So pregnant workers apply for this benefit other than apply for maternity leave. Thus, the company terminates their contract for them to qualify for the one month basic salary.*

4.4 Other related issues

In a multinational and multi-lingual workforce, cultural differences result in communication problems and a perception of bias. In one worker's words:

> *…the Chinese are stubborn people. They are not patient in explaining what needs to be done. They are not eager to share with us what they know but are eager to learn from us. Ghanaian Safety Officers are cautious of that because of brotherliness but Chinese workers won't tell you of any hazardous thing around.*

Another worker also indicated that,

> *The Chinese are authoritative. Jobs that we cannot do, they force us because of job security. If you spend more time at the gents, you are deducted.*

A study by Otoo, Ulbrich, and Asafu-Adjaye (2013) at the Bui dam noted[5] a number of improvements to benefits and to conditions on site. Interviews with the union representatives confirmed the existence of paid annual leave, paid sick leave, paid maternity leave, social security contribution, medical care, overtime pay, risk allowance, severance pay and medical examinations. However, some basic facilities are either inadequate or have been withdrawn since the earlier study. Since the withdrawal of subsidised accommodation, there are no recreational facilities on site.. Workers have one toilet but this involves carrying a bucket of water since the tap does not work. This toilet facility is sometimes shared with the female cooks. This is a cause of further animosity between national groups, since cooks at the Chinese canteen have their own toilet.

One worker at the Fabrication Department complained of low pay. He indicated that

> *…our pay is inadequate (GH¢14 per day). You may be marked sick leave but you won't get any money. Since the project is about ending, we should be given good treatment.*

[5] Paid annual leave, paid sick leave, paid maternity leave, social security contribution, medical care (self), overtime pay, free/subsidized accommodation, risk allowance, study leave, severance pay, pre-employment, medical examination, canteen, toilet, recreational facilities, water.

4.5 Site safety

The Construction Management Plan specifies that Sinohydro is responsible for the health and safety of both workers and local residents. The company has a safety department on site procedures for safety management on site. For example, there is a compulsory medical examination for new employees. However, peaks and toughs in workload has meant that workers are sometimes dismissed and then reemployed. In such cases, medical examination is not required. .

There have been nine deaths on site since the start of the project, and 72 injuries since 2011. The most recent death was a case of electrocution, after a live cable was left in a pool of rainwater which had collected on site. Workers are covered by company compensation in the event of death and injuries at the workplace. In such cases, letters are issued which state the type of injury and the cash compensation. Table 1 gives a breakdown of work-related injuries qualifying or compensation (provided by the union chair).

Table 1: Number of injuries per year for which SINOHYDRO paid compensation

Year	Number of injuries
2015	3
2014	26
2013	16
2012	18
2011	9
Total	72

5. TRADE UNION ORGANIZING AND INDUSTRIAL RELATIONS AT SINOHYDRO BUI: FROM ANTAGONISM TO A WORKING RELATIONSHIP

5.1 Introduction

Like many other Chinese MNCs, SINOHYDRO has been involved in conflicts with trade unions at its project sites around the world, even where it has recognised the union's right to represent the workforce[6].

The story at the Bui site is one of initial opposition to a union presence and then a gradual acceptance of the legitimacy of the union combined with a recognition by the company that dialogue with the workers' representatives also carried advantages for the company.

[6] For example, in recent years strikes have been reported in Zambia (Lusaka Times, 2015), Pakistan (BWI. 2014), and Nepal (Katmandu Post, 2015)

The Construction and Building Materials Workers Union (CBMWU) of TUC Ghana is the main union at the Bui and the sole signatory to the collective agreement with SINOHYDRO. Other unions have organised groups of workers on site over the course of the project: the Construction and Allied Workers Union (CAWU) of the independent Industrial and Commercial Workers Union (ICU) and the National Union of Teamsters of Ghana (NUTEG) of the Ghana Federation of Labour (GFL). However, these unions are not party to the agreement and are not recognised for the purposes of collective bargaining with SINOHYDRO.

Although the BWI is formulating an international approach on how to respond to the increased international activity of Chinese MNCs, there appears little evidence of similar policy developments from individual national affiliates of the BWI or national trade union centres in countries in which Chinese MNCs operate.

5.2 Establishing the union presence through campaigning and strike action

Under the 2003 Labour Act, the company must permit the formation of a union on site. However, when this was first attempted, it was met by 'open intimidation and victimisation' (Baah *et al.*, 2009), which violates Article 79(1) of the Act. Bui Power Authority engineers tried to take up concerns on behalf of the workers but this was interpreted by SINOHYDRO as interference. Publicly, the Authority's stance was to urge workers to "exercise patience and be prepared to sacrifice a little" (International Rivers, 2008). Some workers resigned and some took their grievances to the media, with consequent reputational damage to the company and also the increased labour turnover. At this point, the BPA asked SINOHYDRO to encourage the workers to join a union.

The campaign for union recognition involved strike action in 2008, which led to the closure of the Bui site. Some striking workers were sacked. When the dispute was settled, the union demanded that sacked workers be allowed to re-apply for work. Those who did were reinstated.

A second strike in 2013 was caused by a dispute about exit benefits. The company was paying workers, upon termination of contract, different exit benefits based on the prevailing monthly salary in each year. The final monthly salary is not used in determining the exit benefit. In fact, if the worker was employed in 2013 and had his/her contract terminated in 2015, the respective monthly salary in those years would be used in determining the exit payment. The union called for the cancellation of such practice and demanded that the final salary should be used in determining the exit benefit.

The local union and the CBMWU obtained a letter from the Labour Minister supporting the union's interpretation, i.e. that the current monthly salary should be used. This letter was referred to the company's lawyer, but during this time, management continued to pay the lower rate on termination. This prompted strike action, which lasted for one week.

The situation was complicated by events only marginally connected with the dispute but which took place *during* the strike. According to the local union chairman, the initial contract indicated that workers should be given a 'feeding allowance' (GH¢3). This allowance, which was a specific item in SINOHYDRO's contract (Interview, local union chairman), was cancelled at BPA's insistence as punishment for a number of unofficial actions during the strike[7]. This relatively minor incident prompted a police investigation, again on BPA's request[8]. The relationship between client and contractor during this incident remains unclear, but the result was to deepen divisions.

> *So when we met with BPA [they had] cancelled our feeding allowance. Yes, we have done wrong over there and should… bear the cost of damage. The union won the case on the matter. Since the Bui project was dear to the government, the security were called in during the strike action. Upon investigation, they acknowledged that the union has a case, just that the Chinese didn't listen to us.* (Local Union Chairman)

Unsuccessful efforts were made by the local union to have the feeding allowance reinstated. The BPA rejected union requests, claiming that they were unable to help now that this was a matter for negotiation between the union and SINOHYDRO. SINOHYDRO management, on the other hand, insisted that this was an issue for the BPA. This interplay between client and contractor has been a feature of industrial relations throughout the project. In reaction to workers' earlier complaints, for example, the Chief Executive Officer of the BPA argued that the Authority had no continuing responsibility for SINOHYDRO employees. He stressed that

> *SINOHYDRO is the independent turnkey contractor on this project. The labour contract or collective bargaining agreement is between SINOHYDRO and the TUC. Therefore SINOHYDRO is responsible for the welfare of its workers. The right way to go is for the Workers' Union to take the issue up to their employers through the TUC for the necessary action to be taken (Modern Ghana, 2010).*

Despite this deflection of responsibility between the two organizations, it is clear that the public authority, the BPA, has adopted an increasingly interventionist approach, and its involvement appears to have escalated disputes between the union and SINOHYDRO.

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[7] According to the local union chairman, these incidents included workers stealing and eating a goat that was the employer's property. In the words of the chairman, *had it not been for the intervention of the military and police it would have been a serious issue.*

[8] As well as the police, this intervention involved the District Chief Executive, Regional Minister, Police Commander, Army Commander, Regional Security Council, Representative from CBMWU, and Representative from TUC.

Unofficial action

The third strike (in 2014) was an unofficial one begun by two local workers (a carpenter and a mason) who were protesting against a delay in the payment of Christmas bonus with the consent of the local union.

5.3 The balance sheet of union action

The successful campaign, involving the Ghana TUC and the CBMWU, led to the unionization of the Bui site (Baah *et al.*, 2009). The settlement allowed for the reinstatement of sacked workers, a number of whom applied and were re-employed.

Following confrontation during the organizing campaign, the union has successfully developed a reasonable working relationship with site management. According to a worker (a former union representative), this was a learning process for the company.

> *Unionisation in Africa is different and new to Chinese. They felt we are going to sabotage them and give them problems. Later they realized that it was for their good.*

This has been achieved, in part, because the union saw the dispute as the means to an end. Once the company had agreed to recognize the union for the purposes of collective bargaining, a more conciliatory, problem-solving approach was necessary:

> *I have been a mediator because union leaders have to be in the middle side between employers and employees. The goal is to bring the two positions into a mutual effort.*

The union's relationship with the BPA, on the other hand, has deteriorated. The BPA is a public authority with very close links to national government and union representatives see the organisation's stance as a politically motivated repercussion of the dispute.

> *…after the strike action, they have stopped assisting us. They directed workers to form their own union to address their problems… They say "come in". But when we call on them for help to address a problem they will say "No, no, no… SINOHYDRO and BPA are different".*

The union's success has paid dividends in terms of employment security and pay, but other developments have not been so positive. Site facilities are basic. The canteen for Ghanaian workers (reported by Otoo *et al*) is no longer present, although there is a canteen for Chinese workers. Subsidized accommodation provided at the start of the contract was withdrawn. This is not covered by the provisions of the collective agreement. In a workforce that is fragmented between various activities and trades, there is also an uneven application of the agreement. Workers interviewed on site claimed that there are no sick pay provisions. Some others were unaware of the existence of such an agreement.

The divide between Chinese and Ghanaian workers appears to be unchanged. Ghanaian workers, for example, are aware that the Chinese are paid more than them, but are not aware of the amount. This is complicated by the fact that Chinese and Pakistanis are paid in dollars, whereas Ghanaians are paid in cedis. Employment contracts also differ in other respects between Chinese, Pakistani and Ghanaian workers.

5.4 Union activities

Following the changed position of the company, the union has since facilitated the election and appointment of its representatives and has formal recognition to represent the workers in dealing with their Chinese Management. Shop floor union representatives are appointed by their respective departments.

Workers make a monthly contribution of two percent of their basic salary as dues payment to the local union. The union chairman has a dedicated office and is relieved of his work duties to handle union issues on a full time basis. There is also a notice board that the union uses in disseminating information. The relatively cordial relationship that exists between the union and the management of SINOHYDRO, is reflected in the comments of the SINOHYDRO administrative manager, who emphasized that the '*union is our good friend. Chairman is our friend.*'

He acknowledged that though every work organisation is characterized by either good or bad behaviour of workers,

> *…most Ghanaian workers obey our rules and have good working skills. They receive education from company and get more mature. We give recommendation letters and certification to other local and foreign companies. For us, Ghanaian workers are good, able to cooperate and apply and that is what we want.*

He also said that the company has become '*more experienced*' in handling workers' issues. They have instituted an award scheme that gives cash and awards to 'deserving workers'. They have also organised a football cup competition. Union activities have also been beneficial to union officials. In the case of the current young union secretary, he has acquired some union experience which will be relevant in his next job. A former union secretary also acknowledged some experience he has acquired in mediating between the union and management towards a mutual benefit:

> *As a former union secretary, I have been a mediator because union leaders have to be in the middle side between employers and employees. The goal is to bring the two positions into a mutual effort. Unionisation in Africa is different and new to Chinese. They felt we are going to sabotage and give them problems. Later they realized that it was for their good.*

The union has represented the company on special days such as May Day and National Sanitation Day[9] thereby promoting the image of the company. The May Day march past also provides local visibility for the company as local people get to know about the activities of SINOHYDRO. According to the local union chairman, '*we were introduced as workers who were Building the dam to generate hydro-electric power for the country.'* The cooperation between the union and SINOHYDRO has had mutual benefit for both parties. The union as well as SINOHYDRO is recognized for the contribution towards the construction of the dam, and the brand of SINOHYDRO as a union-friendly construction firm is also promoted.

Challenges identified by the union included the unwillingness of management to address the union's concerns, communication barriers, and problems arising from the transfer of personnel managers. The local union chairman maintained that the failure of management to address the union's concerns created a difficult situation which led to strike actions. He stated that

> *…if they (Chinese) had listened to concerns raised by workers through the union, things wouldn't have been difficult leading to strike action. There are some things that they need to understand. They will understand but this takes time.*

Communication barriers led to delays in addressing the union's concerns. According to the union chairman,

> *Communication is a problem since they do have difficulty in the English language. Communicating to Chinese representative is time-consuming.*

However this can be overcome:

> *Despite the language barrier, SINOHYDRO is a very good company. They are learning the English language. When you address your concern to the Human Resources Manager, they listen to you. Communication is not much of a problem at the administration than on-site. Sometimes, Chinese working on-site may not clearly articulate what he needs and this creates a problem when the Ghanaian worker does not understand him.*

The union works closely with the personnel manager in addressing union concerns, but this relationship has taken time to develop. So when personnel managers go on leave or are replaced, their replacements may come with new ideas which may not favour the union. Progress may also stall when the new manager is not familiar with the English language and may require many months to adjust. Nonetheless, union representatives work with the personnel manager in the wake of transfers.

[9] This occurs on the first Saturday of each month where communal work is undertaken to keep the surrounding areas clean. To ensure participation, shops and businesses remain unopened until mid-day.

> *Change in personnel manager is also a problem because the personnel manager works with the union. We will work with a personnel manager and be making progress but the change in the personnel manager retards the progress. Sometimes, we have to start all over again.*

It is possible that the deliberate rotation or mobility of managers is designed to prevent what the company may see as overly close relationships with the union. Trust and a stable relationship with a particular manager is built up over a period of time and if the manager is moved, that can set the union back, as respondents pointed out.

> *We do not work long with Chinese officials. Sometimes, we work with them for one year and that person will be changed. Since 2008, personnel managers have been changed about seven times. The personnel whom I worked with when I got employed worked for two years. The next personnel manager worked for about six months and so forth. The new person may not understand the English language and it may take about six months for him to adjust in working with us. Trying to adjust takes time. Nonetheless, we still work with the new personnel manager.*

The relatively positive relationship with management is partially explained by union officers as due to the fact that the current Administrative Manager was once a personnel manager with whom the local union chairman had worked for a long time. Hence, his presence at the administrative office makes it easier for the union to address any issue they may be facing. This contrasts with the union's experience of a previous manager:

> *[The current Administrative manager] was once a personnel officer and has worked with us for long so for him being at the administrative office makes it easy for us. His predecessor…, was a very difficult person to work him. I didn't like him.* (Local Union Chairman)

5.5 The collective bargaining agreement

The CBMWU and SINOHYDRO entered into a collective agreement dated 24th March 2009. It is notable that this agreement was based very closely on a standard model: very similar to other agreements negotiated by the CBMWU in the public sector. As respondents in this study reported, SINOHYDRO's expertise in industrial relations, and their familiarity with Ghanaian employment law was extremely limited. Having embarked upon negotiations, the company was therefore to some extent reliant upon union experience and 'best practice'.

The agreement is comprehensive, covering both substantive and procedural matters. It also includes the collection of union dues (check-off). Rather than the union administering the allocation of income between its various levels, the company has taken on the role of disbursing the agreed percentage to the national union, the TUC and the local branch union.

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mportantly, the union was also able to negotiate a status quo clause:

> *It is agreed that in the event of a strike or lockout, either party is committed to return to the position before the industrial action. It is also agreed that management of the affected Company and the Mother Union shall meet to settle any immediate issue that gave rise to the industrial action by the Management or the Union.*

This is a provision that employers are increasingly reluctant to concede and it is rare in Ghanaian collective agreements. This is an indication both of the effect of the unionization campaign at Bui and of the relative levels of expertise available to the union and the employer respectively.

Subsequent negotiations have resulted in a supplementary agreement dated 10th November 2014 and improvements in pay and benefits. Relevant pay rates are shown in **Table 2**.

Table 2: Salaries, Wages, and Bonus standard

Group	Designation	New Daily Wage level (GHS/DAY)	Bonus Standard (GHS/MONTH)
Group 1	Unskilled	11.00	71.10
Group 2	Semi-skilled	11.70	77.30
Group 3	Skilled	13.10	83.40
Group 4	Skilled	14.80	94.80
Group 5	Skilled	17.40	113.30
Group 6	H.Skilled / foreman	21.30	137.00
Group 7	H.Skilled / foreman	25.10	160.70
Group 8	H.Skilled / G.foreman	28.10	N/A

Source: Review of Collective Agreement, 2015

Table 3: Funeral Grant (Cash Donation), Risk Allowance, & Out of Station Allowance (OSA)

Issue	Old Rate (GH¢)	New Rate (GH¢)	Change (%)
Death of an employee	150.00	500.00	233.33
Loss of spouse or child	80.00	200.00	150.00
Loss of parent	20.00	130.00	550.00
Risk allowance	0.60/day	0.80/day	33.33
OSA; return journey within normal working hours	1.00	2.00	100.00
OSA; return journey not within normal working hours	2.00	4.00	100.00
OSA requiring spending the night outside	3.00	6.00	100.00

Source: Review of Collective Agreement, 2015

5.6 Unresolved problems

The local union tries to handle its own issues without external help. But in the event that the problem seems unsurmountable, they call on the national union. This was indicated by the local union chairman: '*when we see that the problem is a difficult one, we invite our mother union to help.'*

There seemed to be a more distant relationship between the union and BPA after the strike action. Whereas BPA assisted the union during its earlier dispute with the company, this has now stopped and the union is told to sort its own problems out. The authority has clearly indicated that its job is the supervision of the project, not the management of the workforce. However, they have employed about eight workers from SINOHYDRO.

> *BPA's relationship with the union is bad. At the earlier stages of the project, we contacted them when we faced difficulties. But after the strike action, they have stopped assisting us. They directed workers to form their own union to address their problems. They indicated that their main role is to supervise the project and are not concerned about workers. But pardon me, should there be any 'nonsense' issue, "then they come in". But when we call on them for help to address a problem they will say "no, no, no …SINOHYDRO different, BPA different". They are government's agency. They have employed about eight of our workers.* (Local union chairman)

Also, the local union chairman is of the view that BPA '*is not good* and *[…] not on good terms with them.'* On site, this seen as a matter of inter-personal relations. BPA is perceived as not acknowledging the efforts of SINOHYDRO workers and this is reflected in the lack of cooperation between the two groups. However, this also appears to be a symptom of the relationship between client and contractor, since the BPA has taken a highly interventionist stance in matters of labour relations on site.

As of 2009, two demonstrations had occurred, but the corporation had not recorded any strike action (Baah *et al.*, 2009). The first demonstration concerned the alleged unresponsiveness of the Chinese Management to the situation when three workers drowned in the river on which the dam was being built. The second demonstration was about a pay increase for the mechanics which workers believed was unfair and discriminatory.

In 2010 local news reports featured complaints by workers over poor wages and unfavourable working conditions. The Ghanaian workers said that they have no resting days or annual vacation leave unlike their Chinese counterparts. Another complaint from workers related to accommodation where between five and ten people shared a single room. A further complaint was about transport, specifically that between 80 and 100 workers were taken in a single truck to and from work daily. The workers argued that BPA and SINOHYDRO could have provided two or more such trucks to ensure a more sanitary and comfortable journey for the workers.

Managers also argued that the wages were determined on the basis of a pay structure which was designed for the local staff. This is a five level structure: the unskilled, semi-skilled, skilled, highly skilled and foremen. In addition, there are different categories of workers within each group, each of which is headed by a Chinese employee designated as a 'Chief'. The pay structure was unknown and, according to workers, wages were determined by the 'Chiefs' based on factors known only to them. This made it difficult to understand the basis of pay differentials. Monthly fluctuations in pay levels were attributed to 'unwarranted deductions' by the Chinese (Baah *et al.*, 2009).

6. CONCLUSIONS AND RECOMMENDATIONS

The campaign at SINOHYDRO is a success story. It resulted in a collective bargaining agreement that has transformed labour relations and delivered tangible improvements for union members. The BWI (2013) regards the success of its Ghanaian affiliate in negotiating agreements with Chinese companies as proof of the possibility of working with Chinese companies.

It is important to stress the agreement has worked to the benefit of the employer, as well as employees. By supporting collective bargaining, it has rationalised a fragmented approach that was inefficient and divisive. By providing a recognised mechanism for employee 'voice', it has allowed an alternative mechanism for

grievance resolution, where previously the options available to employees were non-cooperation or exit.

The nature of construction and civil engineering projects is that these lessons have to be learned time after time. In this case, success was primarily the result of the local campaign and workers' insistence on union representation. This response, in turn, is a testimony to the tradition of democratic unions in Ghana. Other countries are not so fortunate.

The task, therefore, is to make these gains of use in other projects; to make them 'portable'. This might include the following.

a) The signing of an International Framework Agreement (IFA) 'Global Union Federations such as the BWI have led the way in the negotiation of International Framework Agreements with multinational corporations (MNCs). This is part of a clear strategy for upscaling social dialogue from the local and the national to the international. In a period in which the economic impact of MNCs continues to grow, negotiation of IFAs remains an important objective of Global Unions and their affiliates. Although there are well-known limits to the utility of IFAs, they do represent an opportunity to Build a structure and establish procedures and practices conducive to the development of social dialogue between workers' representatives and MNC management.

   The case of SINOHYDRO illustrates the potential advantages of an IFA for both unions and companies. At the beginning of the Bui project there were a series of what were later described as 'misunderstandings' between management and workers which led to conflict and disruption to production. Eventually this was largely resolved with the signing of a collective bargaining agreement and the recognition by the company of the union as the representative of the Ghanaian workers on site. Many of the problems may have been avoided if an IFA had already been in place at global level signed between the BWI and SINOHYDRO. This has clear advantages for management as well as workers as an agreement that provides for worker voice to be heard at project and workplace level will assist in avoiding 'misunderstandings' that can lead to disruption and conflict.

   This would then require a training programme for both national SINOHYDRO management and affiliate unions (at national and workplace level) so that both were familiar with the terms of the IFA and able to assist in the implementation of it.

b) Recognition of the importance of workplace militancy and solidarity. Without the willingness of the workers to take action to demand their rights and their preparedness to take action in defence of them, it is unlikely that the CBA would have been achieved – regardless of the national legislative position, or whether or not there was an IFA in place.

The fact that workers took action was a key factor in convincing the company of the advantages of a structured social dialogue.

c) Guidance and best practice notes on public sector contract compliance. Many of the matters that have been in dispute in this case are already adequately covered by national law. For example, the right to freedom of association, the applicability of the minimum wage, as well as a number of health and safety regulations. Further, regulations on public sector contracting in many countries allow for additional contractual requirements in these areas. This guidance should be made available by national union centres and national affiliates of BWI to workplace level units of the union.

d) Greater co-ordination and co-operation between the various levels of the union movement. Communication networks may need to be improved to assist in closer co-operation and the sharing of knowledge between the different levels of the movement – local, national and global. Where possible, online-based company networks should be created to facilitate the sharing of information and experiences among stewards and local officials of national affiliates throughout the world.

e) Realisation that, despite their reputation for anti-union behaviour, in certain situations Chinese companies are prepared to recognise unions and enter into dialogue with workers' representatives at workplace level. The combination of circumstances at Bui in Ghana – a democratic system of government, well established industrial relations law and practice, an organised labour movement within a broader civil society, a workforce prepared to take action – will not be present everywhere. However the experience at Bui shows that Chinese MNCs do adapt to local conditions and, as the company increasingly works with trade unions, there may be scope for a wider extension of collective bargaining throughout its international operations.

7. APPENDICES

7.1 Appendix 1: Comparison of Public Procurement Standards, Labour Law Provisions and Collective Bargaining Agreements at SINOHYDRO

Technical specifications in Public Procurement Documents are quite clear on labour standards and the roles to be played by the industry operators. The standards are comprehensive and they are intended to impact positively on working conditions.

Employers are required at all times to comply with the provisions of the General Specifications of the Public Procurement Documents and with some applicable Ghanaian Laws and Regulations in the sector.

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
Potable drinking water It is mandatory for contractor to supply potable drinking water in sufficient quantity and at appropriate locations.		Potable drinking water Not in CBA but as a practice, management supplies potable drinking water for drinking and other uses.
Hours of work Eight hours a day with Saturday and Sunday set aside for rest.	Section 33 Maximum of eight (8) hours a day or forty (40) hours a week shall be the normal hours of work.	Clause 17: Hours of work Maximum of forty (40) hours a week from Monday to Friday.
Overtime Overtime is not to exceed prescribed maximum hours as in Law.	Section 35: An additional hour of work done is overtime, as fixed by the rules of the undertaking.	Any extra time done over the normal hours of work is overtime and applicable rates will be paid.
Overtime There should not be compulsory overtime hours without the consent of workers.	Sections 41, 42 & 44 Except task or domestic workers, workers to enjoy day, weekly rest periods, to preferably start from Saturday and end on Sunday.	Management and the local Union will discuss work on Sunday and Public Holiday.
Conditions of Particular Application (FIDIC Guidelines) Days of rest Employer to respect local festivals, days of rest and religious beliefs or customs.	Section 43- Rest periods Rest periods do not include Public Holidays. Section 35(c): Overtime Worker not to be compelled to do overtime except it is required to make the	Clause 19: Public Holidays 1.Public holidays will apply as per the Public Holiday Act. 2. Overtime is payable for any time worked over the normal hours and on Saturday and Public Holidays.

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
	company viable or in emergencies to prevent or avoid threat to life and property. Section 68: The applicable principle is 'Equal pay for equal work'. Section 72: Paid Public Holidays Every worker is entitled to be paid his or her remuneration for public holidays. Section 20: Leave entitlements Every worker is entitled to not less than fifteen (15) working days leave with full pay in a calendar year of continuous service. Section 9: Duties of the Employer (g) Keep open the channels of communication with the workers, and (h) Protect the interests of the workers. Section 10: Rights of a worker The rights of a worker shall include: d) to form or join a trade union. The Act 651 is silent on the provision of transportation, housing and feeding of employees by the employer. However, it does not rule out	Clause 44: Labour Regulations 3 d. The Employer shall ensure equal remuneration for men and women for work of equal value. Clause 23: Safety and Health 3. Medical: Workers on National Health Insurance Scheme with spouse and children below 18 years. Clause 31: Annual Leave Supervisors - Twenty-one (21) working days Below supervisors – Eighteen (18) working Days Clause 44: Labour Regulations 3a. Employer to respect organizing by workers into trade unions and to defend their rights to organize.
Medical care Medical care should cover employees, their spouse and children, as per International Labour Organisation Convention 102, 1952. Wages and salaries **Conditions of Particular Application (CPA) under Conditions of Contract** These are meant to improve standards at work and they include: 1.Communication English language is the *lingua franca*, superintendents should have working knowledge or sufficient number of interpreters (to help avoid misinterpretations of words, gestures and customs). Welfare facilities Under FIDIC Guidelines, the employer is required to provide the following: a. medical facilities b. sick bay, first aid facilities, at all times,		

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
c. an ambulance facility. In addition, the Conditions of Particular Application provides that: 1. Contractor obliged to provide an efficient, adequate sanitary latrine accommodation. 2. Contractor to make arrangement for transportation, housing, feeding and payments for workers at own expense. **Conditions of Particular Application (CPA) under Conditions of Contract** 3. Contractor to pay rates of wages not less than as applicable in the sector's collective agreement or in their absence, those approved by Government. NB: The World Bank requires Clients, Contractors, Labour Agents to pay wage levels comparable to those in the Sector concerned or those offered by equivalent employers in the relevant region. Freedom of Association 1. Employer obliged to comply with all aspects of Labour Laws in force. 2. Employer to recognize trade unions. 3. Employer to allow workers to form or join trade unions. 4. Employer to allow	the use of collective bargaining to settle on them. S.79: Freedom of Association Every worker has right to form or join a trade union of his or her choice .' S.14: Prohibition in employment (a,b,d) Refusing to employ union member. S 63: Unfair termination Because the worker has joined, intends to join or has ceased to become a union member. S. 102 Negotiations, Effects Certified trade union can	In practice, significant improvements have taken place on the Project due to the strict enforcement of Safety by the Bui Power Authority staff in the areas of a. medical facilities b. sick bay, first aid facilities, at all times, c. a stand-by ambulance d. sanitary facilities At the initial stages of the Project, the workers were totally dissatisfied with the accommodation … provided by the management … the rooms were too small for 12 people … it was not sufficiently ventilated … ' (2009: 120). Negotiated rates of pay Refer to the negotiated rates at SHC in relation to industry averages (using ABCECG Collective Agreement). NB: Even though the rates are above the national minimum wage, the workers considered their 'prevailing wage rate is woefully low when measured against the expectations of the workers and the rising costs of living at the Dam site' (2009: 117). Clause 44: Labour Regulations Where the Collective Agreement is silent, the Labour Laws shall apply. Clause 1: Recognition 1.The Employer recognizes the Union as the organisation that covers its workers as specified in the Bargaining Certificate.

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
workers to enter into voluntary collective bargaining (to convert interests into rights). NB: In the **Public Procurement Documents**, the Consulting Engineer (CE) is empowered to ensure that workers are not discouraged from joining or forming their own. **Particular Application (CPA) under Conditions of Contract** Forming unions of their own choosing and to bargain collectively with the Employer. This right extends to non-unionised and non-employer workers. Strikes and Lockouts Contractor to take all reasonable precautions to prevent any unlawful riotous or disorderly conduct by or amongst employees. Record keeping The Conditions of Contract require contractors to keep proper records of wages and time sheets showing wages paid out to workers and the time worked by employees to avoid any doubts of entry and exit time points. OSHE Employer is responsible for making the workplace safe and operations also.	negotiate on all matters of employment or non-employment for members. S 105 (2, 4) Agreements reached become terms of a contract of employment for the affected persons that cannot be waived by an individual. S129 Employer to facilitate union business Access of Union Officer to members within company. Employer to offer 'reasonable facilities to Union. S9 (h): Employer has duty to protect the interests of the workers. The Labour Law has no provision for Employers to provide housing for their workers,	Clause 6: Meetings The Union can meet its members having given management a notice in advance. Parties are agreed to using collective bargaining process to settle for a collective agreement. **SHC Collective Agreement** Clause 2: Responsibilities 2.The management and the Union have singular and collective responsibility to avoid strike and lockout. 4. Parties would work 'in good faith' to resolve any dispute that arises. Clause 8: Employment Procedure and Probation 1. Employer is required to keep records on an employee in the Employment Record Card. Management has 'put in place facilities at the project site both for prevention and management of occupational injuries' (2009: 121). All workers have PPE – boots, uniforms, helmets, Drillers have protective glasses and masks; A Clinic with 4 Chinese medical doctors; all workers insured'. Clause 13: Safety and health 1 a) Company to provide PPE and provision remains the property of Employer. 1d) PPE which include

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
The standards and implementation should cover workers and non-employer workers to prevent accidents and injury. **Social Rights (SR) in Public Procurement Documents** Grievance Mechanism It is required that mechanisms should be established through which workers can raise reasonable workplace concerns. Sub-contracting The principal contractor is to lead in managing sub-contractors. Good practice is for the principal contractor to appoint safety officer for maintaining safety at work. International Best Practices The Consulting Engineer (CE) has duty to ensure that standards in Public Procurement Documents, as follows: · Accommodation provided should be free to workers especially in remote place(s); · Access to potable water, cooking facilities and sanitation, and · Easy access to medical facilities. Minimum age for employment - Not below national minimum age (18 years in Ghana). If under, the work should not be such as	S 118: General health and safety conditions 1. Employer has duty to ensure worker and works are safe. 2. Workers are informed and trained adequately. 3. Workers are provided with required PPE at no cost to them. 4. Employer to supply clean drinking water at the workplace. 5. Employer to protect accidents and injury to health. Section 108 provision for Dispute Settlement: 'Every collective agreement shall contain a provision for final and conclusive settlement under Part XVIII of this Act of all differences between the persons to whom the Agreement applies'. Section 9 e: 'provide and ensure the operation of an adequate procedure for discipline of the workers'. S.5 Employment Through Centre or Agencies An employer may employ	'uniforms, boots and helmets at no cost to the workers' (2009: 131). PPE will be replaced due to normal wear and tear. Clause 44 (f): Employer to ensure fair and reasonable conditions of health, safety and welfare. Clause 39 provides for a Grievance Procedure, the steps are defined, the levels of management and union in handling the grievance or dispute in ascending order is created, also. Stages start from individual through the Union and end at Compulsory arbitration, if stretched that far. In practice, workers 'enjoyed free medical care' (2009: 131). Accommodation No provision in the collective agreement. However, SHC provides free housing for most of its workers due to the remoteness of the Project site, according to Baah and Jauch 2009: 133).

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
would affect their health, education and development Not to be employed in hazardous operations, with dangerous machinery, dangerous substances or heavy weight lifting. <u>Forced labour</u> The Consulting Engineer is responsible for addressing child or forced issues with Contractors, sub-contractors, labour agents or supplies in the infrastructure chain. NB: Ghana has ratified ILO Conventions 29 and 105. Articles 16(2) and 116(1) of Ghana's Constitution refer. <u>Training, Education and Re-training</u> Employers are obligated to develop the capacity of workers through training, education and re-training for workers to do tasks safely and effectively. Training and instruction should cover direct and non-employer workers. <u>Discrimination</u> ILO Conventions 110 & 111 concerning discrimination in employment and equal remuneration. In addition, Article 17(2) of the Constitution of Ghana refer to protection afforded therein.	any worker either through a Centre or a Private Employment Agency. <u>Potable drinking water</u> S 118(6): Employer to provide adequate supply of clean drinking water at the workplace. <u>S. 58: Young Persons</u> Not to be engaged in any type of employment or work likely to expose the person to physical or moral hazard. Under the law, the minimum age for employment in Ghana is 15 years (2009: 136). <u>S. 116: Forced Labour</u> 2. It is an offence for an employer to exact or cause to be exacted for his or her benefit forced labour from any worker. S 117: Forced labour is work or service exacted under	**SHC / CBMWU Collective <u>Bargaining Agreement</u>** <u>Clause 44: Labour Regulations</u> a. The Employer shall respect the prohibition of forced or compulsory labour in all its forms. <u>Workmen's Compensation</u> In practice, in the event of incapacitation, the affected workers re compensated as by the Law <u>Clause 11: Training within industry</u> 1.Management will encourage and assist in skills development of workers. 2. The responsibility of the company includes instructing, training and supervising workers to avoid dangers at work. <u>Clause 44: Labour Regulations</u> 3c. The Employer shall respect the prohibition of employment of children below eighteen (18) years of age. In practice, SHC did not use child labour on its project (2009: 136). <u>Casual and temporary workers</u> Management have phased out casual employment. SHC has phased out casual and temporary work and rather employ workers on regular basis.

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
	threat of a penalty or not offered voluntarily by worker.	
Social Security The Social Security Law specifies the rates for both employer (13.5%) and the employee (5.5%). It does not matter whether the worker is a temp. or a regular worker.	S.9 Duties of Employer The duties of an employer include the duty to (d) develop the human resources by way of training and retraining of the workers. S. 19 Rights of worker Shall include the right to: (c) be trained and retrained for the development of his or her skills.	Social Security In practice, the management pays for all their employees according to the Law. Confirmed by SHC Management, BPA officials and the employees' (2009: 118). Clause 9: Salaries and wages 6. Payment of salaries is done through Bank transfers but never in kind. It is done not later than the last working day of the current month. Any variation is discussed by the management and the branch union.
Payments That all workers should be paid with cash, cheque, bank transfer or appropriate alternative means but not in kind.	S. 127 Discrimination No person shall be discriminated against on any grounds – gender, race, colour, ethnic origin, religion, cred, social or economic status, disability or political affiliation.	
Contract Documents HIV /AIDS The Consulting Engineer is obliged to include in PPA, provision of policy on HIV/AIDS including non-discrimination, assistance in treatment and counselling, training, supply of free condoms, non-stigmatisation on affected and inflicted persons.	Casual and temporary workers Under the amended Industrial Relations Act of 1965, workers were not classified into casual, temporary and regular employees. And treated differently. Under the Act, workers have been so classified and casual and temporary workers are granted limited social protection as compared to regular workers. Social Security Refer to Social Security Law S. 78 Interpretation Temporary work is work that is not less than one month and it is not seasonal in character.	SHC Collective Agreement Clause 23: Safety and Health 3 b. HIV/AIDS, like mental diseases or self-inflicted injuries such as sexually transmitted diseases or medical conditions that are not deemed to be within the scope of basic medical facilities as determined by the Doctor of the company shall not be borne by the company.

Technical Specifications in Public Procurement Documents	Labour Laws (Act 651)	SINOHYDRO/CBMWU Collective Bargaining Agreement
	Casual work is work that is seasonal in nature or intermittent and not for a continuous period of more than six months and whose pay is calculated on a daily basis. <u>Payments</u> Equal pay for work of equal value. Payment in cash, cheque but not in kind.	

Source: CBMWU / TUC Head Office, Accra, 2015

7.2 Appendix 2: Selection of Chinese MNCs that have signed Collective Agreements with the CBMWU

COMPANY
China Railway Engineering Corporation
China Zhong Mei Corporation
China Henan International Corporation
China Jiangxi Non-Ferrous Company Limited
China State Hualong Corporation
Sinohydro Corporation
China Harbour Engineering Corporation
ChinaGeo-Engineering Corporation
China Jiangxi International Corporation
China International Water and Electric Corporation
Yanjian Group Limited
Top International Corporation
G.S. International Developers Limited
Gezhouba Group Limited

Source: CBMWU / TUC National Secretariat, 2015

7.3 Appendix 3: Coverage of the original CBA (1st January 2009 – 31 December 2010)

Interpretation

Period of Agreement

Recognition

Responsibilities of Parties to the Agreement

Union Clause

Union Notice Board

Check-off of Trade Union Dues and Levy

Permission for Union Meetings

Admission of Union Representatives

Employment Procedure and Probation

Categories of Employees and Salaries & Wages

Creation and Classification

Training Within Industry

Filling of Vacancies

Acting allowance

Certificate of Service

Examination Fees/Expenses

Legal assistance and Loan Scheme

Hours of Work

Overtime

Public Holiday

Time Lost Beyond Control of Parties

Pay Days and Times

Pay Roll Records

Safety and Health

Protective Devices and Risk Allowance

Funeral Grant

Uniforms For Employees

Provision of Shelter

Canteen Facilities

Transport

Official Journeys and Allowances

Alternative Work

Annual Leave

Sick Leave

Maternity Leave

Casual Leave

Discipline and Discharge

Resignation and Termination

Redundancy

Temporary Lay-off or Suspension

Grievance Procedure

Strikes and Lockouts

Terminal Benefits/ Redundancy Awards

Savings Clause

Interpretation

Labour Regulations

Pledge of Confidentiality

Effective date

Appendix "A" – Risk Allowance

Appendix "B" - Wages and Salaries

Appendix "C" – Tools

Appendix "D" – Rules and Regulation

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