LAND AND LIVELIHOODS

NGOs, Conflict, and Extraction in Peru

Task Force 2015

Land and Livelihoods:

NGOs, Conflict, and Extraction in Peru

Henry M. Jackson School of International Studies

Task Force 2015

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Acronyms

ACA: Amazon Conservation Association

AISPED: Atención Integral de Salud a Poblaciones Excluidas y Dispersas

ASGM: Artisanal and Small-scale Gold Mining

AUPE: Association of Village and Town of the Young People of Espinar

BHPB: Broken Hill Proprietary Billiton

BHP (Billiton): Broken Hill Proprietary Billiton

CIPCA: Centro de Investigación y Promoción del Campesinado

CONACAMI: Coordinadora Nacional de Comunidades Afectadas por la Minería

CORECAMI: Coordinadora Regional de Comunidades Afectadas por la Minería de Cusco

CSR: Corporate Social Responsibility

EIA: Environmental Impact Assessment

EQUAS S.A.: Environmental Quality Analytical Services S.A

FADEMAD: Federation of Agriculture of Madre de Dios

FDI: Foreign Direct Investment

FEDEMIN: The Miners Federation of Madre de Dios

FENAMAD: The Native Federation of Madre de Dios River and Tributaries

FPIC: Free and Prior Consent

FTAA: Free Trade Area for the Americas

FUCAE: United Federation of the Peasant in Espinar

FUDIE: Front in Defense of the Interest of Espinar

GDP: Gross Domestic Product

ICMM: International Council on Mining and Metals

INEI: National Institute of Statistics and Informatics

INGO: International Non-Governmental Organization

MINAM: Ministerio del Ambiente or Ministry of the Envrionment

NGO: Non-Governmental Organization

OSINFOR: Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre

Oxfam CAA: Oxfam Community Aid Abroad Mining Ombudsman's Office

Oxfam GB: Oxfam Great Britain

PAMA: Environmental Adjustment Program

PHEM: Participatory Health and Environmental Monitoring

SAMRO: South America Regional Office

SER: Servicios Educativos Rurales

SPDA: Peruvian Society for International Law

TDF: Tambogrande Defense Front

USAID: United States Agency for International Development

Executive Summary

In this report we will present an analysis of Peru's socioeconomic, environmental, and political background to explain the recent rise in social conflict, particularly in regards to growing mining activities. Following our analysis, we will provide recommendations for Oxfam America to consider when engaging with these issues. To reach a thorough understanding of Peru's most pertinent mining conflicts today, we will examine varying cases of conflict in three regions: Piura, Cusco, and Madre de Dios.

Examining the events that occurred over a decade ago in Tambogrande, Piura—notable for its successful community-led revolt against a large mining corporation—allows for retrospection on Oxfam America's past efforts engaging with mining conflicts. This report advocates for rethinking the rhetoric of success surrounding the Tambogrande conflict, and suggests how Oxfam America might change their approach to engagement in mining conflicts. In Tintaya, Cusco, we can analyze the triumphs and challenges in an ongoing case of conflict and apply those lessons to similar cases in both Peru and internationally. Specifically, we examine conditions leading to a successful Dialogue Table process. Finally, we analyze conditions in Madre de Dios to explore the new frontier of mining conflict, centered on the growing issue of informal, artisanal, and small-scale mining. As this is an area Oxfam America has not yet broached, we introduce the issues surrounding informal, illegal, artisanal, and small-scale mining to provide a foundation upon which Oxfam America could begin to approach this complex issue. In summation, our recommendations emphasize sustainability, relationship building, knowledge production and dissemination, transparency, and education.

Introduction

Over the past two decades, Peru has seen a boom in extractive industries, significantly contributing to Peru's economic growth. Simultaneously, social conflict has exploded in areas affected by mining, particularly in rural communities (CooperAcción, 2014, p. 13). Although Peru has experienced substantial poverty reduction and Gross Domestic Product (GDP) growth, social conflict in mining regions has increased due to disputes over land seizure, environmental degradation, public health, and concerns for livelihood (The World Bank, 2013; Slack, 2009, pp. 5-6).

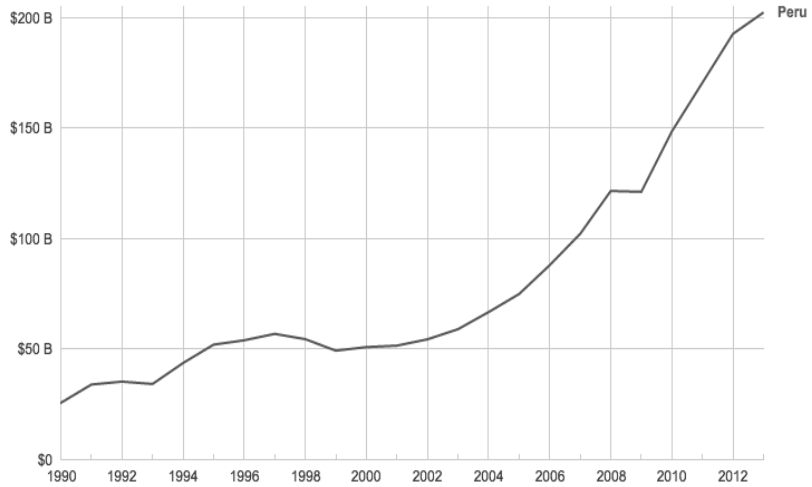
Neoliberal Policies, Mining, and Increasing Social Conflict

After Latin American economic crises in the 1980s, Peru implemented a series of neoliberal reforms that privatized its previously state-owned mining industry, welcoming Foreign Direct Investment (FDI) to generate growth in its extractive industries (Bury & Bebbington, 2013, pp. 43-45). New agreements reduced royal payments and tax responsibilities of private mines and there was loose environmental regulation of the mining industry (Arellano-Yanguas, 2011, 620-621).

Following Peru's new economic policies and a large influx of FDI, mining investment increased from 109 million USD in 2003 to 3.5 billion USD in 2013 and the country's GDP has skyrocketed (See Figure 1.1) (Google Public Data, 2014). In 2007, mining accounted for 62% of Peru's total exports, and as of 2013, Peru was the world's third largest producer of copper, silver, tin, and zinc, and the sixth largest producer of gold (Slack, 2009, p. 2; U.S. Department of the Interior, 2015, pp. 49, 67, 147, 169, 187).

The rise in GDP has been accompanied by an overall decline in poverty rates. In 2013, Peru's poverty rate was at 23.9%, a large drop from 55.6% in 2005 (The World Bank, 2014).

Figure 1.1: GDP in Peru in billions of USD



Retrieved from Google Public Data (2014)

However, despite Peru's rapid economic growth and declining poverty on the national level, examining Peruvian life in rural, mineral-rich areas shows a less positive picture. The spike in extractive activity has been accompanied by a rise in social conflict. From 2006 to 2014, instances of social conflict have increased significantly (CooperAcción, 2014, p. 13). Additionally, wealth disparity between rural and urban areas remains stark; poverty has remained relatively high at 53% in Peru's rural regions, compared to the 17% in urban areas. This and a number of other issues, including environmental and health concerns, unequal distribution of extractive revenues and benefits, and structural deficiencies in the government, have been major sources of community uprisings and social unrest (The World Bank, 2013; Slack, 2009, pp. 5-6).

Figure 1.2: Social Conflict in Peru (2006-2014)

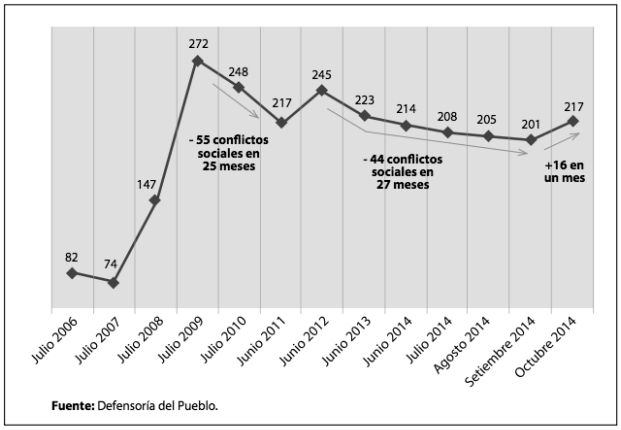


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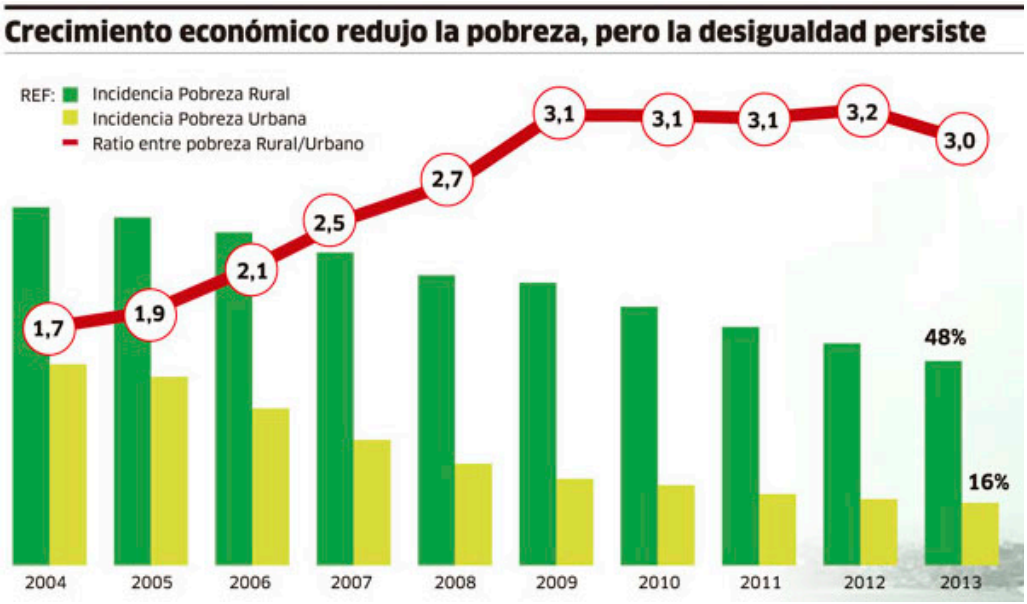
Figure 1.3: "Economic growth reduces poverty, but the inequality persists"



Retrieved from La República (2014)

The government's response to these protests has varied, but has generally been aligned with mining interests. Regardless of their positions on mining while campaigning, government officials tend to favor mining interests once in office when they realize how crucial the industry is for the Peruvian economy. The past four governments, led by Alberto Fujimori, Alejandro Toledo, Alan García, and Ollanta Humala, have been very pro mining, despite ideological differences (C. Sanborn, personal communication, February 3, 2015). Under the governance of President García, protesters and their supporters have been criminalized and many protests escalated to violence (Slack, 2009, pp. 2-6). The former President García has said those opposed to mining are anti-development and against the Peruvian nation (Lucero, 2013, pp. 97-98).

A Rise in Informal and Illegal Mining

Rising levels of illegal and informal mining present a new frontier for many non-governmental organizations (NGOs). Medium- and large-scale mining companies at the center of social conflict are comparatively easier to pressure due to their subjugation to legal frameworks and centralized structure. On the other hand, the de-centralized and unregulated nature of illegal and informal mining necessitates new research and creative approaches to conflict resolution.

While the central government's interests usually align with those of mining corporations, tensions arise between the state and those engaged in informal and illegal mining due to uncollected taxes and environmental degradation. As we will demonstrate, the central government's attempts to formalize these miners have proven largely unsuccessful, and instead have exacerbated social conflict surrounding informal and illegal mining.

Illegal and small-scale mining supports hundreds and thousands of families in Peru; however, the individuals who participate at the initial stages of gold extraction face grim labor and living conditions (Kossuth & Reiser, 2012, p. 2). This paradox illustrates the economic opportunity presented by illegal mining and points to insufficient economic alternatives.

Relevant Legislation

While legal protections of indigenous, native, and *campesino* community property rights do exist, many feel legislative protections are insufficient, and enforcement has been inconsistent at best and nonexistent at worst. Below is a list of current legislation affecting communities in mining regions:

International Labor Organization Convention No. 169: According to this international convention, ratified by Peru in 1994, indigenous peoples must be "consulted on issues that affect them" and "requires that these peoples are able to engage in free, prior and informed participation in policy and development processes that affect them" (International Labour Organization, n.d.). This includes the right to "decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to

exercise control over their economic, social and cultural development" (International Labour Organization, n.d.).

Decree Law 22175: In 1978, the state confirmed the legal existence and landed status of native communities with the enactment of Decree Law No. 22175. Within the framework of the law, native communities are autonomous in their organization, use of the land, communal work, economic structure and administration. Between 1984 and 1994, many native communities became recognized in the region and began the difficult process of negotiating agreements with miners. In Madre de Dios, there are 26 native communities (23 are titled), consisting of 719 families spread over 376,931 ha (Baldovino, 2013).

- Article 8 of D.L. Nº 22175 defines a native community as an "organization that is rooted in tribal groups from the jungle and high forest and consists of sets of families linked by the following main elements: language, dialect, cultural characteristics, land tenure, and common permanent use of the same territory with nucleated or dispersed settlement" (Baldovino, 2013).
- Article 10 of D.L. Nº 22175 affirms the state's role in guaranteeing the integrity of the lands of native communities, changing the land registry and granting them official title (Baldovino, 2013).

Land Law N° 26505: Passed in 1995, Land Law N° 26505 "explicitly reduces the ownership power of civilian landowners by only granting them rights to the surface of their land, while the mineral rights to everything underneath belongs to the central government" (Ponce & McClintock, 2014, p. 120). Under this law, a mining corporation can own the right to use the subsoil, but not the surface land. This law essentially allows for land acquisition in mining activities and represents the right to exploit the minerals in the subsoil, compelling farmers to sell through easement (Chavez, 2009, p. 20).

Environmental Regulation: The nation's legislative history regarding environmental protection is young, and the Environmental and Natural Resources Code, Peru's first environmental framework, was written in 1990. Further legislation has subsequently been enacted, such as the first Regulation for Environmental Protection in Mining Activity and laws requiring the creation of Environmental Impact Assessments (EIAs) and the Environmental Adjustment Program (PAMA). However, Peru's regulatory standards on the environment are still weak because of how recently they were created (Lazarte, 2003, p. 6).

Projections for Future

- **GDP growth rate to temporarily decrease:** The World Bank estimated a 2.4% increase in Peru's GDP in 2014, down from a 6.5% increase in 2011. However, it is forecasted to rebound in coming years (4.8% in 2015) (The World Bank, 2015).

- **Mining investment to remain stable:** The Deputy Minister of Mines predicts mining investments in 2015 will be similar to those in 2014, around 8.5 billion USD (15% of GDP) (Andina, 2015).

- **Government may decrease mining regulations:** Recent mineral price declines have increased volatility within Peru's mining sector, causing investment-consulting firms to speculate Peru's government may again move towards decreasing mining regulations to attract investment (EY, 2014; C. Sanborn, personal communication, February 3, 2015).

- **Peru will need to build infrastructure:** Peruvian mining sector will necessitate more infrastructural capacity to support current and/or increasing growth rates (KPMG International, 2013, p. 14).

Case Selection: Tambogrande, Tintaya, and Madre de Dios

Oxfam America in Peru was directly and indirectly involved to various degrees within each of our selected cases. However, we feel that issues raised in all conflicts are relevant to Oxfam America's mission within the realm of extractive industries in Peru. By selecting cases with diverse levels of participation, we hope to gain insight on Oxfam America's different strategies of addressing conflicts related to extractive industries, as well as to understand where Oxfam America might be able to increase its impact.

Tambogrande: The Tambogrande case is relatively unique in that *tambograndinos* and their allies were successful in driving out Manhattan Minerals, a Canadian mining company. Although frequently touted as an "emblematic" success, recent mine development plans in a neighboring region, as well as a growing small-scale and artisanal mining sector, point to flaws in the conflict's resolution and demand reinspection with a more critical eye.

Tintaya: In the Espinar Province, owners of the Tintaya mine, communities, NGOs, international nongovernmental organizations (INGOs), and various levels of government were able to resolve many community grievances through round table discussion. As such, the ongoing negotiations in Tintaya provide insight on the conditions contributing to a productive dialogue table process, specifically emphasizing companies' Corporate Social Responsibility (CSR) culture and their willingness and ability to work with surrounding communities.

Madre de Dios: Informal mining in Madre de Dios remains largely unaddressed by both NGOs and the Peruvian government, yet still produces social conflict. Some of Oxfam America's Peruvian NGO partners, like CooperAcción, have been more directly involved. We hope to provide preliminary recommendations for how Oxfam America might begin to engage with issues related to informal and illegal mining.

Understanding Oxfam America

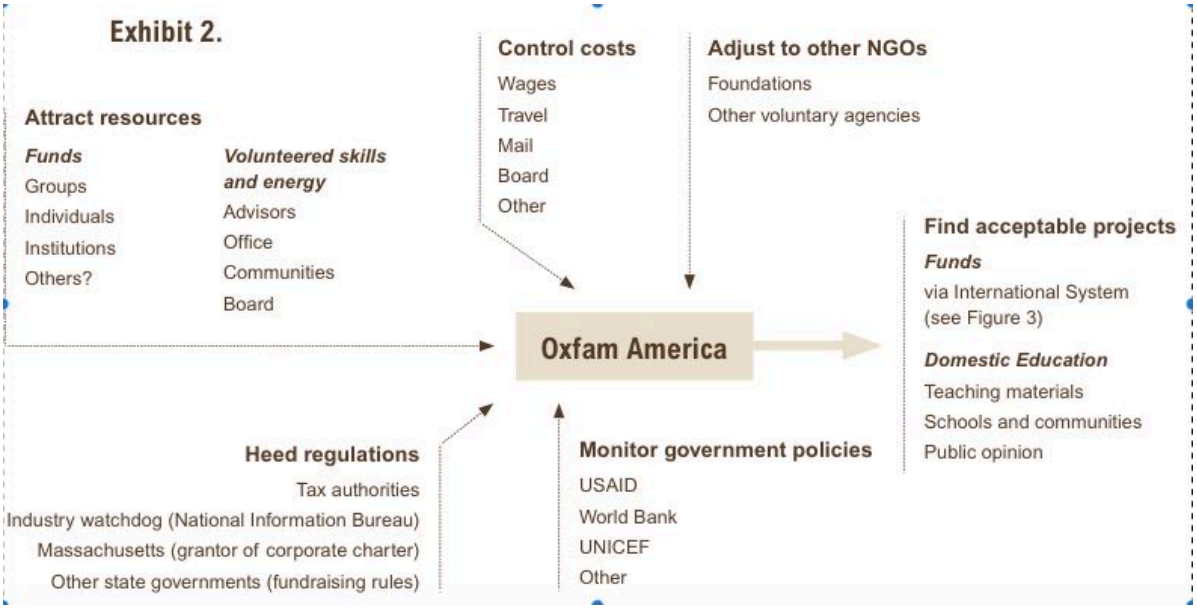
Oxfam America is a person-centered NGO operating through awareness and "rights based aims," which includes "the rights to a sustainable livelihood, the right to basic social services, the rights to life and security, the right to be heard and the right to an identity" (Oxfam International, 2013). Oxfam America, acting as an international NGO, works on a broad scale of poverty-reducing measures and projects throughout numerous countries worldwide. The particular project this paper addresses is the Extractive Industries sector of Oxfam America's organization. Through a Rights Based approach, Oxfam America serves as an intermediary, researching the effects (both internally and peripherally) of extractive industries on the community, environment and governmental actors (Ross, 2001).

Oxfam America's Extractive Industries campaigns and efforts in Peru have balanced the relationships between state actors, regional governments, community partners, and environmental standards. What Oxfam has highlighted in their reports is the importance of accountability and transparency in all aspects of extraction (Ross, 2001). Transparency between negotiating partners is key in mitigating outcomes within the organization of Oxfam America. As mentioned in Oxfam America's Peruvian website, the organization's recommendations are directed towards companies and their actions in various geographic regions around Peru. Their varying recommendations represent the diverse discourse of poverty alleviation programs that Oxfam sponsors and interacts with through demonstrating, advocating, monitoring, and working with affected communities and the ongoing mining projects (Greenspan, 2012, pp.5-8).

A Brief History of Oxfam

Oxfam America emerged as a branch of Oxfam International in 1970 as more American staff became involved in the organization and the US-based office. Oxfam America's slogan was "Change not Charity," meaning they focused on change through political discourse and action to alleviate poverty. Oxfam America is one of 17 branches of Oxfam International, which took an early stance to distance their action from the US government by not accepting loans or assistance in order to demonstrate their collaboration in partner sites and countries. From the beginning, Oxfam America was a small NGO composed of various members including a Board of Directors aimed at poverty alleviation on a case-by-case basis. The structure of Oxfam America as an intermediary is exemplified below in a graphic, which highlights the major influences and structures inherent in Oxfam America's campaigns. Each arrow pointing towards Oxfam America represents the factors facilitating Oxfam America's particular projects, while the arrow coming out of Oxfam America represents how Oxfam America directs its participation in projects (Roper, 2010).

Figure 1.4: Oxfam Operations



Retrieved from Roper (2010, p. 31)

Through fluctuations and changes in the organization's size and mission, Oxfam America came to be a rights-based organization focused on rights advocacy as a mode of change. Oxfam America has continued to pursue poverty alleviation through educational campaigns, humanitarian aid, financial assistance and legal representation. The current composition of Oxfam's Peruvian efforts towards extractive industries includes:

- Two U.S. offices that operate at the global (between nations) and national (within U.S. Scope) level (Washington D.C. and Boston).
- In-country office in Lima, Peru, which operates at the regional and local level.

The Peruvian office has two full-time staff members (country officers) in charge of grant management, local partners and programing. The Peruvian officers coordinate the majority of the on-the-grounds efforts of Oxfam America (E. Greenspan, personal communication, February 6, 2015).

Partnerships and Campaigns with Extractive Industries

Oxfam America has continued within the realm of rights-based advocacy through their various campaign efforts (Oxfam International, 2014a). Campaigns represent Oxfam America's activism for the voice of communities affected by mining and extraction.

Displayed to the right are the Oxfam America campaigns related to extractive industries .

Campaigns aim to link communities to larger spheres of influence to promote the efforts of change. Overall, campaigns represent around 20% Oxfam America's overall funding, while 17% of Oxfam America's overall funding is directed to fund projects in Latin America (Oxfam International, 2014a). These campaigns work to bring awareness to current issues surrounding communities affected by those industries through "Free and Prior Consent (FPIC)" (Roper, 2010). Oxfam America acts as an intermediary representing communities on the local level as well as lobbying on behalf of communities on the international level.

On a more localized scale, the South America Regional Office (SAMRO) has organized workshops in communities affected by extractive industries following the creation of the Free Trade Area for the Americas (FTAA). This opened up trade and partnerships in many communities, particularly affecting indigenous communities unfamiliar to such industries (Roper, 2010). Additionally, Oxfam America has become involved in various local efforts (highlighted in "Oxfam Partnerships") through partnerships with indigenous rights groups and community NGOs (Oxfam International, 2014a).

Natural Resources and Rights Campaigns

- Right to Know, Right to Decide Allowing for access to information on localized agreements between community and extractive industry companies to larger audiences
- Grow Aimed at understanding the root causes of hunger through social justice (associated with agricultural lands where extraction takes place)
- Transparency Campaign Aimed at lobbying for clear information on visibility of money to and from governments (ie. Peruvian) related to mining and extractive industries

Oxfam Partnerships

- FEDEPAZ(Fundacion Ecumenica para el Desarrollo y la Paz)
- CooperAcción
- SER (Asociacion Servicios Educativos Rurales)
- DAR (Derecho Ambiente y Recursos Naturales)
- Intermon
- GPC (Grupo Propuesta Ciudana, desco)
- DPLF (Fundación para el Debido Proceso)

Oxfam America strengthens their relationships in affected communities through "civil society partners" (Greenspan, personal communication, February 6, 2015) like CooperAcción for increased understanding of existing conditions. Collaborations with CooperAcción as a local partner interacting with extractive industries and subsequent communities has lead to framework platforms such as the *Mesa de Diálogo* (Dialogue table). Framework platforms allow community members, government officials, and corporations to voice opinions on the presence of extractive industries in a coordinated effort for change. *Dialogos* have become common in Peru and serve as a community organizing effort to voice concerns. *Convenio Marco* (specific dialogue table) as a similar platform "proposes a strategic alliance with these entities, aiming to produce mutual benefits in sustainable development... The Convenio Marco is the framework for sustainable development agreed upon by Xstrata, the Municipality of Espinar, and the neighboring communities" (Larkins, 2011, p. 12-14). These partnerships and platforms represent Oxfam's collaboration from a national level (oversight of grant management, etc.) down to the local level in which country officers substantiate the local programming through aligning with organizations such as CooperAcción.

Challenges for INGOs

Poverty alleviation involves the understanding of development not as a singular operation, but rather as a multi-faceted operation. Such an understanding has informed the "New Humanitarianism," which highlights the politicized environment in which development work takes place. For instance, the collaboration between an INGO such as Oxfam America and particular local or state-run organization is itself a decision in which careful analysis of alliances directly speak to the intent and identity of the organization. The role of INGOs has been analyzed by various authors, asking questions such as, "What is the role of the state? What are the consequences for local governance? What is the sustainability factor of this type of giving?...How can equitable development be defined…" (Wagner, 2006). Such questions relate to the role of INGO's as an agent of development and how their interaction is one of interconnection in a complex society.

Oxfam America's Role

However, moving beyond the generalized critique of INGOs begs the question of particular opinions on Oxfam America's involvement. Oxfam America's Peru program with indigenous communities has become a central part of Oxfam America's Extractive Industries campaign (Greenspan, 2012). Oxfam America's campaigns to support indigenous rights has been critiqued as "Ethnodevelopment," in which the agency and voice of those indigenous rights advocacy programs was becoming questioned (Lucero, 2013). The "authenticating" or "legitimizing" of communities or indigenous groups has become a point of contention within the realm of Oxfam America's programs. This issue has a long-standing history in Peru, given the politicized environment in which indigeneity is not a generalizable group but instead a fragmented structure defined by regionalism.

Practical Challenges

An alternative critique has surfaced surrounding the voice of Oxfam and their regional offices as a united organization. The Cerro Quilish case in Peru highlighted the intra-organizational conflict between Oxfam America and Oxfam Great Britain. During this time, community groups failed to know the intentions of Oxfam as a united organization, therefore clouding Oxfam Great Britain and Oxfam America's effectiveness (Roper, 2010, pp.408-411). Both organizations were working directly with indigenous rights and representation organizations, however working on separate projects. Communicative failures such as this bring to light the complex nature of advocacy work. Additionally, after President Garcia pledged his commitment to extractive industries in 2012, Oxfam America became the center of Peruvian state attacks for its politicized involvement with such industries. Garcia came out saying anyone opposed to extractive industries is against the state of Peru, which places the involvement of Oxfam in dangerous crosshairs (Lucero, 2013, p. 26).

Overall, the programs Oxfam America has pioneered in response to extractive industries have surrounded advocacy for communities affected by mining through legal representation and documentation of transparency struggles surrounding these issues (Oxfam International, 2013). Oxfam America operates through partner organizations as well as through publications of detailed research and reports documenting cases ranging from environmental effects of mining to dialogue table briefs. The text boxes below highlight two regional projects funded (Tambogrande, Tintaya) and one overall project table related to general projects headed in the past and research with regard to extractive industries (note Madre de Dios is excluded since Oxfam America has no direct involvement currently).

Tambogrande	**Tintaya**
-Indigenous rights awareness (FPIC) through publications *From Controversy to Consensus* -Educational campaigns -Documentation of mining effects *An Alternative Look at a Proposed Mine in Tambogrande, Peru* environmental study -Organization of workshops for communities on living within mining communities	-*Mesa de Dialogo* and publication - Partnership with CooperAccíon and *Servicios Educativos Rurale*s (SER) and publication of *Oxfam América: Comunicado Sobre Espinar* -Documents highlighting research on communities *Mesa de Diálogo en la Provincia de Espinar Cusco* 2012-2014, *Minería, Desarrollo Y Gestión Municipal Espinar*, *Minas de Glencore Xstrata en Provincia de Espinar*

General: Advocacy and Education

-*Extractive Sectors and the Poor:* **Research** on general mining conflicts and poverty

- *Mining Conflicts in Peru: Condition Critical:* **Brief** detailing past and current mining issues

-*Oxfam Annual Report 2013-2014:* **Report** on Oxfam America's year of research and involvement in projects

- *Change not Charity:* **Brief** on Oxfam America's 40 years as an organization including shifting involvement of Oxfam America with indigenous rights as well as extractive industries

-*Protect Community Rights and Resources Fact Sheet:* **Fact Sheet/Research** on mining and extraction

-*Unblocking Bottlenecks to Effective Resource Revenue Management in Peru:* **Research** pertaining to Canon Minero program in Peru and shortcoming of Government transparency

-*Review of Major Mining, Oil and Gas Company Policies on Free Prior and Informed Consent and Social License:* **Brief** pertaining to FPIC program and Oxfam America's involvement and Research on effects

- *Community-Based human rights assessments: Practical Lessons:* **Research** of an education program piloted in 6 countries including Peru

-*Corporate Social Responsibility in Mining Sector in Peru:* **Research** on the role of government and corporation in extractive industries

Tambogrande Conflict

Introduction

> Tambogrande is an emblematic case of a local community standing up for the right to choose its own development model. (Friends of the Earth International, 2002)

In 2002, Tambogrande became a world famous case of successful community resistance to transnational mining corporations. The ability of a small, rural farming community to run a multinational corporation out of town was an unprecedented feat. Indeed, the public referendum that the tambograndinos implemented to quantify community unity against mining operations inspired similar referenda in mining communities throughout the world. Yet, in 2014, community members from the same San Lorenzo Valley where that struggle took place found themselves once again opposing a large mining corporation. This chapter revisits the case of Tambogrande and asks if the resurgence of conflict around extraction necessitates a rethinking of this "emblematic case."

1949-1959: World Bank and Peru's central government direct an irrigation project in San Lorenzo Valley

May 6, 1999: President Fujimori signs a presidential decree allowing Manhattan Minerals to acquire the Tambogrande concession
1999: Manhattan begins exploration in Tambogrande

May 2000: Over 10,000 people march to Piura, the state capital, to protest the mining project and hold a two-day general strike
July 2000: Manhattan Minerals' president meets with TDF leaders and signs a document promising to "respect the decisions of the population of Tambogrande."

Feb. 27-28, 2001: A general strike against Manhattan turns violent and the company's compound is destroyed. Manhattan moves its headquarters to Piura, 60 km from Tambogrande
March 31, 2001: Godofredo García, community leader, is assassinated

Jan. 8, 2002: The TDF withdraws from formal dialogue with the Peruvian government
June 2, 2002: Tambogrande holds a community referendum; 98% of voters oppose the mine

Nov. 5-7, 2003: Tambogrande holds a general strike against government hearings on the mine and the hearings are canceled
Dec. 10, 2003: The Peruvian government takes away Manhattan's concession in Tambogrande for contract violations

April 2014-Present: Mining company Minas Buenaventura secures concessions in nearby town of Apostol Juan Bautista de Locuto, causing conflict

Importance

When reflecting on the outcomes of the Tambogrande case today, its "success" is much less clear than it once appeared to be. While the tambograndinos were, indeed, successful in their objective of driving out the mining corporation, Manhattan Minerals, challenges of persistent

economic inequality, heightened rates of informal mining, and a lack of infrastructure in the area call the notion of success into question.

The narrative of successful resistance makes it tempting to think there is no longer a role for NGOs, like Oxfam America, in this region. On the contrary, this chapter suggests that work remains to be done in the San Lorenzo Valley to address the multidimensionality of marginalization and the recurring conflicts over new extractive projects.

The Tambogrande of present day is not as unified as it once was. Signs of growing openness toward mining are beginning to show (A. Fulmer, personal communication, February 3, 2015). The election of a non anti-mining mayor is a sign of this change. In fact, small-scale informal mining are becoming increasingly prevalent in the region—especially in areas with less agricultural production—and is much more difficult to tackle than large-scale mining (M. Scurrah, personal communication, February 10, 2015). Most recently, the exploratory phase has begun for a mine in Apostol Juan Bautista de Locuto, a town near Tambogrande (Servindi, 2014).

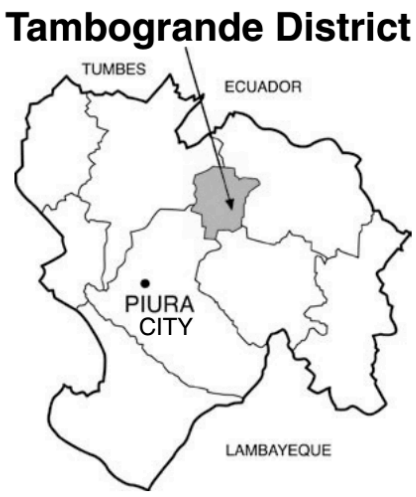
The case study of Tambogrande enables retrospective analysis, allowing for a greater understanding of how mining conflicts fit into greater socioeconomic contexts. Due to ongoing issues of informal mining in the area, it is clear that the problems of Tambogrande were not "solved" upon the exit of Manhattan Minerals. Reevaluating the case of Tambogrande can help Oxfam America understand the successes and challenges of the organization's engagement in the region more than ten years ago, which can help shape how it approaches current and future cases of conflict surrounding extractive industries.

Context

> Few other mining projects in the sierra are situated as close to human habitation or areas of agricultural wealth as Tambo Grande. Traditionally, most mines have been located in high Andes, where agriculture is of low productivity. These projects have affected poor peasants who lack the political clout of the Tambo Grande Defense Front. (Crabtree, 2002)

Tambogrande, located in the San Lorenzo Valley in the region of Piura, is a largely agricultural area and one of Peru's top fruit-producing districts, specializing in the production of mangoes and limes (Guarango Cine y Video, 2004a). The town of Tambogrande alone boasted a contribution of 147.5

Figure 2.1: Map of Piura



Retrieved from Guarango Cine y Video (2004b)

million USD in mango and lime production to the national economy in 2001 (Moran, 2001). Thus, water is perhaps the most precious commodity in Tambogrande, as access to irrigation systems can determine one's agricultural profits.

Historically an arid desert landscape, much of the land in the valley was irrigated and tilled by hand until it became an oasis fit for fruit production (Cabellos & Boyd, 2006). In 1959, the Peruvian government and the World Bank funded a water diversion and irrigation program that increased access to clean water. This program directly benefited many of the residents of Tambogrande, the majority of whom were employed as farmers during this time (Guarango Cine y Video, 2004a; Moran, 2001). However, some who live on the south side of the Piura River do not benefit from the irrigation system and thus do not benefit from as rich of harvests—making access to water all the more important for them (M. Scurrah, personal communication, February 10, 2015).

Conflicts and Tensions

> The planned open-cast pit would be 1 km long, 750 meters wide, and 300 meters deep. It would cover an area of 75 hectares, and involve the demolition of 1600 homes, and displacement of 8000 people. The building of a refinery would take up another 15 hectares. The project would divert the course of the Piura River, which runs through the town. (Crabtree, 2002)

With the arrival of Manhattan Minerals in Tambogrande in 1999, inhabitants of the San Lorenzo Valley feared the presence of extractive industry in their town would cause conflict between the community and the company to erupt based on the citizens' desire to protect their livelihoods as farmers. Word of mining conflicts throughout Peru and Latin American as a whole had made their way to the town, causing fear of water contamination, forced migration, a disrupted way of life, and human rights violations (Cabellos & Boyd, 2006). Potential contamination of water sources would be detrimental to agriculture, and forced migration would push residents from their homes and farmlands. Manhattan Minerals' chances of obtaining community support was doubtful at best due to the reputation of mining practices in other communities, as well as the community's existing distrust of the Peruvian government and multinational corporations (Muradian, Martinez-Alier, & Correa, 2003).

However, gold existed and continues to exist under the town of Tambogrande—a fact that has led to other concerns such as the rising prevalence of informal mining. Many residents living on the south side of the Piura River do not have dependable livelihoods and have gravitated toward alternative, more profitable means of employment, such as informal mining (M. Scurrah, personal communication, February 10, 2015). These marginalized groups do not benefit from the infrastructure of the irrigation system, as mentioned above, and have faced economic hardship and inequality due to restricted access to water.

Stakeholders

Community

The citizens of Tambogrande appeared remarkably united in their resolve to expel Manhattan Minerals, with 98% of voters in a community referendum opposed to the construction of the mine in 2002. However, it is too simple to aggregate the community into a single category and even more simplistic to assume that those allowed to vote on the referendum were the only people who would be affected by the mine (A. Fulmer, personal communication, February 3, 2015; Friends of the Earth International, 2002). These communities have faced not only political exclusion, but economic exclusion as well.

Campesino or Indigenous?

As is the case with many Peruvian locations, the question of indigeneity is complex in the area of Tambogrande, and little information about the demographics of the area was found in the research of this report. Nevertheless, much is at stake when using the terms "campesino" and "indíjena," due to their status as legal identifiers. Though indigenous politics will not be highlighted in this chapter, it is important to keep in mind that lines demarcating identity, especially self-identification, are as relevant as they are complex to this and all cases of mining conflict in Peru.

Tambogrande Conflict and the Media

Along with NGOs, the media was instrumental in helping the Tambogrande Defense Front (TDF) gain legitimacy. Many media outlets helped spread the Tambogrande community's grievances through film and literature. For example, activist film group Guarango produced an award-winning documentary about the conflict through the eyes of the community, garnering international attention. This international spotlight on the small Peruvian town helped pressure the central government to listen to the outcries coming from Tambogrande.

Farming Community

In the early 2000s, 75% of the inhabitants of the San Lorenzo Valley were employed in agriculture. Though still in poverty, most of those living within the town of Tambogrande maintained modest but agreeable lives as farmers, benefiting from the irrigation projects from 50 years before (Guarango Cine y Video, 2004a). The farmers mobilized and garnered media attention, including the creation of the film *Tambogrande: Mangos, Murder, and Mining*, by the activist group, Guarango (see text box "Tambogrande Conflict and the Media" above). Most published research and literature regarding the conflicts has focused exclusively on this sector of the community. Consequently, the viewpoint distributed throughout NGOs and the media belonged to the farmers and reflected their anti-Manhattan Minerals and pro-self determination viewpoint.

Excluded Community Members

As referenced above, those living on the south side of the river live in poorer conditions than those residing within the main part of town. This group, comprised of higher rates of indigenous individuals than the town, was left out of the referendum (A. Fulmer, personal communication, February 3, 2015). This group's lack of inclusion in the political processes of the conflict and economic inequality suggests that they are a marginalized part of the population, and should be taken into special consideration. This marginalization is reflected in the issues of informal mining that persist today.

Other Community Actors

Tambograndinos were led by the Tambogrande Defense Front (TDF) and assisted by the local Catholic Church. The TDF, a grassroots community organization led by its president, Francisco Ojeda, mobilized and organized community members around campaigns of cultural solidarity. The Church, on the local and national level, backed the efforts of the TDF and created network ties between the community and NGOs.

NGOs

The main role of NGOs during the Tambogrande conflicts was to support the TDF and help legitimize the protesters' cause. NGOs such as Coordinadora Nacional de Comunidades Afectadas por la Minería (CONACAMI) partnered with TDF, guiding attempts of negotiation with Manhattan Minerals and the government. At the same time, international NGOs (INGOs) including Oxfam America and Friends of the Earth International worked to attract media attention and provide resources to the townspeople during times of protest.

Before the entry of NGOs, the community did not participate in political processes that were considered legitimate, and did not articulate their struggles to conform to discourses of democratization or national identity. Hence, it was relatively easy for the industry to discredit the local opposition as 'irrational' and 'violent' and to disqualify their concerns regarding the project. The NGOs changed this situation by transforming their claims in ways that attracted political legitimacy. (Haarstad & Fløysand, 2007, p. 301)

Manhattan Minerals

A mid-sized corporation from Vancouver, Canada with no other projects in Peru, Manhattan Minerals needed to build the open-pit mine in Tambogrande to keep itself afloat (Cabellos & Boyd, 2006). Manhattan Minerals did not appear to prioritize CSR, and consequently, negotiating with townspeople or providing socially responsible strategies did not occur. Much of this may be due to the company's lack of resources and experience as a relatively small corporation. In fact, it is a common strategy for small companies such as Manhattan to acquire high-risk concessions, often with the intention of selling the mine to a developer for profit once profitable mineral deposits have been identified. This strategy often lacks the need to engage with communities, due to the

company's short time frame of involvement in the area (M. Scurrah, personal communication, February 10, 2015).

Central Government

The central government held a 25% stake in the profits from Manhattan Minerals' project, and continuously offered support to the corporation via the extension of deadlines and other political maneuverings (Cabellos & Boyd, 2006). By supporting Manhattan Minerals despite community opposition, the central government revealed that its interests ultimately prioritized national economic development.

Conflicts and Tensions

Conflicts arose in Tambogrande regarding land rights and forced displacement, environmental consequences, health concerns, and the sustainability of farmers' livelihoods. The main stakeholders initially included local residents, Manhattan Minerals, and the central government, but eventually expanded to involve the local government, local and national NGOs, and INGOs and activists. Although the company was one of more than ten mining companies with concessions in and around Tambogrande, Manhattan Minerals' project had the largest implications for the lives of the local inhabitants and became the target of the opposition.

Land Rights

Manhattan Minerals received their mining concessions to Tambogrande in 1999 without prior consultation from the town residents. Even though the state is signatory to ILO 169, Peruvian legislation on land rights conflicts with the international law and usually takes priority in this case (Crowther & Capaldi, 2012, p. 345). National sub-soil laws give Peruvians ownership of surface land but not to the mineral rights below, exemplifying a large disconnect between international and national laws that reduces the ability of citizens to protect their lands. A layer of gold and silver followed by a layer of copper and zinc lay buried beneath roads and peoples' houses, where the company began conducting a feasibility study in 2001. The Vancouver-based company estimated that the deposit's net present value at the time was 118.3 million USD over a 12-year mine life, and that in all, the reserves could generate up to 1 billion USD in profits (Muradian et al., 2003, p. 779; Wilson, 2002, p. 20). They planned to invest 350 million USD in the operation, which they would then sustain for at least 20-30 years (Haarstad & Fløysand, 2007, p. 296).

This is an emblematic case of resistance characterized by an existing income source for the locals threatened by the introduction of a new, unwelcome extractive industry. The conflict in Tambogrande was the first direct confrontation between agricultural and mining development in Peru, and NGOs like Oxfam America treated it as such (De Echave, 2005, p. 3). It is important to keep in mind that although it was handled by NGOs as a straightforward conflict between agricultural and mining interests, actors at the time were not taking into account those who were excluded from the referendum. It was assumed that all of those living in and around Tambogrande mobilized behind the rhetoric of agrarian land protection, when in reality some of the other locals did not have the same stakes in agricultural production.

Forced Displacement

One of the main sources of tension was the mandatory forced displacement and relocation that would take place according to the proposed plan. Because one mining site would open directly in the middle of the town, the intention of Manhattan Minerals was to convince the inhabitants to sell their

homes to the company then build replacement homes for those displaced (Wilson, 2002, p. 20). It appears the strategy of the company, as with many other Canadian small- to medium-size mining enterprises, was to undertake exploration and commencement of new projects and then sell their mine to a larger company (M. Scurrah, personal communication, February 10, 2015).

The company had weak foundations from the beginning, being a junior enterprise of small magnitude with a contract requiring them to raise capital of 100 million USD and an operating capacity of 10 tons per day. They had difficulty complying with these obligations, as well as establishing a good relationship with the townspeople and providing them with complete information about their plans (De Echave, 2005, p. 5). The components that they did reveal, however, aroused overwhelming indignation from the town residents. The plan involved replacing one-third of the town, constructing several open pit excavations, and diverting a large tributary of the Piura River. While the Manhattan Minerals website claimed the project would only displace 1,600 families, Oxfam America estimated the number to be 8,000 (Moran, 2001, p. 3). The bottom line for Tambogrande residents was that they would not accept the construction of a mine in the town, and they were unwilling to compromise on this matter.

Table 2.1: A Comparison of the Opposition and the Industry Narratives

The table below compares the mining industry's arguments supporting the mine's construction and those of the opposition, consisting of the community and NGO's, who opposed the mine.

Opposition narrative	Industry narrative
Tambogrande is a successful agricultural area	Tambogrande is poor and underdeveloped
Tambogrande agricultural products are worth US$40 million a year	Tambogrande is in need of investment; it has economically deteriorated
Tambogrande history begins with the irrigation project that enabled agriculture	Tambogrande history is defined by the mineral deposit under the town
Democratic practice is the ability of the community to directly decide against a mining project in their community	Democratic practice is articulated in legal processes of the state, such as the EIA
Quality-of-life issues are more important than economics; social reality more complex than economic rationality	Viability of the project is a matter of basic economics; social reality understandable through economic rationality
Development defined as self-determination and ecologically sustainable living	Development defined as increase in economic indicators

Retrieved from Haarstad & Fløysand (2007)

Sustainable Livelihoods

As illustrated in Table 2.1, the mining industry and the central government legitimized the project as a necessary means of development for the farmers who were still in poverty. Both the state and Manhattan claimed that the project would open up Tambogrande for investments in infrastructure and public services as well as new jobs for locals. The company guaranteed 600 direct jobs for town

residents and about 2,400 to 3,000 spinoff jobs (Muradian et al., 2003, p. 779). Residents were not convinced, however, and argued there was no need for employment or new housing in the San Lorenzo Valley. They claimed the right to decide their own course of development, as well as their own choice of livelihoods—even if the mining industry were to bring new jobs to the area and even if those displaced from farmlands could all be employed in the mining industry. The community argued that they should have the freedom of self-determination, and they were unwilling to switch to mining work just because the central government wanted to establish a new framework for economic development. Farmers opposed the project not only because of an aversion to changing their livelihoods, but because even for those who would be allowed to keep their land, coexistence would not be possible between the mine and the farmlands (Moran, 2001, p. 15). As Dr. Moran (2001) discussed in his report, there are virtually no cases in the world where mining activities take place next to farmlands because of its effect on soil fertility and water quality.

As noted before, the platform of the anti-mining activists rested on the agrarian concerns of residents who benefited from Piura's agricultural export sector, but there were others who did not join the movement and who may not have had the same concerns over their environment and livelihoods. The marginalized groups south of the Piura River who lacked the extensive irrigation systems that were able to transform the rest of the San Lorenzo valley into fertile farmlands had less incentive to oppose the mine, as they were not as securely employed in farming work. This demographic contributed to the changing sentiment towards mining after Manhattan Minerals was successfully pushed out of Tambogrande, and it was largely this group's lack of sustainable employment that led to the increased informal mining activity in recent years.

Environmental Concerns

In the time leading up to the final submission of the company's EIA and approval process, the state continued to show its active support for the mine and failed to provide residents with access to complete environmental information. Tambograndinos were concerned about the potential environmental hazards, and more concerning was Manhattan Minerals' failure to produce public environmental studies; by 2000, they had only released one preliminary report (Moran, 2001, p. 6). Though the baseline study created by Manhattan Minerals was criticized as inadequate and lacking data, government officials continually asserted that the mine would produce no negative impacts on the environment (Moran, 2001, p. 4). Additionally, in international mining operations, the technical and environmental information on proposed projects are paid for and prepared by representatives of the mining companies, because chemical monitoring and analysis are too costly for community members to fund (Moran, 2001, p. 3). This lack of transparency and the government's withholding of information was a main cause for distrust between the local populations and the mining companies and state officials. The community claimed that even though EIAs are required by law, no single EIA has been rejected in the history of Peru, indicating that the required document represents only a bureaucratic formality. The table below illustrates the level of trust that different stakeholders had in experts and authorities during the planning of the project, as well as their positions on the project itself.

Table 2.2: Stakeholders' Positions on Different Aspects of the Mining Conflict

Stakeholder	Position on the project	Preferred mechanism for decision making	Preferred scale for the referendum	Compatibility between agriculture and mining	Trust in government for assessing the project	Probability of ecological disaster	Trust in Manhattan's experts	Trust in the firm doing the EIA
Piura Life and Agriculture	Against	Referendum	District	Very low	Low	Very high	Low	Low
Chamber of Commerce	In favor	EIA, negotiation	—	NEI	High	NEI	Moderate	High
Front of Defense	Against	Referendum	San Lorenzo Valley	Very low	Low	High	Low	Low
Municipality Tambogrande	NEI[a]	Referendum	District	NEI	Low	NEI	Low	Low
Aider	NEI	EIA	—	NEI	Don't know	NEI	Moderate	Don't know
Centro Ideas	Against	Referendum, negotiation	District	Very low	Low	High	Low	Low
Manhattan	In favor	EIA, negotiation, referendum	Department	Very high	High	Very low	Very high	Very high
Pidecafe	Against	Referendum	San Lorenzo Valley, district	Very low	Low	Very high	Low	Low
Cipca	NEI	Referendum	San Lorenzo Valley	NEI	Low	High	Low	Low
Diaconia	Against	Referendum	District	Very low	Low	High	Low	Low

[a]NEI, not enough information.

Retrieved from Muradian et al. (2003)

Water Use

Water is a precious resource for those living in and around Tambogrande, and the protesters expressed concerns about the quantities of water used by mine operations. However, Manhattan Minerals failed to study or disclose required information on their projected effects on water quantity and quality. To bring these issues to light, Oxfam America funded the completion of baseline studies and environmental assessments to provide independent data to locals and compare with the only environmental report released by Manhattan in 2000. Environmental baseline studies are used to estimate how much water is available to use, compare pre-mining quality with future quality, and to understand the causes for future changes as well as what group was responsible.

The hydrologist Robert Moran (2001), who was contracted by Oxfam America to complete an independent baseline assessment, criticized the Manhattan report, saying its results were inconclusive due to fundamental inadequacies with their work (p. v). Manhattan Minerals presented no details on drilling methods, fluids employed, or well development techniques used. Though the baseline report contained little environmental assessment data related to water, about 40 pages in it were dedicated to describing Peruvian environmental legislation, agencies, and guidelines (Moran, 2001, pp. 7-9). Moran describes how the mining process would release acidic, contaminated waters called leachates into local surface water and groundwater, as well as the soil (2001, p. 6). The farmers had every reason to be concerned about the availability of water if the mine were to be built, since the mining process uses up massive quantities of the already scarce water resources in the region, and produces large amounts of wastewater. Additionally, it would have potentially depleted existing river flows and

lowered groundwater levels, further proving that the open-pit mine would have increased local water competition for all residents.

Contamination

In addition to water depletion and pollution, solid waste contamination posed another threat to the fertility of the region's farmlands and to the health of the people themselves. The modern mining process is both chemical and physical, involving the extraction of metals from rock by using toxic chemicals like sodium cyanide, kerosene, sulfur dioxide, and inorganic and organic acids, which are disposed of in tailings. Tremendous amounts of solid waste are produced, and mining industry waste products contain the largest source of toxic pollutants. Manhattan had previously refused to publicize geochemical analyses of the rock in Tambogrande, but it was becoming obvious that sulfide and metal concentrations were very high, meaning the waste materials would form acidic, high-sulfate leachates (Moran, 2001, pp. 13-14; U.S. Environmental Protection Agency, 2001). The waste rock would contaminate nearby water sources, soils, and crops with chemicals potentially toxic to humans and animals. However, many of these effects would only become evident with time, making it more difficult to keep the mining company accountable.

Main Alliances

The state and mining industry had parallel interests in mineral development and built a partnership that would benefit the two parties at the cost of the local community, which provoked retaliation from the community members who mobilized for self-determination. It's important to note, however, that the central and local governments were on opposing sides of the issue: the central government was partnered with Manhattan Minerals while the local government of Tambogrande under Mayor Ojeda Riofrio was united with communities demanding Manhattan Minerals' expulsion. This anti-mining mobilization was distinct and effective because of the widely popular TDF community group and support from the local mayor. Assistance from NGOs in establishing a wide network of connections and publicizing the struggle earned the movement further support from throughout Peru and abroad.

The Central Government and Manhattan Minerals

The central government and Manhattan Minerals both stood to benefit from the mine in Tambogrande while the environmental and social costs would have fallen on the local community. If the project were approved, the state would be a shareholder with 25% of participation in profits, directly aligning the interests of the state with that of the company (Muradian et al., 2003, p. 779). The project was in line with the state's long-term development path based on expanding their mining sector to raise foreign revenue. They were more interested in promoting the extractive industry than the agricultural industry, as shown in Peru's increasing dependence on the mining sector over the years.

Throughout the process of establishing the mine, legislative exemptions made for granting mining concessions, followed by the state's active support for the mine and repression of the local community's opposition, were strong indications of the central government's alignment with Manhattan Minerals. The Canadian company's desire for gold and the Peruvian state's desire for economic growth drove the alignment of their interests and motivated their cooperation. Due to the Peruvian state's desire for investment, environmental legislation has been less strict than international standards, and enforcement measures are often half-hearted because of the perception that environmental regulation impedes economic growth.

The state made exceptions to existing laws and exercised lax enforcement of rules and regulations in order to promote the expansion of mining, which was the case when Fujimori granted Manhattan Minerals their concession in 1999. Peruvian legislation originally prohibited mineral exploration near any urban areas with inhabitants, which would have made the project illegal. However, Manhattan Minerals was given a two-year window to apply for an exemption to this rule, which required submitting an EIA to be reviewed by the Ministry and the public. However, Fujimori gave the company an extension for the EIA's deadline, which was repeatedly pushed back (Moran, 2001, p.

v). Ultimately, the Fujimori administration and succeeding state actors had allowed Manhattan Minerals to continue operations for years without completing an EIA on a project that was an exception to existing legislation in the first place.

The central government attempted to earn public support for the mining project even while conducting official approval procedures for the public and acting as the regulator for the company's planning and exploration activities. The approval process required a 40-day public comment period for the community to express their concerns and suggestions towards the proposal following the EIA. The government would then hold public workshops that were supposed to inform the residents about the details of the assessment and the company's plans, including any information regarding environmental repercussions. After Ministry officials reviewed the comments as well as the EIA, they were to make a decision on the project. However, the state's public workshops resembled a campaign aimed at promoting support for the project more than a public informational session. Oxfam criticized the government's workshops for being carried out solely to promote the benefits of the project, as the government officials actively presented the mine as one that would produce no harm to the environment (Moran, 2001, p 4).

Not only was the state actively assisting Manhattan Minerals by holding biased public information sessions and obscuring any data on the potential adverse environmental effects, but they also employed the use of force to defend the company against the tambograndinos.

Once physical conflict broke out among townspeople, the state mobilized the police to protect the property of Manhattan Minerals. Because the protests turned violent and property belonging to the mining company was damaged by fire, the state's suppression of their protests could not be criticized as a violation of their civil and democratic rights. Even if the state could justify their actions as preventing violence and arson from protesters, their use of police to defend Manhattan Minerals' property represented to the people that they were on the side of the mining industry. Furthermore, the activists and NGOs, including Oxfam America, were condemned by the central government as enemies of the state, and the mining industry unleashed a media campaign against Oxfam (L. Vittor, personal communication, February 11, 2015). This involved slandering their image and accusing them of manipulating local groups as well as disseminating false information, a position that the state supported.

Mining companies are sometimes willing to open dialogue and try to cooperate when faced with community resistance; the ability of the separate parties to come to the negotiation table varies depending on the willingness of every actor to compromise. Manhattan Minerals, however, was one such company that did not offer negotiations or attempt to pursue CSR practices, perhaps because of their position as a small and inexperienced company with few resources and personnel to deal with social conflict, or because Tambogrande was their only planned project and therefore seen as a crucial asset. Their favored relationship with the Peruvian government gave them an upper hand, so they saw no need to seriously engage with the local community.

This project would have brought benefits and drawbacks, but these would be unequally distributed between the stakeholders, disproportionately benefiting the company and state through economic revenue while putting more of the costs onto locals. The central government's interest in profiting from foreign investment drove it to pursue courses of action that encouraged distrust from tambograndinos, and its history of corruption further encouraged distrust from its citizens.

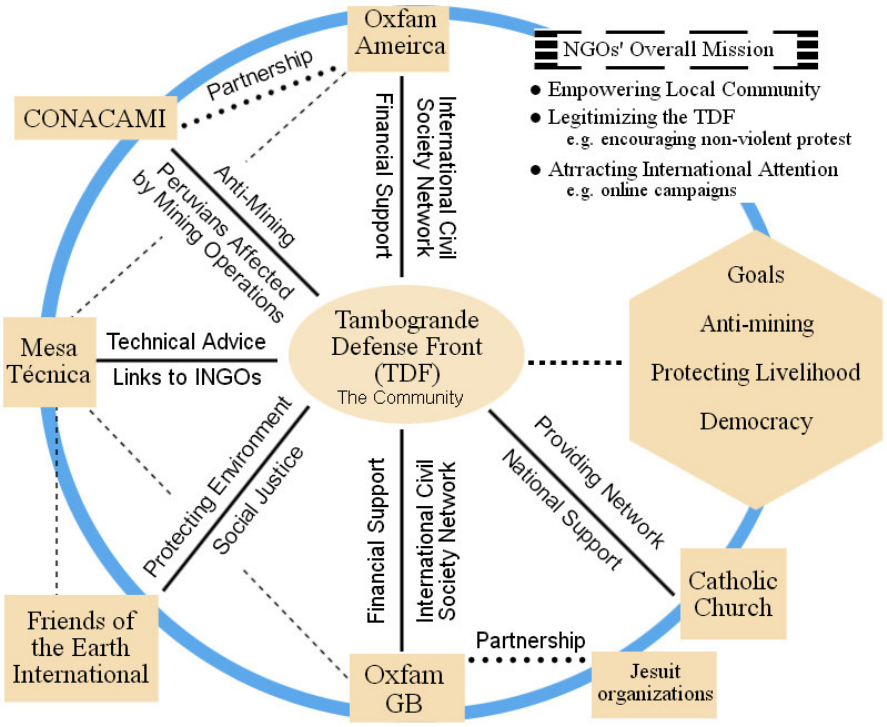
Community and NGOs

The Catholic Church and national and international NGOs all found reason to back the concerns of the tambograndinos. The community's desire for self-determined democracy, protection of livelihoods, and fears of health and environmental concerns aligned with the interests of the Church and the NGOs. Both the communities and NGOs believed the ultimate authority and political leadership must come from the people who were affected by the mining project, and only the communities should have discretion in the final decision-making. The core network of communication between actors occurred between the TDF at the local level and the Mesa Técnica at the national level. The alliance between the community and NGOs succeeded in legitimizing the TDF's political processes (Haarstad & Fløysand, 2007). INGOs stood as the backbone of the anti-mining movement, supporting the TDF's campaign against Manhattan Minerals with financial resources and an international civil society network. Meanwhile, the Catholic Church brokered coordination between the TDF, national NGOs, and INGOs.

Community Organizations

The Tambogrande Defense Front

The TDF was perhaps the most pivotal actor in the community/NGO network of alliances, as it was centrally located in Tambogrande and led by local tambograndinos working closely with both local and international NGOs to achieve their goals. The grassroots community group formed in opposition to the central government and Manhattan Minerals, who showed indifference to the



grievances of the farming community in Tambogrande. This organization was led by local leaders such as Godofredo García and Francisco Ojeda, and advocated the urban and rural interests of local people against mining. The TDF's leadership consolidated a network with local and national NGOs, INGOs, and the Catholic Church. NGOs helped boost the TDF's legitimacy with technical knowledge and other resources (Scurrah, 2007, p.10; Haarstad & Fløysand, 2007).

The Catholic Church

The Catholic Church, a trusted and highly respected organization in Peru, used its unique position as a spiritual leader to strengthen national support of the TDF and create network ties that established alliances between the community and other actors. According to a survey conducted by the Centro de Investigación y Promoción del Campesinado (CIPCA) in October 2000, the Church was the second most widely accepted organization among the locals in Tambogrande after the TDF (Haarstad, 2005, p. 82). The Archbishop of Piura and Tumbes publicly announced his support of Tambogrande in 2001; this ultimately united the tambograndinos with their national compatriots because the vast majority of Peruvians (81.3% in 2007) identifying as Roman Catholics (Moran, 2001, p.4; Central Intelligence Agency, 2014).

Using national connections, Diaconia, a Catholic organization from the Piura region, appealed to NGOs in Lima for assistance in supporting the local community. This initiative resulted in the creation of the Mesa Técnica, a group of NGOs that worked together to assist the TDF (Haarstad, 2005, p. 54). The Catholic Church of Piura guided and mediated communication among the actors involved in the alliance of those supporting the TDF through the close linkages between the Catholic Church and NGOs at all levels (Scurrah, 2007, p. 10).

NGOs

CONACAMI

In 1999, CONACAMI was established to defend the land rights of the Peruvian people affected by large-scale mining operations (Scurrah, 2007, p. 3). As the Manhattan Minerals mining project was approved by the national government without prior consultation from the local residents, CONACAMI saw the opportunity to assist the Tambogrande community in defending their land rights and building a network alliance. CONACAMI had strong ties with the TDF and facilitated collaboration between the TDF and most of the national NGOs that participated in the Mesa Técnica (Scurrah, 2007, p. 22). In addition to its partnerships with local NGOs and the TDF, CONACAMI also established an alliance with Oxfam America. This partnership focused on securing and supporting each other's networks and inexperience.

INGOs

Oxfam America partnered with the TDF and the people of Tambogrande because the mine threatened tambograndinos' sustainable livelihoods and their voices were ignored when they utilized democratic processes and civil activism. Oxfam America's goal was to act as a mediator between the local community and wider networks of actors, because the activists in Tambogrande lacked access to resources, information relevant to the project, and a larger audience of people who were aware of their movement. Although the community had strong solidarity in the movement and were effective in expressing their demands, they needed assistance from organizations with greater expertise, funds, and connections.

INGOs such as Oxfam America, Oxfam Great Britain (GB), the Mineral Policy Center, the Environmental Mining Council of British Columbia, and Friends of the Earth International both directly and indirectly supported the TDF and national NGOs (Muradian et al., 2003, p. 780). INGOs provided logistical support to the community-national alliance (the TDF and national NGOs), helped their allies to arrange effective campaigns, funded scientific and technical research, provided monetary assistance to organize the 2002 referendum, and funded and participated in the referendum processing as election observers (Vaughn, 2003, p. 84).

Friends of the Earth International's main interests are campaigning on ecological and social issues and challenging the current model of globalization, and their work focuses on environmental, economic, and social injustice. The Tambogrande conflict matched their goals of protecting an economically marginalized group of people against the harms of neoliberalism, as well as human rights and sustainable development. While these organizations were essential in the fight against Manhattan, it was in the NGOs' interests not to impede on the community's actions and voices and instead to empower them to be independently capable of making their own decisions.

Before all the actors came together, Oxfam America and other INGOs (excluding Oxfam Great Britain) lacked local networks and experience on the ground while national NGOs lacked a strong global network and experience. The ensuing local-national-international alliance enabled the different levels of activist organizations to form a stronger, more sophisticated network of organizations working directly with the TDF. Oxfam Great Britain (Oxfam GB) closely engaged in the social welfare of Tambogrande through its close relationship with Jesuit-related organizations in the region such as Piura Archdiocese, a Jesuit-run social research and development institute, the Piura bishop's social development agency, and the association of organic coffee growers. Unlike Oxfam GB, Oxfam America at that time had no history of involvement in this town and had no prestigious local partnerships in the Piura region (Scurrah, 2007, p. 22).

Ironically, Oxfam America also faced a need for legitimacy after getting involved in the conflict because of Manhattan Minerals' media attack against the organization, accusing them of manipulating local people with false information (L. Vittor, personal communication, February 11, 2015). INGOs also implemented Internet campaigns, such as email-lists with activist news items, to

draw significant attention from international civil society, and online campaigns calling for people to send letters or emails to President Toledo urging him to stop Manhattan Minerals' project in Tambogrande (Haarstad & Fløysand, 2007, p. 303). INGOs' extensive Internet campaigns branded the referendum held in Tambogrande as an international symbol of global struggle for democracy.

Mesa Técnica

In February 2000, in support of community, the local and national NGOs formed a coalition called the *Mesa Técnica* (Technical Table) (Haarstad, 2005, p. 54). The Mesa Técnica consisted of nine national and regional NGOs with separate areas of expertise: Asociación Civil Labor, Comisión Episcopal de Acción Social (CEAS), Fundación Ecuménica para el Desarrollo y la Paz (Fedepaz); Diaconía para la Justicia y la Paz, Centro Peruano de Estudios Sociales (CEPES), la Sociedad Peruana de Derecho Ambienta (SPDA); and Eco, CooperAcción, Associacion Pro Derechos Humanos (APRODEH) (Castillo, 2005, p. 24).

The objective of the Mesa Técnica was to support and advise the TDF with professional expertise. Each member of the Mesa Técnica investigated different aspects of the mining project to inform the TDF with scientific and technical information that the TDF otherwise would not have had access to. The Mesa Técnica produced professional anti-mining materials on a par with pro-mining materials produced by the extractive industries and government, such as case analysis, research, and proposals. In this specific case of Tambogrande, the TDF and the Mesa Técnica legitimized counter-arguments that tackled the quality of the EIA presented by Manhattan Minerals and produced alternatives that could not be easily disregarded by the government or company (Scurrah, 2007, p.11). For example, one study conducted by the environmental and social subgroup of the Mesa Técnica published by Fedepaz implied that the town of Tambogrande would be more economically productive as an agricultural zone than a mining zone (Boelens, Getches, & Guevara Gil, 2010, p. 319).

The Mesa Técnica played an important role in making links to international actors in North America and Europe—who not only provided general advice but also provided financial support for the referendum (Boelens et al., 2010, p. 319). The Mesa Técnica restructured the local mining oppositions to comply with international political discourses. Alongside the TDF, the Mesa Técnica encouraged the community to protest in nonviolent and legitimate ways that could capture attention from international actors (Haarstad & Fløysand, 2007, p. 301).

Missed Connections: the Oxfams

While strong alliances were made on both sides of the conflict, some opportunities for effective community support were lost within the community-NGO alliance due to communication and cooperation issues between Oxfam America and Oxfam GB. Although Oxfam GB and Oxfam America cooperated in certain areas of their support for the TDF and the Mesa Técnica through national and local partners, such as funding an environmental analysis and spreading awareness of

the community's referendum, their efforts were far less effective that they could have been. This was due to a lack of cooperation and information sharing between the two branches of Oxfam.

Despite Oxfam America's lack of experience in the Piura region, where Tambogrande is located, it gained reliable national information through CONACAMI but lacked local-based information due to its weak partnership with local-based NGOs. Moreover, Oxfam America had no information about Oxfam GB's supportive programs and partners in Piura. On the other hand, Oxfam GB had reliable local-based information from its NGO and Catholic Church partners in Piura regions, but had no information about Oxfam America's extractive advocacy program or its support from Lima (Scurrah, 2007, p. 22).

Consequently, Oxfam GB felt that Oxfam America was intervening in a part of the country where they had a long-established presence, and Oxfam America felt that Oxfam GB was becoming involved in extractives issues without recognizing Oxfam America's leadership within Oxfam International regional agreements (Scurrah, 2007, p. 22). Furthermore, miscommunication between the Oxfams created confusion among allied NGOs and other actors involved in the conflict. For example, following a private conversation with Oxfam GB, the Peruvian Ministry of Energy and Mines publicly announced that Oxfam had agreed to sponsor a dialogue between the Church, the Ombudsman and Oxfam (referring to Oxfam GB in this case) when Oxfam America was uninformed about this event (Scurrah, 2007, p. 22). The outcome of miscommunications led to coordination meetings between the two Oxfams and the local-national NGO alliance, the TDF and Technical Table, in order to reach agreement on the Oxfams' common position (Scurrah, 2007, p. 23).

Though the Oxfams had sufficient national and local information, neither Oxfam America nor Oxfam GB was able to adequately use both the national and local information needed to efficiently support the TDF and Mesa Técnica or resolve the conflict in a sustainable way—that is to say, make any future mining proposal unviable in Tambogrande.

Mechanisms of Conflict Resolution

The case of Tambogrande, one of the first mining conflicts to have been "resolved" in the early 2000s, is emblematic not only because of its success in pushing out a mining corporation but also for the mechanisms of conflict resolution utilized by the community to claim rights to their land. Grand mobilizations of different community groups and management strategies at the local level made the Tambogrande case unique. Protests and demonstrations, instead of simply characterizing Manhattan Minerals and the Peruvian central government as antagonists, emphasized the engagement of national identity and cultural solidarity. The *consulta vecinal*, or municipal referendum, for the first time empowered tambograndinos to participate in decisions of this scale. The mechanisms of conflict resolution utilized in the Tambogrande case brought together supporters from the Piura region and have been imitated in similar conflicts throughout Latin America. However, while this case is generally regarded as resolved, it is important to re-evaluate the strategies used, analyzing why the actors were able to achieve their goals and looking at what could have been done to set the region up for long-term management of mining.

Protests and Community Mobilization

The community solidarity and mobilization demonstrated in the Tambogrande case proved to be one of the most influential factors in pressuring Manhattan Minerals' withdrawal from the region. Following the announcement of the mining project proposed by Manhattan Minerals, the inhabitants of Tambogrande were quick to mobilize and protect their beloved lands. As a result of decades of local and international investment that transformed the arid region into one of the most profitable agricultural regions in Peru, the land represented work, sustenance and livelihood for many Tambogrande residents.

Although Manhattan Minerals attempted to persuade tambograndinos to comply with the project via promises of beautification, the city residents knew that the byproduct of the mine would devastate the agricultural capacity of Tambogrande as well as other lands in San Lorenzo Valley. After word of the mine spread, los campesinos led by community advocate Godofredo García quickly mobilized against the mining development (Observatorio de Conflictos Mineros de America Latina [OCMAL], 2013). Mobilization began with small-scale marches and demonstrations that were soon joined by the local clergy, la Comisión Episcopal de Acción Social, and other non-profit organizations like Oxfam America. Francisco Ojeda Riofrio, who was later elected mayor of Tambogrande in 2003, helped found the TDF and became its president. The TDF was based around the leadership rhetoric of Godofredo García and comprised of various political, social, religious and agrarian communities.

Accomplishments

A Campaign Focused on Peace, Celebration and Solidarity

During March of 2001, the heart of Tambogrande's community activism was devastated following the assassination of their beloved leader, Godofredo García. García left a legacy of loyalty and dedication to the struggle. Leading up to the assassination, there had been outbreaks of internal conflict between protesters who wanted violence and those who wanted peaceful assembly. Following García's death, community leaders within the Church and the TDF unanimously decided to opt for a peaceful strategy. The primary strategy of the demonstrations was to emphasize Peruvian cultural solidarity. Protests became celebrations, with music, art, and dance (Cabellos & Boyd, 2006). Activists harnessed the Internet and media to channel their tensions and reach out to captivate the Peruvian citizens. One campaign slogan, "Sin limón, no hay ceviche [without lime, there is no ceviche]," utilized wit and cultural identity to reach out to all Peruvians via a shared appreciation for Peruvian cuisine.

Figure 2.2: TDF Campaigning Tactics

Retrieved from Environmental Law Alliance Worldwide (2004)

Solidarity With External Organizations

National organizations, such as CONACAMI, joined the movement and provided political support for the leaders of Tambogrande (L. Vittor, personal communication, February 11, 2015). Their support helped strengthen the initiative in Tambogrande in Lima and bring the conflict to national view. It was largely this mobilization of community activism and national identity that pushed Manhattan Minerals out of Tambogrande and ended the prospective mining project. Eventually, the social pressure from Tambogrande activists urged Manhattan Minerals to declare that the project would not take place if the community continued mobilizing against it (OCMAL, 2013).

Legal Legitimization of the Tambogrande Defense Front

In 2003, when Ojeda Riofrio became the mayor of Tambogrande, he aimed to legitimize the TDF as a legal entity against mining in the region (Cabellos & Boyd, 2006). The primary goal was to achieve dialogue with the other stakeholders, and with the support of local government officials, the actions of the TDF were validated and supported as a legitimate force.

Challenges

Initial Discord Between Demonstrators

Although the majority of the Tambogrande demonstrations were peaceful, several protests broke out into violence and were deemed destructive by the state. In one case, protesters surrounded and set fire to Manhattan Minerals' model homes for Tambogrande residents that would be displaced by the mine (McGee, 2009, p. 605). Manhattan Minerals representatives called upon officials to remove activists, and the police arrested several protesters, charging them and Riofrio for a slew of different crimes such as arson, disruption of peace, and destruction of private property. In response to the mining opposition, the government threatened to appraise the tambograndinos' land, sell it, and put the money in the federal bank via legal action. Following the fires set on Manhattan Minerals' property, the company accused protesters of being violent, rebellious terrorists (Cabellos & Boyd, 2006; Zeltsman, 2007).

Disunity between group members and violent outbreaks caused officials to cast the mining opposition under one label: enemies of the state. This made support for the Tambogrande activists risky for supporting groups such as CONACAMI, the Church, and Oxfam America. In this case, the central government accused Oxfam America of being against the state as well, severely limiting the extent to which the NGO could be involved in supporting the movement (L. Vittor, personal communication, February 11, 2015).

Loss of Solidarity Against Mining

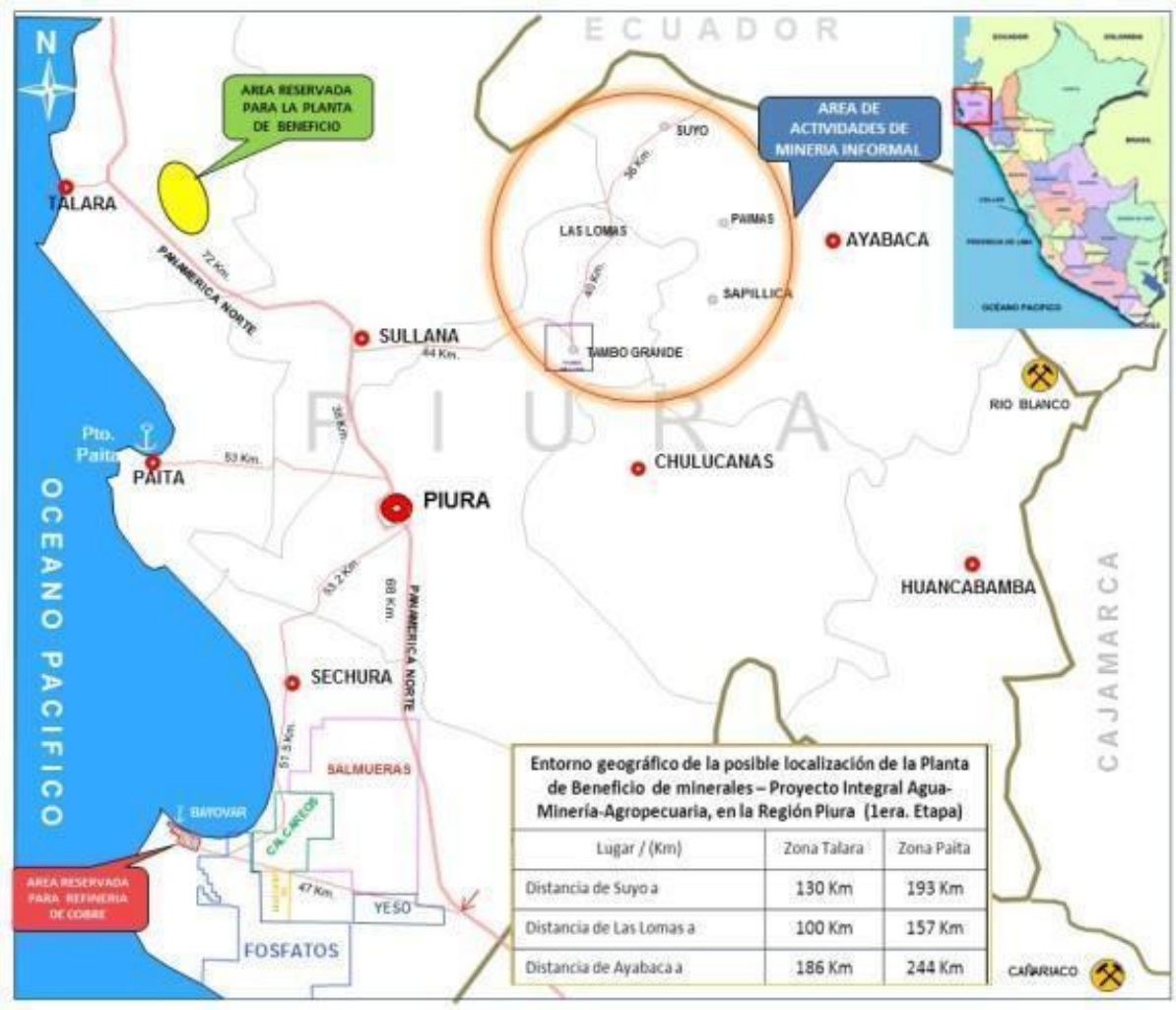
Following the withdrawal of various NGOs, such as Oxfam America and CONACAMI, from the Tambogrande region, strong solidarity against the mining industry has lost its momentum and many people have strayed from viewing mining simply as "good" or "bad" (A. Fulmer, personal communication, February 3, 2015). As individual mining replaces the threat of large-scale mining projects and municipal leadership changes, the issue of mining has lost its pertinence of the forefronts of tambograndinos' minds.

Growing Prevalence of Informal Mining

To this day, informal mining remains an issue in the Tambogrande and Piura region. Thousands of people in the Tambogrande region have been involved with informal mining, and according to Juan Valdivia the new Minister of Energy and Mines, Tambogrande has been brought back into focus regarding detrimental mining contamination (Guerra, 2002). As seen in the graphic below, informal mining has gained prevalence in various parts of the Piura region. Cyanide and mercury byproducts are discharged into local streams through the process of artisanal mining, putting the agricultural lands at risk. Although many Tambogrande residents benefit from the revenue brought in by agriculture, there are various marginalized groups that don't have access to this market due to either a lack of resources or lack of access to the fertile, irrigated lands (L. Vittor, personal communication, February 11, 2015). In communities such as these, there may not be an obvious alternative to individual mining. Income and resources are as necessary to these groups as the agrarian workers,

and the gold that lies beneath the region may be their only option. While these individuals may be seeking to sustain their livelihoods, environmental harm continues to be an issue as a byproduct of small-scale mining.

Figure 2.3: Plans to Solve the Informal Mining Problem in Piura, Peru



Retrieved from International Mining (2014)

Petition and the Democratic Referendum (La Consulta Vicinal)

The local democratic referendum, although it did not gain legal recognition by the national government, gave disenfranchised Tambogrande residents the agency to speak to the issue that they otherwise would not have had. However, the referendum did not include marginalized groups who would be affected by the mine. Following the assassination of Godofredo García, the citizens of

Tambogrande organized a petition drive to oppose the Manhattan Minerals mining development. In June 2001, Mayor Alfredo Rengifo of Tambogrande organized a petition against mining development and gathered the signatures of over 75% of Tambogrande's eligible voters (McGee, 2009). In June of 2002, Rengifo held a municipal democratic referendum based on the provision of an obscure local law that validated the vote and its legal weight. Rengifo hoped that holding a vote would channel local tensions away from conflict and catalyze grassroots democracy (Boyd, 2002; McGee, 2009). When posed with the "yes" or "no" question of whether the voter agrees with the proposed mining project in Tambogrande, about 98% of the town's eligible voters selected "no" (Boyd, 2002). In a subsequent petition regarding the mining development initiated by Rengifo, over 75% of Tambogrande's signers showed opposition to the Manhattan Minerals' project (Cabellos & Boyd, 2006). After Tambogrande's municipal referendum, a commission of various European and North American observers, such as those from Canada's Rights and Democracy Center, got together to evaluate its validity (McGee, 2009, p. 607). They deemed the referendum fair and democratic and praised it in light of the recent Fujimori elections, which were criticized as flawed and marred by corruption (Zeltsman, 2007).

Accomplishments

Grassroots Democratic Agency

Although the Tambogrande municipal referendum did not affect any direct changes in national policy against the mining project, it represented the influence of grassroots democratic change. The referendum in Tambogrande publicly displayed the sentiments of Tambogrande citizens and inspired a series of similar action in other small towns opposing mining developments throughout the region, such as Cajamarca and Arequipa, Peru (Boyd, 2002). In 2003, a referendum in Esquel, Argentina opposed a proposed mine and in 2005, a referendum in Sipacapa, Guatemala did the same (Cabellos & Boyd, 2006). Holding the referendum gave citizens a chance to express their opinion through democratic means and provided empirical evidence that the majority of the Tambogrande residents opposed the mine.

Local and International Attention

The local referendum held in Tambogrande has garnered high esteem and has been emulated locally and internationally. The case established a precedent for other communities to follow in situations of environmental conflict, and soon after, similar referendums were held in Cajamarca and Arequipa (Boyd, 2002). Oxfam America and various North American NGOs spread news of the nearly unanimous community decision and it was soon known that the people of Tambogrande would not concede to the proposed project. In the aftermath of the referendum, Manhattan Minerals' stock value dropped from 1.78 CAD to 0.10 CAD on the Toronto Stock Exchange (McGee, 2009, p. 608). This international attention and loss of interest in Manhattan Minerals played a large role in their decision to withdraw from Tambogrande.

Challenges

Lack of National Recognition

Following the results of the municipal referendum, Rengifo proceeded to present the result to the Peruvian National Congress. Unfortunately, the federal government rejected the municipal referendum. According to Jaime Quijandria, the Minister of Energy and Mines at the time, although the referendum expressed the public opinion of Tambogrande, it held "no real weight" in terms of changing the federal decision (Boyd, 2002). Quijandria continued to evaluate the mining proposal according to national mining law, but promised to hold public hearings on the company's environmental impact. Manhattan Minerals responded initially by ignoring the referendum, but after repeated press requests, the corporation publicly criticized the referendum, arguing that it was too confusing or inconveniently-worded to be recognized as a valid legal entity and that it was an attempt to "trick" Tambogrande inhabitants into opposing the mining development (Cabellos & Boyd, 2006).

Vote Restricted to "Yes" or "No"

Although the referendum was a success in that it let local community members have democratic say in the Manhattan Minerals conflict, the referendum has been accused by some as an unfair representation of opinions on the matter of mining development. Manhattan Minerals criticized the language of the referendum for not offering alternative choices other than "yes" or "no" to the development project (McGee, 2009). Quijandra argued that the wording of the referendum and the surrounding rhetoric "manipulated" the uneducated population, and for this reason was not a legitimate form of opposition to the project. For example, by only offering a "yes" or "no" discussion on the project, the referendum did not leave space for negotiation of opinions that may have incorporated small-scale, artisanal, or regulated mining projects.

Exclusive Constituency

Another challenge of the referendum is that it did not include the vote of indigenous peoples or other individuals who lived in the marginal areas of Tambogrande (A. Fulmer, personal communication, February 3, 2015). Although the mine would affect these people environmentally, they did not have any say in opposing or supporting the mine, as they were not eligible to vote.

Public Hearings and Roundtables

The public hearings organized by the state could have potentially provided a platform for negotiation between the various stakeholders but could not successfully create a non-biased, educated environment for community consultation. In November 2003, as the Peruvian Congress had promised, public hearings (separate from the Mesa Técnica co-alliances) were scheduled as a mandatory step in the process of approving Manhattan Minerals' proposed mining project (OCMAL, 2013). Peruvian legislation at the time forbade mineral exploration in urban areas like Tambogrande and miners could only obtain a lease if they could prove environmental responsibility

by presenting an EIA to the Peruvian Ministry of Energy and Mines (Moran, 2001). The goal of the public hearings was to share Manhattan Minerals' EIA with the people of Tambogrande so that the mining project was "fully understood" and could be agreed upon by a well-informed community.

However, years prior to the scheduling of the public hearings, Fujimori had already granted an exemption to Manhattan Minerals before receiving the environmental study. Various Peruvian government officials stated that the Tambogrande mining project would have no negative consequences for the environment before receiving the study as well. By the time the government initiated the delayed hearings, years after the Fujimori approved Manhattan Minerals' project, the people of Tambogrande refused to participate as a result of distrust in the state, further expressing their opposition to the project.

Accomplishments

Attempt to Open Dialogue Between Stakeholders

Although the mandatory public hearings were postponed several years, the state eventually made the effort to schedule the hearings and set the stage for negotiation between the community and Manhattan Minerals. The objective of the discussions to gain consent from a well-informed community would have set a powerful precedent had the hearings been successful.

Attempt to Provide a Non-biased Environmental Assessment

In opposition to Manhattan Minerals' EIA, Oxfam America worked alongside the Environmental Mining Council of British Columbia to sponsor Dr. Robert Moran's visit to the region to provide an independent assessment of the project's environmental impact on water quality and quantity (Moran, 2001). This study was conducted to provide objective environmental impact information for the Tambogrande residents, independent from corporate data. Oxfam America's report addressed both agricultural and health concerns of the mine's construction and concluded by suggesting a need for financial assurance measures Manhattan Minerals should take to hold themselves accountable for any necessary long-term environmental cleanup. As the report found, the proposed Tambogrande project would not meet the standards of the British Columbia Environmental Assessment or other environmental standards in North America.

Challenges

Lack of Collaboration Between the Community and Manhattan Minerals

In light of the nature of the public hearings, Tambogrande community members led several protests to oppose the negotiation and Manhattan Minerals' environmental accountability presentation. One protest managed to block off part of a main highway between Peru and Ecuador, and resulted in the cancellation of the public hearings that day (Cabellos & Boyd, 2006). The Ministry of Energy and Mines then decided to suspend the subsequent hearings indefinitely (OCMAL, 2013).

Lack of Adequate Information

The principal issue surrounding the public hearings was the expectation to which the Tambogrande community was held regarding participation. The environmental impact study released by Manhattan Minerals and distributed amongst Tambogrande inhabitants and farmers of San Lorenzo Valley was a long, technical document. Tambogrande residents were expected to read the thousand-page environmental study in English and comment on its validity at roundtables organized by Manhattan Minerals and the Ministry of Mining and Energy (Cabellos & Boyd, 2006).

Biased Nature of Workshops

Because the hearings were organized by the Ministry of Energy and Mines and Manhattan Minerals, it was clear to the TDF and residents that the hearings would be in favor of the mining multinationals because of the Peruvian government's vested interest in mining profits (Russell, 2003). As the community saw it, the Peruvian Congress was siding with the mining companies, and it was criticized for not setting a precedent of fair practice for the future. Because the Peruvian government held 25% ownership of profit, there was an inherent conflict of interest when it came to granting the project rights (Moran, 2001). Although the state was supposed to act as the regulator, it was obvious that it the mining industry would bring great revenue for the federal government.

Lessons Learned

1. Community unity and mobilization can be effective in achieving common goals.
2. Leaving issues, such as lack of diverse economic opportunity, unresolved can lead to long-term problems like informal mining.
3. Actively identifying places of inequality and marginalization within communities of conflict is important to ensure that chosen strategies are relevant for all members of a community.

Recommendations

1. **Strengthen community solidarity and engagement.** The TDF's campaigns, which effectively brought together the community by promoting cultural solidarity, should serve as a mobilization model for future Oxfam campaigns. Oxfam America can further engage with communities by encouraging creative forms of activism, such as cultural murals and community events. This would similarly help foster cultural solidarity and legitimize the communities' grievances by channeling positive energy and avoiding violent protest.

2. **Increase measures to avoid marginalizing some communities from mobilization efforts.** Oxfam America can explore partnering with local NGOs to fund or conduct research, such as non-partisan socioeconomic and demographic surveys, that specifically focus on issues contributing to marginalization. This information would help inform Oxfam's strategic operations within regions affected by mining, in order to avoid favoring certain communities/grievances over others. In the case of Tambogrande, the more impoverished communities in the Piura region were marginalized from main mobilization efforts and the core issues of poverty within these communities remain unaddressed.

3. **Focus on sustainable, long-term solutions that will last even after Oxfam ends operations in an area.** Some locals in the Tambogrande region have turned to informal mining, due in part to a lack of access to means of economic diversification. Oxfam America can work with local NGOs to develop programs that spark grassroots economic diversification in order to proactively alleviate economic conditions leading to informal mining. These programs could include providing funds to microfinance small-scale infrastructure projects, such as creating or expanding irrigation systems.

4. **Improve and expand networks of communication between current and potential stakeholders.** Oxfam can proactively facilitate connections and dialogue to encourage effective communication within and among international and local stakeholders with aligned interests, including potential new partners. In addition to focusing on open communication amongst existing stakeholders, Oxfam could also work on social media campaigns to reach wider audiences. For example, they can develop programs of grassroots video documentation, which could be disseminated by Oxfam or partner organizations in efforts to connect community members more directly to local and international audiences through increased visibility. Oxfam could also reach out to often-overlooked stakeholders with aligned interests—such as activist organizations from the home countries and shareholders of foreign mining companies—to collaborate on conflict resolution.

Tintaya Conflict

Introduction

On May 21, 2012, farming leaders in Espinar Province organized a strike to force Xstrata Copper, the owner of the Tintaya copper mine, to negotiate a new social contract. Thousands of unarmed civilians, including peasant farmers, teachers, lawyers, and other urban professionals, came together and blocked access routes to the mine. The government reacted by sending in hundreds of special police commandos trained in counterinsurgency and anti-terrorism. Two protesters were killed in the brutal response, including a schoolteacher, who left behind his pregnant widow. More than 100 people were wounded, and 22 were arrested without warrants, including two human rights officers (Boyd, 2012).

Importance

The ongoing social conflict surrounding the Tintaya copper mine demonstrates the successes and challenges of resolving mining-related disputes with the implementation of a dialogue process. The dialogue process has allowed stakeholders to determine a code of conduct, compromise, and work together for the establishment of common goals and strategies. Stakeholders at the round table have agreed on a revision of human rights violations taking place between 1982 and 2001, a land recovery process, improving consultation with communities before undertaking new projects, and strengthened environmental monitoring.

1917: U.S. company Andes Exploration of Mine

1952: Cerro de Peru acquires the rights to explore

1971: Peruvian government grants rights to state company Minero Peru

1994: Magma purchases mine through private auction

1996: Magma bought by BHP, becomes Magma/BHP

Nov. 2000: CONACAMI requests Oxfam Community Aid Abroad to take up Tintaya case with Magma/BHP head office in Australia.
2000: Coalition of five affected communities created an alliance with a group of domestic and international NGOs to build a case against Magma/BHP

2001: Oxfam Mining Ombudsman visits affected communities
BHP merges with Billiton PLC, company becomes BHP Billiton (BHPB)

Feb. 2002: First meeting of Dialogue Table

April-May 2003: Frustration at inability of Dialogue Table to generate viable solutions; 1000 inhabitants storm the mine site

2004: BHPB and the five communities sign Marco Agreement compensating families for lost land and livelihoods, and establish an environmental monitoring team and community development fund.

2005: Tintaya employees march in support of the mine in Cusco

2006: BHPB sells Tintaya to Glencore Xstrata Copper (Xstrata). Xstrata agrees to honor the Agreement signed by BHPB

2007: Acuerdo Marco Fund amounted to 11,000 million USD for investments in the Espinar province, managed by company trust fund

May 2012: Two people killed and 50 injured in protests against Xstrata's Peruvian copper mine.
June 2012: President Oscar Humala imposes state of emergency

April 2013: Ministry of Environment releases the summary of results of its Participatory Health and Environmental Monitoring
June 2013: Mine closure begins: to be complete by 2039

2014: Xstrata fined 84,000 USD for pollution

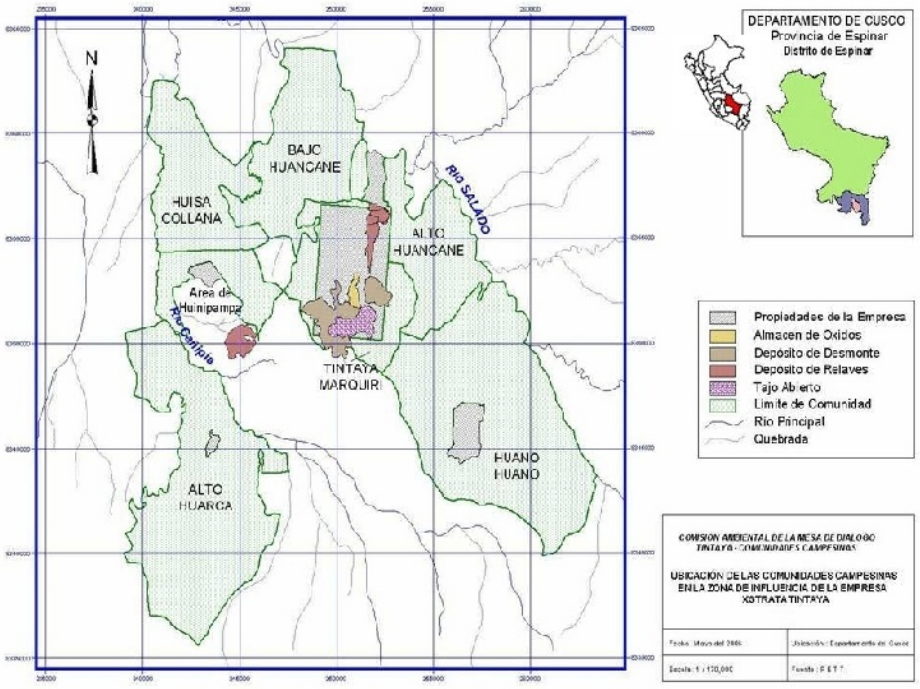
The Tintaya Dialogue Table could serve as a model for conflict resolution in other Peruvian communities negatively impacted by mining-related activities and are seeking redress. The Tintaya case is central to Oxfam America's work in Peruvian extractive industries because the conflict is ongoing: evidence of environmental pollution from the mine continues to be disputed and the company still lacks a vibrant CSR culture.

Oxfam America can assist affected communities in several areas:

- Pursuit of compensation for human rights violations.
- Advocation for more company contribution to local development projects, and the need for continued environmental monitoring. Oxfam America can also take on a more prominent role in the coordination of meetings and dialogue between the company and the community representatives and organizations as the expansion of the Antapaccay project replaces operations at the Tintaya mine.

Figure 3.1: Map of the Five Communities

Five communities included in Tintaya Dialogue Table regarding affects of mining operations are represented by their geographic location below.

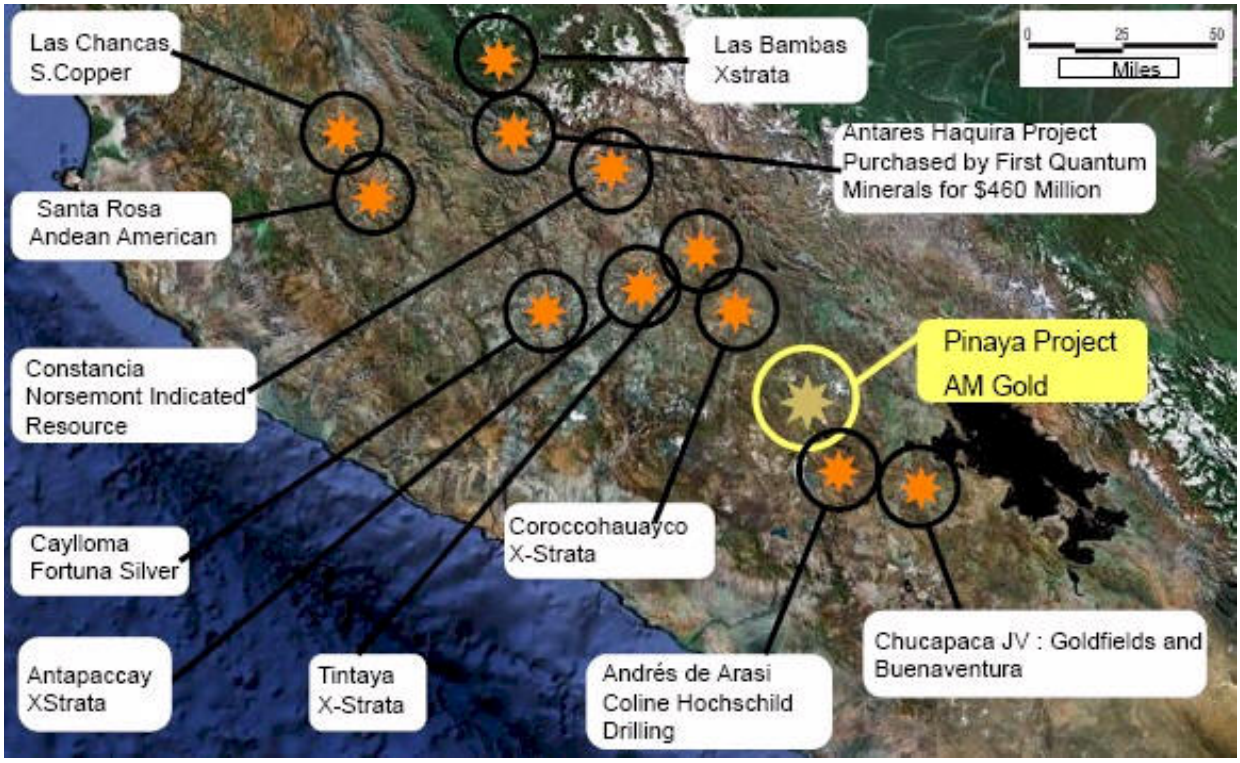


Retrieved from Comisión Ambiental Mesa de Diálogo (2008).

Context

Tintaya is an open pit copper mining and processing operation located in the Yauri district of Espinar Province, located in the Cusco Region of southern Peru, situated at an elevation of 4,100 meters. Tintaya belongs to Glencore Xstrata's Southern Peru division, which also includes the Antapaccay, Coroccohuayco, and Las Bambas projects.

Figure 3.2: Map of Mining Operations in Espinar



Retrieved from Cole & Simpson (2012).

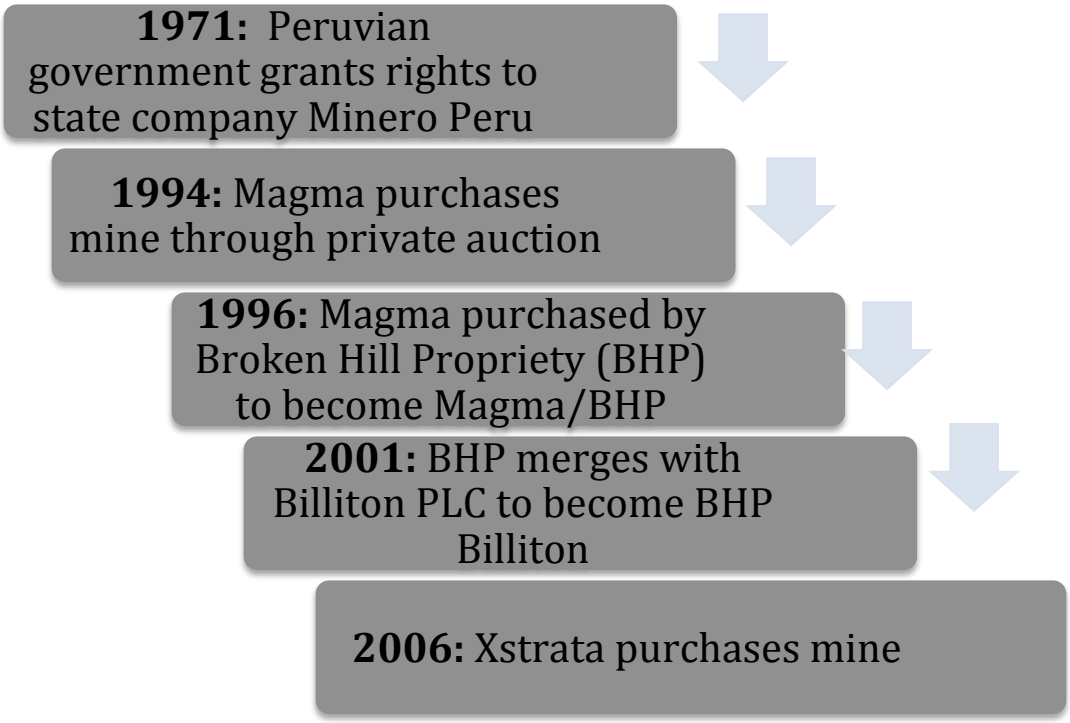
Cusco is an important agricultural region and natural reserve for thousands of native Peruvian species, including hundreds of potato varieties. Moreover, according to Oxfam America (2013) the region is characterized by livestock and commercial activities, which provide peasant families with a diversified economy and migratory experience. The National Institute of Statistics and Informatics (INEI) estimates that the population of the province is approximately 63,360. It also indicates that the population has increased as a whole over the last 20 years and that the proportion of people living in the provincial capital of Yauri has increased, compared to the population living in smaller settlements (INEI, 2000).

The people living in Espinar Province are largely of indigenous Quechua descent. Approximately 69% of citizens in Espinar Province learn to speak Quechua in childhood and 30.75% of citizens learn to speak Spanish in adulthood (INEI, 2007). The poverty rate in Espinar is relatively high: INEI (1993) revealed that 52% of the households in the province lacked basic services such as

electricity, sewage, and access to running water. However, education levels imply that communities in the province might have more access to human capital than it would appear; in 1993 only 5% of children between six and 12 years of age did not attend school and the illiteracy rate among women was close to 40% (Dybwick, 2006, p. 53).

Despite low levels of local employment and less technologically-demanding labor in the mining industry, the surrounding communities are still dependent on mining activities for technology transfer, tax revenue, and new business ventures in the town of Yauri. Under Broken Bill Proprietary (BHP) Billiton and its ancillary companies, only 16 of 1,000 employees from Espinar had permanent positions at BHP Billiton, and only 60 had permanent positions at ancillary companies. This can be attributed to lack of appropriate training and limited educational opportunities for locals. However, in October 2005 it was estimated that the tax revenue from the mine going back to Peruvian authorities from 2005 would total over 305 million USD, although others cite the revenue as more minimal and highly dependent on fluctuating copper prices (Dybwick 2006, p. 70-75). Thus, although few locals obtain employment with the company, and it has few linkages with local businesses, the surrounding communities clearly do have a stake in the continuation of mining activities and in advocating for more redistributive measures. Mining activity generates a considerable amount of revenue, and the region would benefit from a more equitable redistribution system.

Figure 3.3: Company Ownership of Tintaya Mine



The ownership of the Tintaya mine has changed numerous times, bringing new corporations into the region with distinct CSR policies, levels of receptiveness to community feedback, and approaches to community relations. Mining exploration first began in the area in 1917, when the U.S. company Andes Exploration of Mine found reserves in the Anta Cama community. Mining activity continued in the 1940s, and Cerro de Peru acquired the rights to explore in 1952 (De Echave, Keenan, Romero, & Tapia, 2005, p. 14). However, large-scale mining development didn't begin in the region until the 1960s, which drove urbanization and attracted migrants to the region. In 1971 the Peruvian government granted the rights to exploit the ore deposits to state company Minero Peru, in areas that had been explored by foreign companies in the previous decades (Procasur, 2011, p. 2). Open pit mining began in the area in 1984 by Empresa Minera Especial Tintaya S.A., composed of three state-owned institutions (Minero Perú, Centromin Perú and Corporación Financiera de Desarrollo). The property was considered a part of Minero Peru, but operated as a separate entity for several years before privatization (Procasur, 2011, p. 1).

In 1994, Magma purchased the mine through a privatized auction, then Broken Hill Proprietary (BHP) bought it about two years later. Then in 2001, the company merged with British company Billiton PLC and became BHP Billiton. BHP Billiton became the world's second largest mineral producer (see timeline). Although Tintaya was in relatively good condition, BHP Billiton made extensive improvements to the mine after acquisition. It introduced new technologies to reduce operating costs and increase the mine's productivity, designed an exploration program to redefine the sulfide and oxide deposits, and explored previously undrilled sites. It also installed a computer and communication system to streamline administrative processes (Browne & Montoya-Nelson, 1997). Moreover BHP Billiton expanded operations and productive capacity by more than 50% (De Echave et al., 2005, p. 16). In 2006, the UK/Swiss-registered, multinational mining firm Xstrata Copper (Xstrata) purchased the Tintaya mine from BHP Billiton for 750 million USD. Xstrata is one of the world's largest producers of smelter and refined copper and the fourth largest global copper producer in the world (Glencore Xstrata, 2011, p. 2). On May 2, 2013, a merger between Xstrata and Anglo-Swiss mining company Glencore PLC was finalized, thus becoming Glencore Xstrata (Dube & Kozak, 2014).

Xstrata Copper promised to honor the agreements with the community made by its predecessor; however, Xstrata's personnel lacked BHP Billiton's culture of CSR. Xstrata's internal CSR policies and subsequent actions in the Espinar region were contradictory: it was noticeably less receptive to transparency, fair and equitable negotiation, and consensus-based problem solving than BHP Billiton (Procasur, 2011, p. 6).). A drastic change in Glencore Xstrata's company culture post-merger is not apparent as the company chooses to engage in international CSR initiatives such as the Global Compact and the International Council on Mining and Metals (ICMM); however, is not a participant in the Voluntary Principles on Security and Human Rights, a set of principles to which companies such as BHP Billiton and Newmont Mining Limited are committed. Switzerland, headquarters of Glencore Xstrata, acknowledged the Principles in 2011 and assumed chairmanship for one year in March 2013 (Society for Threatened Peoples Switzerland, 2013, p. 22). The fact that

the company is failing to recognize a set of principles to which its home country is committed further exemplifies the contradictory culture of the organization.

Conflicts and Tensions

The communities surrounding the Tintaya mine were largely concerned with land purchases and forced eviction from communal lands, human rights violations, lack of consideration of the negative effects of mining on the environment, and the company's contributions to local development programs.

Land Acquisition

Each successive owner of the Tintaya mine has expropriated land from communities in the region in order to maintain or expand operations. According to Land Law N° 26505 (1995), a mining corporation can own the right to use the subsoil, but not the surface land. This law allowed Xstrata to exploit the minerals in the subsoil and purchase the land without negotiating with the farmers (Chavez, 2009, p. 20).

After the Peruvian government granted Minero Peru the rights to explore the area in 1985, the state confiscated 2,368 ha of the Anta Cama community's land to continue mining activities. When the Anta Cama community protested, the company offered peasants 10 nuevos soles per hectare. Those offered a job with Minero Peru lost it later on when copper prices fell and the company required less workers. After the transfer to the private sector and after BHP's merge with Billiton PLC in 2001, BHP Billiton gradually acquired 3,261 hectares from individual landowners of five communities to keep up with expanding operations (Procasur, 2011, p. 2). Table 3.1 shows the acquisition of land from five communities in Espinar Province by BHP Billiton.

Table 3.1: Community Land Acquisition

Community	Area affected (in hectares)
Comunidad Campesina (CC) Tintaya Marquiri	3,274
Comunidad Capesina Alto Huancane	204.73
Huinumayo Sector (CC. Alto Huancane)	246
Comunidad Campesina Huano Huano	400.85
Comunidad Campesina Alto Huarca	477
Comunidad Campesina Bajo Huancane	151.77

Retrieved from De Echave et al. (2005).

Human Security

In the Tintaya case, human security concerns the health and livelihoods of communities impacted by metals and pollution from mining activity (Barton, 2005, p.22). Forms of resistance to mining have been criminalized by the Peruvian central government.

Environmental studies indicate rising threats to health and agriculture due to mining activity in Tintaya. In 2011, an independent scientific study found elevated levels of metals in water and soil samples from seven communities near the Tintaya mine (Palmer, 2012, p. 1). These contaminants include metals contamination in surface waters and sediments of the Camacmayo, Tintaya, and Collpamayo waterways (Palmer, 2012). Residents and community members in Espinar have demanded that the company take responsibility for polluting their rivers and that they compensate through local development. However, the company rejects this and maintains that its voluntary contributions have been adequate (Aquino & Wade, 2012).

Affected communities in the region have faced barriers to demonstration and open protest for fear of violent retaliation by Peruvian police forces. Communities in Espinar Province have been continually engaged in long-standing mining-related social conflicts and violent encounters with the state. The Peruvian government has cast protesters as "extremists" in the conflict, criminalizing any acts of resistance to mining activities. Major protests took place in the year of 2012, and the Peruvian government declared a state of emergency for thirty days, applying emergency rules that gave the police the power to prevent people from gathering in groups (Aquino & Wade, 2012). Agricultural leaders declared a strike to pressure the Tintaya copper mine to negotiate a new social contract, calling for "improved environmental standards, independent monitoring, and increased funds for development projects" (Boyd, 2012). Thousands of civilians blocked routes to the mine, and in response, the government sent in special police commandos. Police forces also shot and killed two local community members who were protesting for greater benefits from Xstrata (Boyd, 2012). These protests have characterized the simmering tensions in Espinar Province over land rights and environmental issues, as well as the Peruvian government's strategy of delegitimizing the community's concerns by representing the protesters as criminals.

Other grievances of the community related to mining activity include forced evictions, abusive staff, and gender-based violence.

Environmental Degradation

Mining activity in Espinar Province has resulted in the pollution of surface and ground waters, yet this contamination also appears to be partially from natural sources. As previously discussed, this includes the metals contamination in surface waters and sediments of the Camacmayo, Tintaya and Collpamayo waterways and heavy metal contamination at monitored sites, including mercury, arsenic, cadmium and lead (Levit, 2013, p. ii).

Management and Allocation of Development Funds

The affected communities have challenged the company's contributions to development in the region and continue to claim that locals receive only nominal benefits from the mining industry. When Xstrata Copper purchased the mine from BHP Billiton in 2006, it agreed to contribute to a local development fund introduced by its predecessor in 2003 (Procasur, 2011, p. 4). This agreement is known as Convenio Marco. However, there has been continued disagreement between community representatives and the company over the company's contributions to local development programs. The affected communities and their organizations have asserted that the company's economic contributions through mining royalties and voluntary contributions are not sufficient. The communities thus believe the company has no interest in strategic and sustainable development in the region, such as in the management of water resources (Procasur, 2011, p. 8).

Furthermore, redistributive measures have also figured prominently in the debate. Under the Mining Canon, introduced in 2002, 50% of the income tax received by the Peruvian government is supposed to be redistributed to local authorities. Of this percentage, 20% goes to the provincial municipality where the natural resource is located, 60% is divided between the districts and provinces of the region, and 20% is divided between all the provincial governments in the country (Dybwik, 2006, p. 67). It has thus been argued in the Tintaya case that the total tax revenue from mining activities makes up a very small part of the provincial economy, and does not reach the local community.

Stakeholders

Community opposition to BHP Billiton and Xstrata's appropriation of land attracted support from Oxfam America, CooperAcción, CONACAMI, and Coordinadora Regional de Comunidades Afectadas por la Minería de Cusco (CORECAMI). These organizations have worked with five communities to address concerns with land transactions, facilitate dialogue, offer technical expertise, and build up community capacity to communicate and negotiate effectively with BHP Billiton, Xstrata Copper, and Glencore Xstrata.

Community

The five following communities were included in the Dialogue Table regarding BHP Billiton and Xstrata Copper mining (henceforth referred to as the "five communities"): Tintaya Marquiri, Alto Huancane, Bajo Huancane, Alto Huarca, and Huano Huano. However, more than five communities in the region have been affected by mining activities, including Huisa and the Yauri township.

The five communities are largely identified as campesino communities composed of small-scale farmers. BHP Billiton and Xstrata's land purchases in the Espinar region, as well as aforementioned environmental and human security issues, resulted in the communities' mounting frustration. Some groups within these communities have also expressed that their interests and cultural values are

gradually eroded by mining activities (Dybwik, 2006, p. 84). The communities and their representatives were ultimately able to build organizational capacity and effectively communicate grievances by aligning with NGOs and participating in the dialogue process.

CooperAcción

CooperAcción is a Peruvian NGO founded in July 1997 that promotes "the exercise of social, political, economic, and cultural rights" as well as "sustainable land management with gender and intercultural approaches" (CooperAcción, n.d.). The organization has been working with communities in Espinar Province since 1997 for the revision of land purchasing processes as well as for independent environmental assessment.

Oxfam

Oxfam America became involved in 1997 with the goal of ensuring human rights are recognized and protected. Oxfam America detailed community concerns in a report to the office of the Mining Ombudsman of Oxfam Community Aid Abroad (Oxfam CAA). Oxfam CAA subsequently became involved at the request of CONACAMI and the five communities.

CORECAMI

CORECAMI, partially comprised of local community members, helped organize the five communities during the Dialogue Table discussions (Procasur, 2011, p. 2).

CONACAMI

CONACAMI was primarily concerned with land rights of communities near the Tintaya mine. This case was a main priority for the organization (De Echave et al., 2005, p. 57).

Oxfam Community Aid Abroad

Oxfam CAA was established in February 2001 to create a formal mechanism for directing grievances concerning Australian mining company operations in any part of the world, while consulting communities and community action organizations on the ground. Oxfam CAA was present in the Tintaya dialogue process as an observer (De Echave et al., 2005, p. 19).

Conflicts and Tensions

Main conflicts and tensions in the region have surrounded: land acquisition, human rights violations, the allocation of funds for development programs, and continued environmental degradation. Currently, issues surrounding land acquisition, human rights violations and environmental degradation have been addressed, yet conflict over the allocation of funds for development programs remains. In 2004, community mobilization surrounding these issues prompted BHP Billiton to sign the Framework Agreement, establishing rules for implementing the company's CSR initiatives. In 2005, communities mobilized again, dissatisfied with the implementation of the Framework Agreement. After Xstrata Copper purchased the mine, CSR initiatives were not as closely implemented in accordance to the Framework Agreement. In 2012 another mobilization in Espinar after multiple attempts to convince the company, Xstrata, to rework the Framework Agreement. The protests resulted in two deaths and approximately 50 injuries. In light of the violence, the government declared a state of emergency for 30 days (Anguelovski, 2011, p.ii; Aquino & Wade, 2012). This mobilization revealed how CSR, consensus building, and confrontation can coexist in the same political space, and demonstrates a strained relationship between the company and the affected communities over time.

Land Disputes

In the case of Tintaya, state-expropriated land was sold to BHP Billiton under Land Law N° 26505, allowing for transactions that enabled companies to circumvent negotiations with communities and force them to sell through easement. This expropriation brought rise to questions regarding the validity of land transactions, which has heightened tensions and added to community distrust in the Peruvian state. Furthermore, the state has permitted mining explorations and expansions that have seriously affected the livelihoods of local communities. Frustrations over land loss resulted in increasing mistrust between communities and companies in ownership of the mine (Barton, 2005, p.ii).

Local communities had very little knowledge of their land rights prior to land transactions between them and the company. This made them susceptible to unfair, predatory practices by the company and the state (De Echave et al., 2005, p. 17).

> [W]e returned by day to the plot of land that we were negotiating, and in the afternoon the mining company came with their killers, the police and security guards that was at night time, they practically surrounded the whole family, they practically threw us out around eight in the night, nine in the night, during the night, and together with the cattle we had to go, they evicted us, right? So they displaced us... The lawyers, the public prosecutor they all were there telling us 'you sold the land. (Armstrong, Baillie, Fourie, & Rondon, 2014, p. 31)

Initial failures to address these grievances and efficiently resolve tensions led the communities to seek help from local organizations such as CooperAcción. This support helped the communities voice their grievances in a formal setting, which eventually led to the creation of the Dialogue Table. Within this framework, community grievances regarding land transactions were properly addressed

Human Security

The communities in Espinar Province have questioned the preservation of their rights by the government, BHP Billiton, and Xstrata. Mining operations in the area resulted in the loss of land and livelihood, negative effects on human health, and the criminalization of protest and expressions of resistance to mining activities (Armstrong et al., 2014, p. 41; Barton, 2005, p. 7). The communities of Espinar depend on the natural environment and waterways for agriculture, so claims of metals pollution led the affected communities to demand acknowledgement, and compensation from mining companies for this pollution. BHP Billiton and Xstrata displayed differing levels of receptiveness to community concerns.

Health Impacts

Mining operations in Espinar Province have ostensibly had negative impacts on human and animal health. Reports indicated metals contamination of major waterways, as well as the presence of heavy metals in dead animals. The companies, notably Xstrata, contested these environmental results and failed to address the issue in timely manner, and evidence of pollution from the mine continues to be disputed (Facing Finance, 2014).

Contention over the connection between poor human health and the Tintaya mining operation can be attributed to competing information. A report released by the human health sub-commission found that heavy metal contamination occurred in the Espinar, but was questioned for two reasons (Facing Finance, 2014). First, only blood samples were taken, despite the fact that heavy metals accumulate in the bones. Second, failure to determine whether the presence of heavy metals in water could influence nutrient absorption made the connection between human health and mining activities in the region more tenuous. The sub-commission did not provide any information regarding the potential impacts of contamination, and submitted a rather vague report, resulting in loss of trust between the company and the communities (Oxfam Australia, 2003, p. 35).

Independent studies have demonstrated the health of the communities to be comprised by pollution from mining activities. For example, adults and children of rural communities in Alto Huancané and Huisa were affected by the presence of heavy metals in local water. Presence of metals was detected in the urine of local residents after a screening conducted by the Environmental Laboratory of the Centers of Disease Control Prevention in the United States. The research found that 37 youth under the age of 18, 74 adults, and 68 elders also had varying amounts of barium, mercury, arsenic, and other minerals in their bodies. Despite this evidence, the connection continues to be contested by

Glencore Xstrata. The Ministry of Environment and leaders of Espinar Province will resume talks on this issue at the next meeting in March 2015 (Salcedo, 2015).

Community members have attributed sickness and death of livestock to contamination from mining operations. In a test conducted by the National Agricultural Health Services, tissues taken from dead animals showed the presence of heavy metals, but not an amount that would have caused death. The environmental report, recently published in 2013 by the Ministerio del Ambiente (MINAM), also demonstrated that the Tintaya mine would be an unlikely source of animal sickness in the region. Despite this, communities continued to claim that animals were dying as a result of water contamination caused by mine operations (Levit, 2013, p. 3, 11, 35).

Tensions regarding environmental degradation have ultimately risen due to pollution that has affected human and animal health. These tensions have been heightened as Xstrata and now Glencore Xstrata refuse to confirm that its mining operations have caused negative health effects and continues to attribute this to contamination from natural sources (Facing Finance, 2014).

Questions of Human Rights and the Right to Protest

When the Human Rights Commission was established through the Dialogue Table, it received 34 allegations of human rights violations occurring between 1982 and 2001 related to injury, sexual assault, intimidation, forced eviction, and damage to private property (De Echave et al., 2005, p. 36). Issues relating to these allegations were resolved on a case-by-case basis through the Dialogue Table.

More recently, the state's criminalization of protest and secret agreements between the mining companies and police forces have escalated tensions between Xstrata and affected communities. May 2012 community protests led to a brutal response from the state, resulting in many injuries and death of two civilians. On May 28, the government declared a state of emergency to maintain order and temporarily end mining protests in the region (Society for Threatened Peoples Switzerland, 2013; Boissière et al., 2014, p. 13). Rather than protecting communities at the Tintaya site, the state sent police forces to quell the mostly peaceful protests.

Secret agreements between BHP Billiton and Xstrata and the Peruvian National Police force have increased suspicions of their collusion with the state. In March 2000, BHP Billiton signed a secret agreement with the Peruvian National Police Force. Clauses of this agreement specify a period of renewal and payment due, and were renewed 17 times until the sale of the mine to Xstrata in 2006. Correspondence from October 17, 2011, between the Peruvian Ministry of the Interior and CooperAcción, indicates Xstrata and the Peruvian National Police Force singed a similar agreement in 2006 to "increase security and protect mine staff, assets and installations against criminal actions and attacks" (Society for Threatened Peoples Switzerland, 2013, p. 10). These secret agreements between BHP Billiton and Xstrata and the Peruvian National Police Force and subsequent violent police reaction have negatively affected community-state and community-company relationships, creating mistrust and heightening tensions. The state's violent response to protests in 2012 and its

close relations with BHP Billiton and Xstrata have caused the communities to doubt the state's ability to defend their interests, diminishing its legitimacy and creating even more tensions.

Environmental Degradation

Since the 1990s, Tintaya mining operations and surrounding communities have shared the use of four watersheds: Cañipía River Basin, Tintaya River Basin, Collpamayo River, and the Camacmayo River. Communities have become increasingly concerned that the mine's waste processing plant has been leaking into these local basins and rivers, contaminating water that local residents drink and use to irrigate farmland. In recent years, concern and frustration has mounted river and river basin contamination due to increasing reports of animal sickness, deformation, and human health concerns (Barton, 2005, p. 22).

During the 2012 protests, local residents and politicians accused Xstrata of contaminating nearby land and water sources. Protesters demanded that Xstrata acknowledge the mine's impact on the surrounding environment, citing reports of ill health from community members, as well as evidence of contamination from participatory monitoring reports. Xstrata denied these allegations, proposing contamination levels met both the standards of the company as well as those of the Peruvian state (Levit, 2013, p. ii).

Between surrounding communities and Glencore Xstrata, debate remains over the extent of environmental degradation due to Tintaya mining operations. Facing pressure from the community and local government, a Participatory Health and Monitoring (PHEM) group of the Ministry of the Environment conducted an assessment of 64 sites in the region. In April of 2013, the results revealed surface water and sediments in over half the sites tested, including the Tintaya River Basin and the Camacmayo and Collpamayo waterways, were contaminated with varying levels of mercury, arsenic, cadmium, and lead. Xstrata Copper asserted the contamination discovered in the PHEM report met environmental standards or were outside of the mine's area of influence (Levit, 2013, p. ii).

Conflicting results from environmental impact reports continue to fuel community-state and community-Glencore Xstrata mistrust. For example, in 2004 the Environment Commission, a commission established through the Dialogue Table, conducted an environmental assessment that found lower levels of heavy metals contamination (selenium and nitrates) in regional waterways than a study produced by CooperAcción in 2000. (Barton, 2005, p. 45). While Glencore Xstrata releases brochures, policy statements, and corporate guidelines about its environmental practices, it hasn't released any hard laboratory data that would allow communities and interested parties to determine levels of contamination around the mine (Levit, 2013, p. 12). Without clear information, communities in the Espinar province remain suspicious about environmental issues they believe affect their health, animals, and livelihoods.

Management and Allocation of Development Funds

According to Oxfam America (2014) there are three central aspects of investment in development in the region, including education and health, urbanization, and improvement of basic services and housing. Espinar as a whole has shown significant improvement in some of these aspects: education levels have returned to levels found in 1981, urbanization has accelerated, and access to water has expanded significantly: while only 7% of the province's households in 1981 had access to piped water from the public network, the number increased to 49% in 2007. However, challenges in development remain, including: limited quality of regional investment and use of regional budget for strategic development projects, high dependence of subnational governments on transfer systems from the central government, and weak planning capacity of the provincial municipality (Oxfam America, 2014, p. 14). Disagreement over company contributions to development projects has been a major source of conflict between the company and the communities.

There is an overall high dependency on funds from mining activity in Espinar Province for development, and allocation of these funds has been a major source of conflict and tension between the communities and mining companies. The main private fund for development in the region is the Tintaya Foundation, which was established in the Framework Agreement signed by BHP Billiton in 2004. It is through the Framework Agreement that the company in ownership of the mine channels funds to the Tintaya Foundation, which then distributes those funds for development projects under the SLO, or the "social license to operate." This license is granted on the basis of the company's credibility and the kind of relationship it cultivates with the local population. The funds originating from canon transfers and distributed in accordance with the Framework Agreement accounted for 86% of total resources received by the province between 2004 and 2012 (Oxfam America, 2014, p. 15).

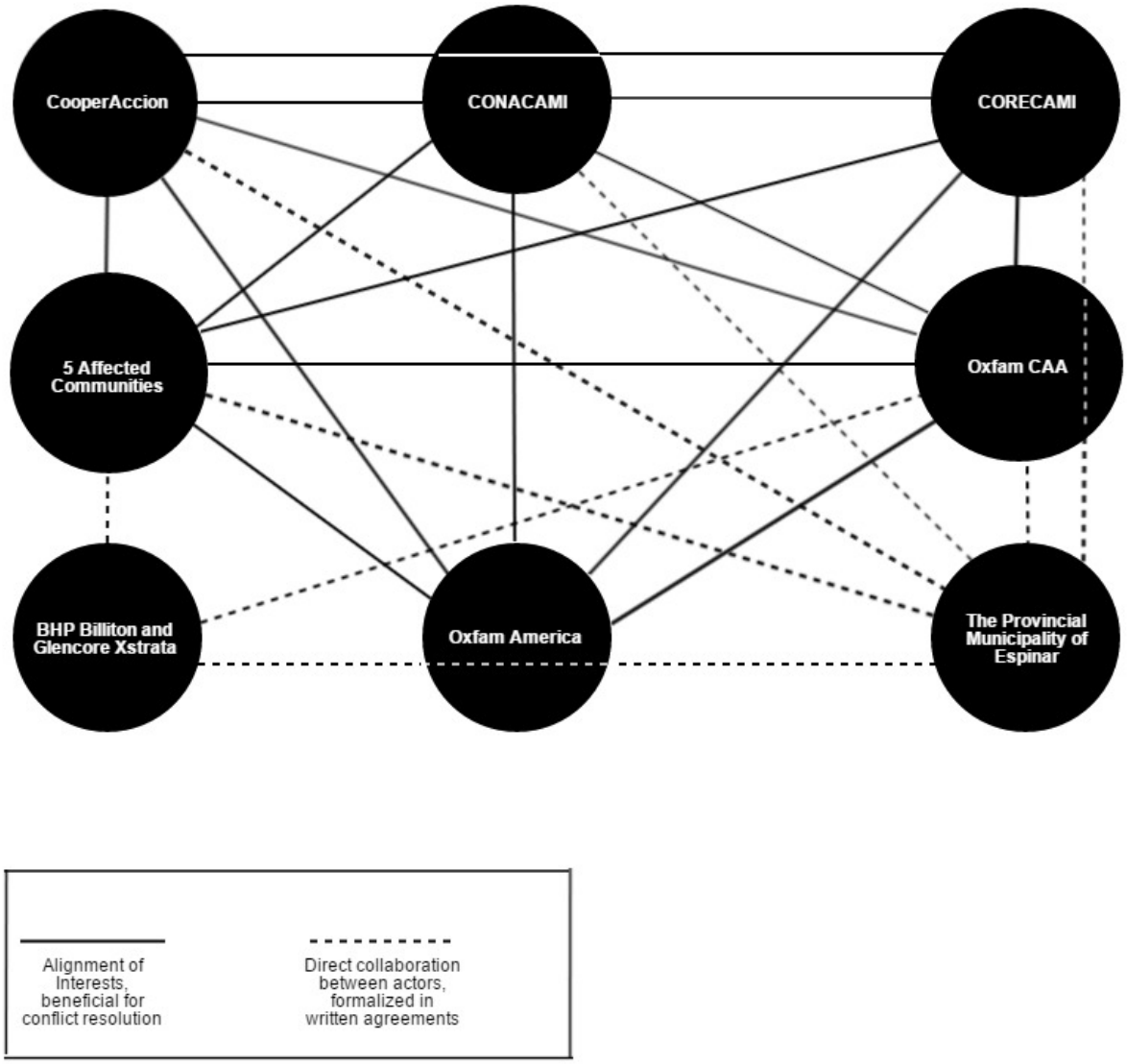
Though the mechanism for funding for sustainable development projects has been set up through the Framework Agreement, communities surrounding the site continue to claim that they have yet to see the benefits from mining activity. During the 2012 protests, affected communities argued that the contributions from the Tintaya Mine towards local development were not sufficient. The communities demanded a revision of the Framework Agreement to increase Xstrata's contribution from 3% to 30%, which Xstrata rejected. The central government has also criticized the local government for purportedly lacking the capacity to spend tax revenue, maintaining that company contributions are ample (Aquino & Wade, 2012).

The Tintaya mine has been a constant source of tension between the local population of Espinar Province and the owners of the mine since its establishment. Conflicts such as environmental degradation and the company's contributions to local development projects continue to test the relatively unstable relationships between the affected communities, the company, and the state. These ongoing conflicts highlight the importance of continued dialogue, compromise, and consensus building between stakeholders in easing tensions and developing long-lasting solutions to disputes in the Tintaya case.

Alliances

The development and formation of alliances in the Espinar region initially started at the intersection of interests between the five communities and the Peruvian NGO CooperAcción. As time progressed, the scope of relationships was broadened to include actors from different sectors. These actors had varied opinions regarding the structure of the working relationship between BHP Billiton (now Glencore Xstrata) and the five communities, however, the construction of these alliances created a framework for discussion allowing communities to express grievances and work together with the mining companies to find solutions. Figure 3.4 is a visual representation of the relationships formed amongst the various actors involved in issues surrounding the Tintaya mine.

Figure 3.4: Map of Relationships



NGO's and Civil Society Organizations

Alliances between the NGOs and the five communities were vital to conflict resolution in the Tintaya case. With the education, organization, communication, and experience that NGOs brought to the table, communities were able to overcome imbalances in negotiating ability and adequately address their grievances with the company.

CooperAcción

Grievances of the five included communities—Tintaya Mariquiri, Alto Huanacané, Bajo Huanacané, Alo Huaraca, and Huano Huano—regarding the land purchase process gave rise to questions of the validity and equity of transactions carried out. This drew the attention of CooperAcción, an NGO that became an active player in the situation in 1997 at the request of the communities and local government. CooperAcción was invited to conduct some investigation on the land transactions and provide advice on organizing and substantiating their case.

Once the agreement was reached to establish a Dialogue Table, CooperAcción's involvement in the process grew to a greater capacity. Members from the organization participated in all of the working commissions and coordinated the environment and human rights commission. Their team included economists, lawyers, an environmental expert, a geographer, and local outreach workers (De Echave et al., 2005). At the beginning of the process, it was noted that some community members lacked the knowledge and training to effectively participate on fair and equitable terms. Consequently, CooperAcción provided information and guidance to communities and their organizations in regards to technical issues related to the Dialogue Table's work. This assistance generally came in the form of workshops that trained community representatives in dispute resolution skills and built their capacity to effectively navigate negotiations (Hill, 2010).

During the dialogue process, CooperAcción worked jointly with CORECAMI Cusco to facilitate strategic planning for the development commission in each of the five communities on the development commission. The result of this relationship between the three actors enabled each community to define its own unique vision of development based on the objectives, plans, and activities that would enable it to reach its goal.

Oxfam America

Oxfam America became actively involved in the Tintaya case in 1997, when it funded CooperAcción's initial investigation in support of the five communities. The communities requested a review CooperAcción's investigation, as well as an independent environmental assessment which was conducted by the Environmental Quality Analytical Services S.A. (EQUAS S.A.). In order to implement these activities, a collaboration agreement was drawn up between CooperAcción, the provincial municipality of Espinar, and the five communities of Espinar (De Echave et al., 2005)

Based on the legal, environmental, and socio-economic study, the five communities, with technical support from CooperAcción, CONACAMI, and CORECAMI Cusco and the sponsorship of Oxfam America, prepared a case file in 2000 that formally documented the five communities grievances.

Oxfam America and Oxfam CAA were in consistent communication throughout Dialogue Table discussions and negotiations, continually sharing updated information and progress. Throughout the process, Oxfam America helped distribute information to communities, analyze Dialogue Table negotiations, prepare legal reports, and draft agreements. It also participated directly in workshops and community assemblies and facilitated plenary meetings (De Echave et al., 2005). Although Oxfam America's role was initially defined as an observer, its indirect participation was much broader through the alliances formed with various stakeholders. The presence and expertise of Oxfam America was vital to the organization of communities and other NGOs.

CORECAMI Cusco

A branch of CORECAMI was established in Cusco in 1998 during the initial investigation process, which was conducted by the five communities, CooperAcción, and Oxfam America starting in 1997 (De Echave et al., 2005). At first, CORECAMI Cusco, with the support of CONACAMI, functioned as a regional coordinator and representative of the five communities. However, its performance began to decline after a change in leadership in August 2002. The new directors were not able to maintain CORECAMI Cusco's initial level of leadership and coordination between communities. Frustrations over the slow progression of negotiations at the Dialogue Table harmed CORECAMI Cusco's relationship with CONACAMI and the five communities (De Echave et al., 2005). Without the support of CONACAMI, CORECAMI Cusco's ability to facilitate communication between the five communities was weakened. Although the organization was unable to effectively perform to the degree it once had, CORECAMI Cusco did participate in the singing of the final agreement between the five communities and BHP Billiton.

CONACAMI

When the CONACAMI was created in 1999, the five communities in Espinar became a top priority. CONACAMI significantly contributed to the central organization and effectiveness of community mobilization and negotiation (De Echave et al., 2005). It rapidly became the most visible organization representing the five communities. CONACAMI's primary contributions included strengthening organizations, building community capacity and skills, developing alliances, and waging campaigns. After the establishment of CONACAMI, CORECAMI Cusco began to act as a regional coordinator and communicator for CONACAMI. With the help of CONACAMI and CORECAMI, the five communities were able to engage in more coordinated and effective negotiation. At the height of this relationship, much progress was made at the Dialogue Table and agreements were reached (De Echave et al., 2005).

However, in late 2003 the Dialogue Table "process stalled briefly and CONACAMI stopped actively participating," (De Echave et al., 2005, p. 59). Amidst the stall, Xstrata attempted to engage in direct discussion with the communities outside of the Dialogue Table. The subsequent withdrawal of CONACAMI in late 2003 was a direct result of BHP Billiton's attempt to circumvent the consensus-based problem solving, thus breaking their commitment to conflict resolution within the Dialogue Table. CONACAMI's withdrawal from the Dialogue Table meant the high degree of coordination and communication that stemmed from the organization's involvement and alliances with other actors had been lost. The rift was reconciled once the company recommitted itself to engage in the consensus-based problem solving.

CONACAMI generally remained absent, in practice, until 2004 when it reaffirmed its commitment to oversee BHP Billiton's compliance with the Framework Agreement. However, the organization still remained absent in practice despite its intentions to re-engage in the Framework Agreement. CONACAMI's withdrawal was a political decision to disengage from negotiations similar to the Dialogue Table, however concrete reasons for its retreat have been unclear (L. Vittor, Personal Communication, February 11, 2015).

Oxfam Community Aid Abroad

Oxfam Community Aid Abroad (CAA) Mining Ombudsman in Australia accepted the case of the five communities near the Tintaya mine in 2000 (Procasur, 2011). In December 2001, Mining Ombudsman Ingrid Macdonald visited the Espinar Province in order to conduct field research. She met with representatives of the communities neighboring Tintaya, attended numerous community meetings, and met with representatives from CONACAMI, Oxfam America, EQUAS S.A., CooperAcción, the head of the government Ombudsman's Office in Cusco, and the mayor of Espinar (De Echave et al., 2005). Toward the end of her visit, BHP Billiton executives contacted her to set up a meeting with representatives of the five communities, the company, CONACAMI, Oxfam America, CORECAMI Cusco, the municipality of Espinar, and CooperAcción. The meeting marked the first time all interest groups involved in the case had sat down face to face (Barton, 2005).

Oxfam CAA then entered the Tintaya Dialogue Table as an observer, attending its first meeting on February 6, 2002 (De Echave et al., 2005). Oxfam CAA took responsibility for overseeing the process once all parties involved agreed to establish the Dialogue Table. It enjoyed a high level of respect from involved parties as an overseer (Barton, 2005). Oxfam CAA provided an experienced perspective on Tintaya mining issues due to its involvement and knowledge of similar situations surrounding mining and social conflict (Barton, 2005).

Oxfam CAA also sought to educate and train BHP Billiton in understanding and collaborating with the five communities. In 2002, Oxfam CAA launched its Corporate Community Leadership Program in India, a concept designed to expose and sensitize BHP Billiton and other multinational mining managers to the social impacts of large-scale infrastructure and mining projects. The goal of

the program was to "[make] human development central to the agendas of companies with operations in the developing world" and to "improve [BHP Billiton's] capacity to work with communities in a way that enhances the rights and livelihoods of communities affected by its operations," (Barton, 2005, pp. 27-28). The Tintaya mine's manager, Lucio Ríos, was sent to India as part of BHP Billiton's commitment to the Dialogue Table (Harvard Kennedy School of Government, 2013). Through its collaboration with Oxfam CAA, the company's relationship with the affected communities improved as operations management expanded their capacity to understand the area in which they operated and those living in it.

The Communities

Community alliances with NGOs and civil society organizations were a key component of conflict resolution. The alignment of community and NGO interests first allowed for the five communities' grievances to be formally record and heard on a larger stage. From there, Community-NGO relationships expanded once the Dialogue Table was established. Communities were trained and educated by NGOs to ensure that their negotiations with experienced companies were on fair and equitable terms. Improving community negotiation skills have been vital to conflict resolution in the Tintaya case.

The initial alliance between the five communities and CooperAcción provided a platform for grievances to be heard on an international stage. It is this original support that allowed for Dialogue Table process to gain publicity and momentum. This increased publicity resulted in Oxfam America and Oxfam CAA's involvement. Relationships with the NGO's expanded beyond spreading awareness and moved toward capacity building, which has been a key facet to the communities' effectiveness at the Dialogue Table.

At the beginning of the Dialogue Table, it was clear communities weren't prepared for the technicality of the negotiations. The technical assistance, training, and education provided by CONACAMI and CORECAMI Cusco and funded by Oxfam America improved the negotiating ability of community members. Community-NGO alliances were important in reaching resolutions is evident in CONACAMI's gradual separation from the situation; when CONACAMI began to distance itself from actively participating in the Dialogue Table, the communities' performance in the negotiation process declined (De Echave et al., 2005). The loss of efficient and streamlined organization and communication, which CONACAMI and CORECAMI brought through their alliances with the communities, meant that talks during the Dialogue Table remained stagnant for over a year.

The Companies

BHP Billiton

The company's commitment to forming working relationships with all actors involved has been paramount throughout the Dialogue Tables. Including Oxfam America and Oxfam CAA signaled a monumental change in BHP Billiton's approach to engaging the five communities in the Espinar region. Before, the company dealt directly with communities in procedures such as land transactions and environmental monitoring. However, the traditional pattern of bilateral, company-community relationships was broken when the scope of collaboration was broadened to include NGOs and civil society organizations. This helped ensure a more egalitarian negotiation process.

The stagnation in the Dialogue Table and BHP Billiton's subsequent direct negotiation with the five communities outside of the agreed framework highlights the importance of the company's relationship to the communities and NGO's. The withdrawal of CONACAMI in late 2003 was a direct result of BHP Billiton's decision to engage with the community outside of the Dialogue Table. Consequently, various actors suffered. The communities lost the organizational body with the capability to streamline communication and effectively assist them during the negotiation process. CORECAMI Cusco lost its master coordinator with the ability to provide effective organization. In sum, the company's deviation away from the agreed upon negotiating process, the Dialogue Table, greatly harmed the progress that had been made. However, the company reaffirmed its commitment to the Dialogue Table, thus signifying a recommitment to building alliances. As a result, the Dialogue Table continued and an agreement was reached in 2004.

Xstrata and Glencore Xstrata

Xstrata Copper promised to uphold the agreements signed by BHP Billiton and the communities when it took ownership of the Tintaya mine. While it has continued to engage in dialogue processes with the affected communities, the company has demonstrated a lack of commitment to problem solving by means of the Dialogue Table (Facing Finance, 2014). Secret agreements amongst BHP Billiton, Xstrata, and the Peruvian National Police and Army sheds light on the negative effects of company-state alliances formed without the inclusion of the affected communities and NGO's. These agreements allow the mining company to request a permanent police security presence and also to ask for rapid large-scale deployment of police units if protests are suspected. Under the provisions of the agreements the police conduct routine patrols aimed at "preventing, detecting and neutralizing" threats (Society for Threatened Peoples Switzerland, 2013, p. 4). The definition of "threats" has been financially skewed to protect continued mining operations. In exchange for a rapid police response, the companies provide financial and logistical support such as vehicles and transportation (Society for Threatened Peoples Switzerland, 2013). This means that both the companies and police have a financial incentive to act in the interests of the company and to use force in response to protests rather than work with local people to find solutions to their grievances.

Rather than engage with the community to listen to and properly address the five communities' new grievances, the company chose to collude with a governmental agency in the shadows. The effects of this alliance are known: unrest, violence, death, and imprisonment of a governmental official (Society for Threatened Peoples Switzerland, 2013). These effects have furthered the communities' distrust in the corporation and in turn harmed their relationship.

That being said, Glencore Xstrata was able to reach an agreement with the communities and formally close the Dialogue Table in December 2013. This collaboration resulted in an action plan with short, medium, and long term goals (Ministerio del Ambiente, 2013). This successful cooperation between the two organizations is a positive sign, but shouldn't be taken completely at face value due to the actions of the company in the past and its contradictory nature.

The Peruvian Government

Due to the decentralized structure of the Peruvian government, different governmental actors have differing views of mining operations. Thus, the type and dynamic of alliances formed with the state is dependent upon the classification of the agency. For example, the local municipality of Espinar has aligned itself with the interest of the five communities, while the central government has aligned itself with the companies operating in the area. These differences in government interest have caused great community distrust in many state agencies.

The Provincial Municipality of Espinar

In 1997, the provincial government of Espinar formally aligned itself with the five communities and NGOs when it signed the agreement allowing for the initial investigation in 1997. The approval of an investigation, requested by the communities, demonstrates the provincial government's receptiveness to the communities' grievances. Since that point in time, its various mayors have aligned with community interests more so than the national and regional governments (De Echave et al., 2005).

The provincial municipality's active participation in the Dialogue table exemplifies this alignment and has reinforced its commitment to the communities through direct engagement. The 2012 arrest of then- Espinar Mayor Oscar Mollohuanca further demonstrates the provincial municipality's alliance with the communities. He was so outspoken throughout the protests, blaming Xstrata for polluting the area that the Peruvian police force detained him for disturbing the public order (Facing Finance, 2014). The provincial municipality has been vital to the situation in that it represents the only governmental organization, albeit small, that has maintained a constant presence and actively worked to help address community concerns.

The Regional Government

The regional government of Cusco has played much less of an active role in the situation when compared to its provincial counterpart. It has become more of a player in recent years during

negotiations starting in 2013 and formally committed itself with the signing of the action plan that closed the Dialogue Table (Ministerio del Ambiente, 2013).

The National Government

At the beginning of the Tintaya case, the national government's direct involvement was nearly nonexistent. During the meeting held by Ingrid Macdonald in 2001, the communities and CONACAMI proposed the national government, in this case the Ministry of Energy and Mines, not participate in the dialogue to resolve conflict; all participating parties agreed (Barton, 2005). The implications of this proposal demonstrate a clear lack of trust in national government agencies, their aptitude, and their willingness to compromise in order to come to agreements. This distrust grew as a national Peruvian governmental body, the national police force, entered in secret agreements with Xstrata.

However, the largest collaboration between provincial, regional, and central governmental agencies occurred at the end of the Dialogue Table. On December 2nd, 2013, Manuel Pulgar-Vidal and Vice Minister of MINAM Mariano Castro, Regional President of Cusco Jorge Acurio, and Mayor of Espinar Oscar Mollohuanca formalized commitment to implementing the agreements made in the Dialogue Table (Ministerio del Ambiente, 2013). This collaboration solidified an alliance of large magnitude between community, company, and government. In an attempt to decentralize power, MINAM has divided its investigatory duties into regional branches. SIAL is the MINAM affiliate in the Espinar province (Ministerio del Ambiente, 2013). This branch recently collaborated with the communities and the Regional Government of Cusco in order to conduct an environmental study, which found that Xstrata was responsible for polluting the area (Grabski, 2013).

Missed Connections

The Catholic Church

Little evidence points to the Catholic Church assuming a significant role in the Espinar region. A commonality throughout the communities, religion, could have been a factor that brought further unification. The coordination and representation that was lost with CONACAMI's separation could possibly have been restored with the Catholic Church's involvement. The unifying factor, religion, could have been used to bring the communities together again and streamline processes.

All Affected Community Members

It has been noted that not every community affected by the Tintaya mine was able to participate in the Dialogue Table. These excluded communities were concerned about the absence of a holistic vision for family relocation and community development (Anguelovski, 2011, pp. 12-13). In sum, not all community members' grievances were brought to the forefront due to the smaller scope of community participation in the Dialogue Table.

Mechanisms of Conflict Resolution

In 2003 and 2004, spaces for dialogue between BHP Billiton, local communities, and NGOs were formalized through the Tintaya Dialogue Table and Convenio Marco, otherwise known as the Tintaya Framework Agreement. Third parties such as Oxfam America, CORECAMI, CONACAMI, and CooperAcción played a vital role in the formation of these two mechanisms, both which succeeded in engaging multiple actors in decision making and promoting sustainable development. Both the Dialogue Table and Convenio Marco have been praised for being multi-party agreements that encouraged cooperation between different stakeholders, and are mechanisms that exemplify the successes and challenges in formal company-community interactions (Slack, 2009).

The Tintaya Dialogue Table

Introduced by BHP Billiton in 2003, The Dialogue Table was a space for consensus building between the company, the five represented communities, the municipality of Espinar, and involved NGOs and organizations. It addressed community grievances in regards to land, human rights, environmental pollution, and sustainable development. It functioned regularly until 2012, when it was then repurposed as the "development" roundtable with the intention that it would primarily focus on short and long-term development projects (BHP Billiton, 2006; Greenspan, 2012, p. 22).

The initial goal of the Dialogue Table was to build trust between BHP Billiton and communities affected by the Tintaya Copper Mine. To accomplish this, third parties such as Oxfam America, CooperAcción, CORECAMI, and CONACAMI, facilitated the process of formalizing the roundtable discussion. To start, a neutral facilitator from a national mediation NGO selected members to participate in the dialogues. These members included BHP Billiton staff, elected community leaders, interested citizens from the five included communities, NGO members, and members of local government (Anguelovski, 2011, p. 390,).

At the first roundtable discussion on February 6, 2002, participants unanimously agreed on a code of conduct that each contributor was expected to respect. The code of conduct ensured:

Broad and active participation of all stakeholders. The company, members of the five communities, involved organizations, and members of the local governments were expected to engage and participate in the roundtable discussions (Hill, 2010, p. 10).

Consensus-based decisions to ensure trust building. Decisions were reached through consensus amongst all actors involved rather than a voting procedure (Hill, 2010, p. 10).

Joint fact-finding and investigations. Participants agreed to cooperatively investigate community grievances and implement recommendations by outside experts. This was meant to limit the ability of a stakeholder to engage in "advocacy science" (Hill, 2010, p. 10).

Confidential meetings. Participants decided to keep the roundtable proceedings confidential. Public reports about the roundtable meetings were approved by all parties before being released (Hill, 2010, p. 10).

Four commissions were formed to target issues regarding loss of land, environmental impacts, human rights violations, and sustainable development. The Human Rights Commission, Environment Commission, and Sustainable Development Commission were established as permanent commissions, while the Land Commission was disbanded once disputes were resolved. Community delegates or leaders managed the groups, and each commission created work plans, held meetings, arranged training workshops, and produced reports about its work (Barton, 2005, p. ii).

Third parties were vital to the formation and achievements of the Dialogue Table. At the start of the process, Oxfam America, CONACAMI, and CooperAcción, trained community representatives in dispute resolution and familiarized communities with the process of negotiation. This allowed individuals and community representatives to negotiate with BHP Billiton on fair terms. Other than building community capacity to negotiate, third parties also provided technical and financial support, as well as information and skills training (Hill, 2010 p. 13).

Accomplishments

The Dialogue Table increased the capacity of BHP Billiton and the five communities to address grievances. BHP Billiton staff acquired an understanding of how to engage with communities and gain community approval before implementing projects. The dialogue process also encouraged communities to become familiarized with negotiation, allowing them to approach companies on more equitable terms.

Consensus-based decision making led to greater trust between BHP Billiton and the five communities. Through the dialogue process, communities began to change their attitude about the mine once they saw the company seek solutions to their grievances (Hill, 2010, p. 13).

The Dialogue Table committed funds to sustainable development. Through the Dialogue Table, BHP Billiton committed to a sustainable development fund, improved environmental protection, recognized human rights violations, and compensated communities for land expropriated and transferred from communities through the four commissions (Anguelovski, 2011, p. 389).

Challenges

The Dialogue process excluded communities who self-identified as victims of mining operations. Five communities were identified as being affected by mining activities and invited to participate in the dialogue process. Other communities in the region who self-identified as victims of the Tintaya mine were not given the opportunity to participate in the dialogue process. Many of the

demonstrators in the 2005 protests at the Tintaya mine were from outside communities, who felt they did not have other channels to voice their concerns (Anguelovski, 2011, p. 392).

Miscommunication between participants at the Dialogue Table and communities led to misunderstandings and built tensions. At times, there was poor communication between community leaders at the Dialogue Table and their constituencies. Community leaders did not always fully relay to community members the decisions reached by the four commissions, and this often led to misunderstandings and delayed progress of the Dialogue's key objectives. Communication was especially a problem between the Land Commission and Human Rights Commission, and communities. Miscommunication led communities to believe these commissions were inactive and ineffective, which resulted in tensions between BHP Billiton and communities (Barton, 2005).

Women had noticeably less participation than men in commissions and at roundtable discussions. Although women participated in the Dialogue Table, they had conspicuously less participation in group discussions and negotiations. One factor contributing to this was that community delegates to the roundtable had to be elected in a community assembly, and women are elected less frequently. Additionally, meeting times were at hours that inconvenienced women, and women in the region felt more comfortable speaking in Quechua rather than Spanish, which further deterred them from Spanish-speaking meetings (Greenspan, 2012, p. 26-27).

The Land Commission

Past land sales and negotiations between the Peruvian state and Tintaya mine owners lacked transparency, and resulted in forced evictions of community members, as well as poverty for families who lost both their land and their livelihood. The Land Commission was formed in order to discuss, analyze, and propose issues related to these past land acquisitions. The goal of the commission was to investigate and find ways to compensate community members. Since 2012, the commission has had few issues left to resolve, and has for the most part been dissolved (Chavez, 2009, p. 30; Greenspan, 2012 p. 25).

Accomplishments

A plan was formed to compensate and relocate families. After half a year of data collection, investigations and negotiations, the Land Commission reached an agreement, and it was determined that the Xstrata would compensate displaced families by providing them with the amount equivalent to 125-150% of what had been lost. Xstrata also agreed to help Tintaya Marquiri community members relocate and develop new land and provide basic infrastructure (Chavez, 2009 p. 31).

Challenges

The compensation and land purchase process was slow. At the time that the Land Commission came to an agreement in mid-2004, there was a surge in land prices in the region due to speculation.

This made it difficult for BHP Billiton to adequately compensate and relocate members of the Tintaya Marquiri community. 75% of the land that would have been viable for the company to purchase and use to compensate community members had already been purchased. This was detrimental to communities and families who previously had land taken from them, and led to tensions between the communities and the company (Barton, 2005; Chavez, 2009).

The relocation process led to divisions between communities. In 2005, community members voiced grievances with BHP Billiton through protest. Participants in the demonstration argued that unequal attribution of new land and decisions over infrastructure projects, such as new latrines, sheds for cattle and eater, led to jealousies between community members, and that these jealousies led to divisions between "marginalized" and "privileged" people (Anguelovski, 2011, p. 392).

The Human Rights Commission

The Human Rights Commission was tasked with investigating and addressing community claims of human rights abuses against the company's local staff, and carried out case revisions of rights abuses that occurred between 1982 and 2001. The commission collected and analyzed testimonies of both alleged victims and alleged perpetrators of abuse, and worked with the Legal Defense Institute, an NGO based in Lima, to verify cases (Barton, 2005, p. ii).

Accomplishments

The commission verified cases of human rights abuses and compensated victims. The commission found 34 potential human rights violations, which were then turned over to the Legal Defense Institute for further investigation. In December 2002, the Legal Defense Institute found four cases in which abuses had definitely occurred, and six where violations may have occurred. Commission members provided compensation to victims in the form of land or goods to victims and their family members (Barton, 2005, p. ii).

Challenges

The Human Rights Commission had low levels of participation by community members and their representatives. The high priority assigned by community members to the issue of land and high participation in the Land Commission resulted in weak participation in the Human Rights Commission. Because of this, the Human Rights Commission's work was judged to be slow, incomplete, and provided few tangible results (Barton, 2005, p. ii).

The Environment Commission

The Environmental Commission was formed as part of the Tintaya Dialogue Table in order to promote company and community participatory monitoring programs. The commission conducted

environmental assessments and published information on the mine's environmental and health impacts.

Accomplishments

Community capacity to conduct and interpret environmental assessments was bolstered. CooperAcción trained communities in both sampling and interpretation of water, air, and soil results, allowing them to participate in monitoring programs and increase their ability to assess reports published by the company and the state on environmental impacts and standards (Hill, 2010).

The Environmental Commission maintained communication between the Dialogue Table and the community. Information campaigns were launched to disseminate the Environmental Commission's findings, keeping communities informed on the progress and results of environmental assessments being performed. This prevented tensions from forming between the Environmental Commission and communities (Barton, 2005, p.11).

The Environmental Commission bolstered environmental surveillance. Along with the communication campaigns, in 2004 the Environmental Commission also assured the establishment of the Committee on Environmental Surveillance, a new community environmental monitoring team guided by a new set of environmental standards (Procasur, 2011).

Challenges

The results of the study did not alleviate community concerns, and community members continued to be skeptical. The results contradicted many of the finding of a previous study commissioned by CooperAcción in 2000, and found there was much less contamination than previously perceived. Although skeptical, the Environmental Commission accepted the findings of the study. They continually reported incidences of sick children and animals, and believed this demonstrated that the environmental study was flawed. However, BHP Billiton staff members and NGOs believed that the continued illnesses were due to poor health (Barton, 2005, p. ii).

The Sustainable Development Commission

The Sustainable Development Commission addressed the impacts of the mine through the provision of new land, employment, and livelihood for community members. It was also their mission to form a consensus between the company and communities as to what sustainable development entailed, and what projects would be implemented by the two stakeholders in the short and long term.

At the beginning, there were competing definitions of what "sustainable development" meant. For example, disagreement emerged between BHP Billiton and community members regarding whether or not the commission would deal with mine employment. Officials from the mine argued that the

commission should be planning for a future that might not include the mine as an employer. The commission's focus eventually shifted to address questions of long-term economic development in Espinar instead (Barton, 2005).

Accomplishments

The Sustainable Development Commission encouraged communities to develop their own projects and goals. The commission helped communities articulate their own long-term development needs and goals. The commission held several workshops for community members to plan development projects. CooperAcción also worked with community leaders to develop plans and outline specific development initiatives (Barton, 2005).

The commission proposed and created a fund for the sole purpose of community development. BHP Billiton agreed to the creation of this fund when it decided to participate in the Dialogue Table in 2004, and in three years committed approximately 900,000 USD for development projects chosen by the five communities (Glencore, 2015).

Challenges

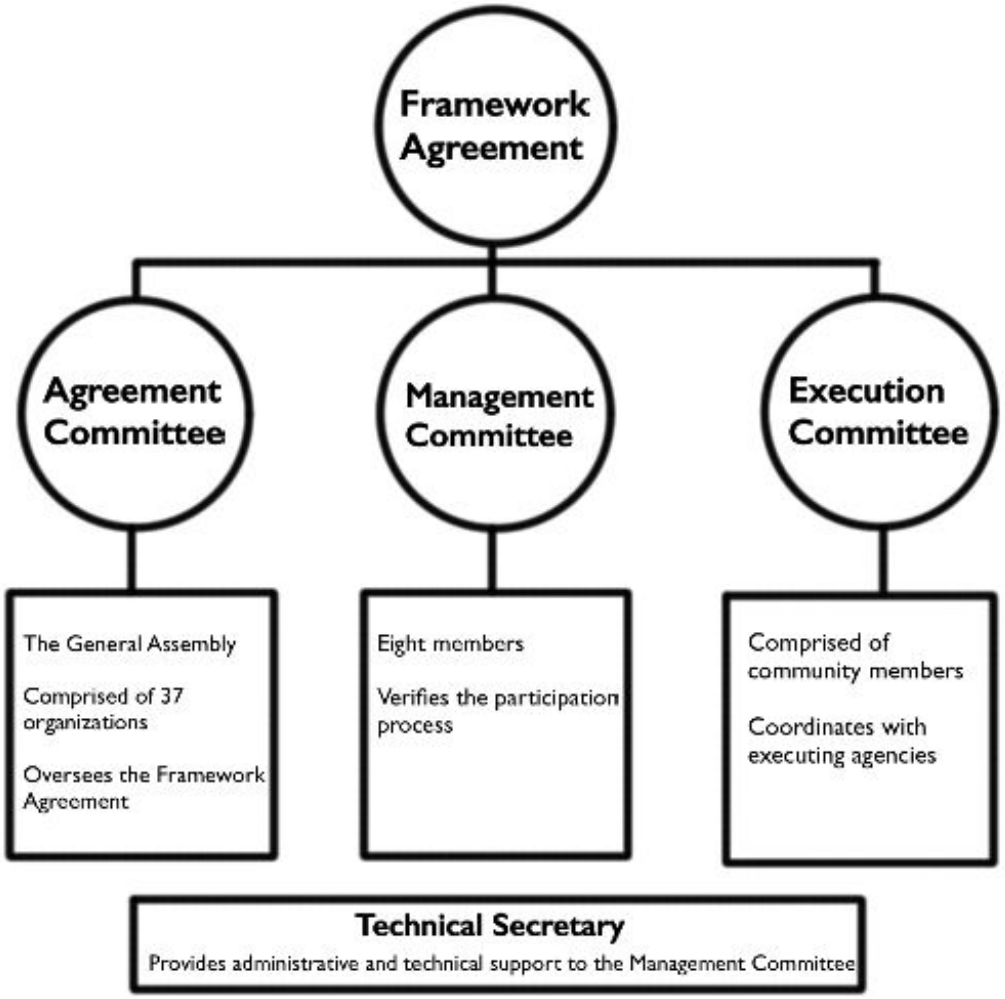
It was difficult to plan projects in advance of the Land Commission's decisions on land compensations. Most potential projects developed by communities were agricultural in nature and hinged on the question of land. Projects couldn't be planned ahead of the Land Commission's final decisions, which ultimately slowed the progress of the Sustainable Development Commission (Barton, 2005).

The Tintaya Framework Agreement (Convenio Marco)

The Convenio Marco was another notable outcome of dialogue between BHP Billiton and the five communities. BHP Billiton and the provincial mayor signed the agreement in 2003 and was the framework through which the company's CSR initiatives were to be formulated and put into action. In 2006, when BHP Billiton was absorbed by Glencore Xstrata, the conditions of the Framework Agreement were absorbed as well (Anguelovski, 2011, p. 389)

- The Framework stipulated that 3% of revenues made by the mine before taxes are contributed to the development of the Province of Espinar (Glencore, 2015).
- Of this 3%, the budget is then divided between mega projects (20%) and district projects (80%) (Glencore, 2015).
- As part of district projects, the budget is then further divided between eight districts in Espinar based on population (80%) and poverty indicators (20%) (Glencore, 2015).

Figure 3.5: Committees Established by Framework Agreement



Retrieved from Glencore Xstrata (2011)

Community members then participate in workshops to decide what projects should be implemented. Then, the Management Committee, composed of members from United Federation of the Peasant of Espinar (FUCAE), Front in Defense of the Internet of Espinar (FUDIE), and Association of Village and Town of the Young People of Espinar (AUPE), as well as representatives from the Provincial Municipality, District Municipalities, and representatives from Xstrata, approve and prioritize these initiatives (Glencore, 2015; Larkins, 2011).

Accomplishments

The Framework Agreement gave 3% of profits back to the community. 97 million USD has been contributed through this mechanism, and has enabled the implementation of major

infrastructure projects such as the Espinar Hospital, a Dairy Plan, and the Center of Educational Resources in Espinar It has also funded 800 small community projects in the region (Glencore, 2015).

Challenges

The funds were controlled by an unchecked company foundation. The Tintaya Foundation controlled 60 percent of the funds that were channeled through the framework agreement. There have been criticisms that because there was no mechanism in place for the foundation to be accountable to the community, members felt that this meant the company was unaccountable and unresponsive to the local population and government (Palmer, 2012).

Stipulations of the Framework Agreement are absorbed by any company that purchases the mine. The Framework was originally agreed upon by BHP Billiton, who no longer owns the mine, and the previous municipality of Espinar. This meant that terms of the agreement were not likely to be reworked, even when the mine was under new ownership. However, in 2011, the Provincial Municipality of Espinar sent a notarized letter to representatives of Xstrata that proposed a reformulation of the Framework Agreement (Arellano-Yanguas, 2011; Larkins, 2011, p. 14).

Lessons Learned

1. **Some companies feel more obliged to cooperate with local communities, NGOs, and involved organizations than others.** BHP Billiton was more open to the dialogue process than Glencore Xstrata. This can be attributed to activism that occurred at its headquarters in Melbourne, Australia that gave BHP Billiton serious public relations problems surrounding the mine. This prompted the company to become more open to cooperating with local communities and NGOs in comparison to Glencore Xstrata, which had few public relations problems due to the mine. This exemplifies how international policies and pressures at home can affect corporate culture, and change relationships between companies and local communities (M. Scurrah, personal communication, February 10, 2015).

2. **Mutually agreed upon facilitators are useful for handling negotiations and settling disputes.** In the Tintaya case, NGOs such as Oxfam America and CORECAMI, and CooperAcción, helped promote dialogue between BHP Billiton and local communities by encouraging BHP Billiton to form the Dialogue Table. They then worked with communities to increase their capacity to negotiate with BHP Billiton and make the dialogue process more equitable.

3. **Misaligned expectations can lead to bad relations between actors.** The understanding that negotiated agreements won't be immediately implemented is key, and patience should be stressed**.** Additionally, it is important for agreements to adhere to schedules and time frames, so that involved parties can have realistic expectations for when projects will occur. Frustration over the slow implementation of projects and agreements made in the Dialogue Table in part resulted in the violent protests in 2012 (Aquino & Wade, 2012).

4. **Involved NGOs positively influenced the companies.** Oxfam CAA's role as overseer credibly committed the companies to continue a consensus-based problem solving approach. The organization's experience and size allowed it to effectively monitor the situation from afar and incentivized both corporations to uphold its contractual agreements due to its reputation in mining conflicts. It was not until the CAA Mining Ombudsman's Office's involvement in the Espinar region that BHP Billiton became an active and open participant with the five communities and NGOs (Barton, 2005).

Recommendations

1. **Spread awareness of community grievances and corporate responses where the companies are headquartered:** Glencore Xstrata has demonstrated a lesser receptiveness to addressing and resolving community grievances. Influence from actors such as social organizations in the company's domestic headquarters, Switzerland, could change its level of receptiveness and overall perception of its actions. Campaigns aimed at spreading awareness of both the positive and negative effects of Glencore Xstrata's operations would first inform other Swiss actors. From there, these actors could influence the company in a manner not possible in Peru. The Society for Threatened Peoples Switzerland's documentation of the negative effects of Glencore Xstrata's operations is evidence that organizations in Switzerland find these issues problematic (Society for Threatened People Switzerland, 2013, p.22).
2. **Support governmental and company transparency:** Transparency and trust have been to elements that are lacking in community-company and community-state relationships. Secret agreements between Glencore Xstrata, the Peruvian National Police Force exemplify the negative effects of collusion and obscurity. Although these agreements are emblematic of the communities' distrust, publication of shadow agreements would be a step in the direction of transparency and building trust. Oxfam America should encourage the government and companies to publish all documents, and explain that transparency is key to ending tensions and building trust.
3. **Bolster environmental monitoring**: Support MINAM's environmental investigations and the publication of its findings in the area. In order to build community trust in government actors, suggest that the communities and Glencore Xstrata choose an independent organization to conduct annual environmental studies. This will strengthen environmental monitoring while offering a comparison to the government's studies. If the findings are identical, it will also boost community trust. The funding for the independent party's studies should come from Glencore Xstrata because to the fact that the company's work has and will directly affect the environment in which they operate. Publishing the company's payments to the environmental monitoring organization will increase the transparency of the process.
4. **Establish a realistic time frame:** Determine a workable time frame for achieving end goals agreed upon by all stakeholders in the dialogue process. Collaborate with local NGOs and communities in order to publish widely distribute knowledge of the agreements and their expected duration.
5. **Reinforce local relationships**: Continue to work with local partners to build the negotiation skills and technical expertise of communities affected by mining activities. Now that development and environmental monitoring are the most relevant topics, offer community members training and education in these areas. Subject matters could include sustainable infrastructural projects, development planning, and analysis of environmental reports.

Madre de Dios

Introduction

In late April 2014, 1,500 national police performed a surprise raid in the town of Huepetuhe in the Madre de Dios region of Peru. The raid destroyed approximately 20 million USD in heavy machinery supporting Peru's illegal mining trade (ABD & Bajak, 2014). Although illegal mining has existed for centuries in Peru, over the past three decades, illegal gold mining industry has engulfed the region. Today, illegal gold mining throughout Madre de Dios ranges from artisanal, using pickaxes and small retrofitted motors, to full-scale pits equipped with dozens of workers. Madre de Dios' unique geography, biodiversity, and demographic have together created a territory unregulated by the Peruvian state, resulting in large-scale socio-economic, health, and environmental tensions. As informal mining grows throughout Peru, Madre de Dios will be an increasingly important for regional and state leaders to address.

May 29, 1973: Manú National Park is established

1978: Decree Law 22175 passes, initiates titling of Peruvian native communities
Decree Law 22178 is enacted, requiring miners to register with the state to claim mining rights

Jan. 26, 1990: Tambopata National Reserve established

Nov. 1991: Decree Law 708 passes, promoting investment in mining industry

2002: Decree Law 27308 passes, charges the National Institute of Natural Resources with regulating and supervising land concessions
Amarakaeri Communal Reserve Established

2005: Construction of the Interoceanic Highway begins

2012: Decree 29815 passes, establishing Mining Corridor

March 20, 2014: National Miners strike starts
April 19, 2014: First formalization deadline
April 29, 2014: Police raid of Huepetuhe; 20 million USD of property destroyed
Oct. 2014: Government sets new formalization deadline

Importance

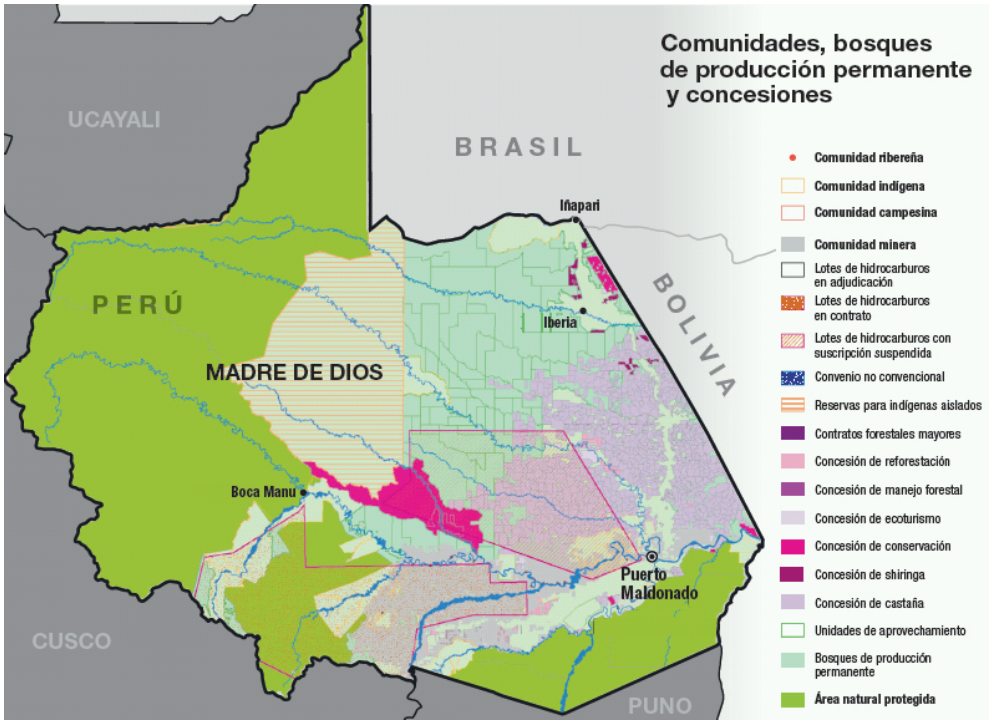
Informal alluvial gold mining in Madre de Dios presents a unique challenge to understanding environmental and social tensions regarding extractive industries in Peru. The region's great biodiversity and geographic isolation have prompted the Peruvian government to recognize the need for environmental

conservation and maintain public health, but the state has thus far been unable to enforce government objectives. The fact is that informal and illegal small-scale mining offers survival and opportunity for thousands throughout Peru and Madre de Dios who would otherwise be in poverty. The core problem of illegal mining is economic; however, as these social issues increase without regulation or mitigation, Oxfam America, as a leader in human rights protection, should be called upon to engage with the growing challenges of Madre de Dios.

Context

Geography

Figure 4.1: Map of Resource Concessions in Madre de Dios, Peru



Retrieved from University of Maryland School of Public Policy in Peru (2014)

The territory of Madre de Dios occupies 85,183 km^2 of Amazonian plain, *ceja de selva* (high forest), and mountains in the eastern region of Peru. The Madre de Dios River intersects the entirety of the department from Cordillera de Carabaya in the easternmost range of the Andes and flows into the Beni River in northwestern Bolivia. The region is geographically isolated, hosting a variety of ecosystems ranging from 4,200 meters above sea level along the southwest border to 200 meters below sea level in the east, each possessing a distinct climate and biodiversity (Castillo, 2005, p. 24).

Madre de Dios' great biodiversity has led to the establishment of several protected land areas, including Manú National Park (1,716,295 ha), Amarakaeri Communal Reserve (402,335 hectares), the Tamobopata National Reserve (274, 690 ha), and the Alto Purús Reserve Zone (2,724,263 ha). The territory is rich in natural resources, as alluvial gold and tree species such as mahogany have propelled extensive extractive industries in a region otherwise devoid of alternative, more environmentally-conscious and governmentally-regulated work (Castillo, 2005, p. 25).

Methods of Artisanal Mining

Artisanal extraction methods are generally classified into, "channeling, sluice box, 'caranchera', suction and balsas and semi-mechanized suction, dredge, and chute systems" (Kuramoto, 2001, p. 18). All of the extraction methods use the same method of beneficiation and gravity concentration. Once the gold nuggets are separated, the fine material is treated with mercury for amalgamation. Finally, the resulting black sand that contains particles of amalgam is then separated from the remaining material by being panned and washed in the river (Kuramoto, 2001, p. 20).

Mining and the Economy

The international price of gold has risen over 400% within the past decade, peaking at over 1,800 USD per ounce in 2011 (Amazon Conservation Association [ACA], 2013). With the sharp increase in price, both formal and informal mining industries have expanded around the world to meet the demand. And, in areas like Madre de Dios, a combination of economic crisis and poor government oversight has driven the expansion of artisanal, small-scale gold mining (ASGM) in the region.

Key Terms

Artisanal Mining: Defined by Peruvian Law 27651 as mining operations up to 1,000 ha of land and less than 25 metric tons of material per day.

Small-Scale Gold Mining: Defined by Peruvian Law 27651 as mining operations up to 2,000 ha of land and less than 350 tons of material per day.

Artisanal and Small Scale Gold Mining (ASGM): Informal mining activities carried out by individuals or small groups using low technology or with minimal machinery, working within less than 2000 ha.

Informal Mining: Mining operations that do not comply with all current Peruvian legislation; however, they are in the process of becoming legally registered and licensed by the state.

Illegal Mining: Mining operations that are not in the process of becoming officially registered by the state.

Formal Mining: Mining operations recognized and licensed by the state.

Formalization: The process and regulations by which informal mining becomes legal and recognized by the State.

Alluvial Mining: Mining of sediment transported and deposited by water, frequently in the valleys of large rivers.

Madre de Dios is Peru's third largest gold producer, and hosts 46% of Peru's artisanal gold production (Decision and Policy Analysis Program, 2015). Madre de Dios also currently has poverty rates 8.7% below the national average (ASM-PACE, 2013).

Regional and state governments do not effectively regulate informal mining in Madre de Dios currently. Improving the oversight of mining and taxation of the industry could clearly do much more to capture revenue from gold mining and export corporations (Evidence and Lessons from Latin America, 2012, p. 7).

Conflicts and Tensions

Table 4.1: By The Numbers: Illegal Mining in Madre de Dios

25,000	Number of illegal miners in Madre de Dios
32,000	Hectares of rainforest lost to illegal mining
2.8	Kilograms of mercury needed to produce one kilogram of gold
16,000	Kilograms of gold produced in Madre de Dios annually

Retrieved from Ipenza & Valencia (2014)

Relevant Legislation: Derivatives of Social Conflict

Between the early 1960s, when gold mining activity in the region began, and the late 1970s, relationships between native populations and miners were without major incident or conflict (Mosquera, Chávez, Pachas, & Moschella, 2009, p. 97). These relationships became increasingly conflicting with the passage of Decree Law 22175 in 1978 and the titling of native communities; the passage of Decree Law 22178 in 1978, which required mining rights registration; and the declaration of the protected reserve zones of Tambopata in 1990 and Amarakaeri in 2002. While current formalization attempts address environmental concerns related to ASGM, the issue of overlapping land use rights remains remarkably absent.

Peru confirmed the legal existence and landed status of native communities with the enactment of Decree Law No. 22175 (Ley de comunidades nativas y de desarrollo de las regions de la selva y ceja de selva) in 1978. A native community is defined by Article 8 of D.L. Nº 22175 as an "organization that is rooted in tribal groups from the 'selva' and 'ceja de selva' and consists of sets of families linked by the following main elements: language, dialect, cultural characteristics, tenure, and common permanent use of the same territory with nucleated of dispersed settlement." Article 10 affirms the state's role in guaranteeing the integrity of the lands of native communities, changing the land registry and granting them official titles. Within the framework of the law, native communities

are autonomous in their organization, use of the land, communal work, economic structure, and administration.

The passage of Decree Law 22178 (Ley de Promoción Aurífera) in 1978 gave miners 30 days to register their mining rights with the government, after which time they would be legally lost. The majority of miners legally lost their land titles but continued their operations either by moving or by avoiding formalizing with the state or landed native communities. Many that retained their titles found that in the years following, their parcels overlapped with territories designated as native communities or natural and communal reserves (Mosquera et al., 2009, p. 94).

The *corridor minero* (mining corridor) regulations do not address overlapping land use rights. In 2012, Decree Law 29815 established a mining corridor in Tambopota and Manu (690,508,349 hectares), where 94% of all mining rights are granted and 13,000 miners work. This corridor was meant to act as the basis for the formalization process; however, it does not address the issue of overlapping land rights to the same areas (Mosquera et al., 2009, p. 96).

Negative Impacts of ASGM in Madre de Dios

Conflict in Madre de Dios often stems from violations of agreements over the use of natural resources, occurring most often between farmers, miners, and indigenous communities all claiming rights to the same areas. Extractive industries play a major role in conflicting land rights claims in Madre de Dios: 70% of the mineral rights overlie hydrocarbon concessions; 20% are superimposed on indigenous territory; 11% overlap the buffer zones of protected areas; and 5% to 17% overlap ecotourism and forest concessions (ASM-PACE, 2013).

Despite Madre de Dios being declared a "Capital of Biodiversity" under Peruvian law (No. 26311), mining activities have had a significant negative effect on the environment and health of surrounding communities. Approximately 7.3% of the total deforestation rates in all of Peru and the Peruvian Amazon occurred in Madre de Dios. Between 2004-2011, 28,369 ha of natural vegetative land was lost, indicating that mining in Madre de Dios contributes to deforestation faster than any other activity in the region (Swenson, Carter, Domec & Delgado, 2011).

In Madre de Dios alone, an estimated 30-40 tons of mercury are released into the region annually. Mercury, a strong neurotoxin, is used to amalgamate gold particles in the mining process; however, a recent major mercury study found that 78% of the capital of Madre de Dios have dangerously high levels of mercury in their bodies, including women and children (ACA, 2013). Despite this fact, denial of the presence of mercury or the cause of its increase in the region continues to inhibit communities from protecting themselves from the harmful toxins.

Stakeholders

ASGM in Madre de Dios involves and affects numerous groups throughout the region, each with unique perspectives and objectives for the future of mining. Many citizens of Madre de Dios cannot

be confined to merely one identity, and communities can be difficult to define; therefore, to address mining in Madre de Dios, one must understand the regional stakeholders and attempt to make sense of their alliances and tensions.

Communities

Native Communities and Indigenous Peoples

In Madre de Dios there are 26 native communities (23 are titled), consisting of 719 families spread over 376,931 ha (Baldovino, 2013). Native communities are frequently made up of indigenous groups throughout the Madre de Dios territory. Currently, native conflicts over mining include the Tres Islas, Arazaire, Boca Inambari, and Kotsimba, who are in conflict with miners over permission to access gold within their territory. San Jacinto and El Pilar are in conflict with miners over the management of royalty revenue within their territory. Meanwhile, Puerto Arturo is the only native community that outright rejects artisanal small-scale gold mining (Castillo, 2005, p. 25).

Madre de Dios is home to nearly 90,000 inhabitants, of which nearly 10% are indigenous. There are nine indigenous groups in Madre de Dios, including the original peoples of longstanding inhabitancy and those migrating from other parts of the Amazon. The original peoples are the Harakmbut, Matsigenka, and and Ese Eja, as well as the Yine, Amahuaca, and Yaminahua groups (Castillo, 2005, p. 37) (See Appendix 4.1).

Mining Settlers

The majority of miners who settle in Madre de Dios are migrants from throughout Peru, settled in the region for better economic opportunities. Madre de Dios has the highest population growth rate in Peru, at 4.8% in 2012 (Evidence and Lessons from Latin America, 2012).

Farmers

Farming communities exist in many areas of Madre de Dios, made up of both native and indigenous groups claiming rights to local land and resources. The primary agricultural products are cotton, coffee, sugarcane, cacao, and brazil nuts, and have been increasingly affected by mercury runoff and deforestation from mining in the territory (Michaelson et al., 2013).

State

Although the Peruvian government has strengthened the legal framework for land protection recently (through laws such as Forestry Law 27308 in 2002, in which the National Institute of Natural Resources regulates and supervises land concessions), informal mining continues to pose a serious challenge to governmental control over the region (Environmental Investigation Agency, n.d.). Current state strategies to reduce illegal mining in the region include police interdictions and mandates persuading miners to formalize. However, there are concerns of government involvement in the illegal mining trade.

Regional government in Madre de Dios has, to this point, proven weak in regulating ASGM throughout the region; however, management and taxation of the trade could drastically improve governmental funding and improve a region in isolation.

NGOs and Social Organizations in the Region

Formalization Process:

1. Application and approval of a mining concession by the state.

2. Environmental approval. Depending on the mine's size, this will entail producing an environmental impact declaration, a short Environmental Impact Assessment (EIA), or a full one.

3. The presentation of a Mining Operation Certificate to the MEM, detailing technical project details.

4. A global permit to use explosives (valid for one year).

5. A permit to buy explosives.

Retrieved from Low (2012, p. 21)

There are several NGOs and civil society organizations currently working in Madre de Dios. To approach the social concerns in Madre de Dios, Oxfam America will need to work alongside these organizations, some of which Oxfam is already partnered with in other regions.

- **The Native Federation of Madre de Dios River and Tributaries (FENAMAD)** was established by indigenous communities in Madre de Dios and now represents 33 communities and seven indigenous groups throughout the territory to support indigenous rights.
- **The Miners Federation of Madre de Dios (FEDEMIN)** is the largest mining organization in Madre de Dios, lobbying the national government for ASGM rights in the region.
- **Federation of Agriculture of Madre de Dios (FADEMAD)** represents non-indigenous rural communities and works to secure land and resource rights of small farmers.
- The **Peruvian Society for Environmental Law (SPDA)** is the strongest actor in the region representing environmental protection and works to integrate environmental policies into regional decisions.
- **Atención Integral de Salud a Poblaciones Excluidas y Dispersas (AISPED)** represents Peru's Ministry of Health and seeks to improve public health throughout each of Peru's districts.
- **CooperAcción** is a Peruvian non-profit working on-the-ground in Madre de Dios with organized groups, communities, and local authorities in partnership with other NGOs to promote social, environmental, political, cultural, and economic rights.

Conflict and Tensions

The tensions and conflicts in Madre de Dios will appear distinct from the previous sections of Tintaya and Tambogrande. Unlike other regions, the mining operations in Madre de Dios are largely practiced on a smaller scale, creating conflicts and tensions that manifest themselves in distinct forms. Recently, ASGM has experienced a boom in production, attracting thousands of migrants to Madre de Dios—in spite of the social, environmental, and health problems that are endemic to this form of mining. Throughout this section, we will demonstrate how political and economic tensions encourage ASGM, and how the presence of illegal mining (within ASGM) perpetuates such tensions. As ASGM and its endemic frictions expand throughout Madre de Dios, they undermine state and regional security, demanding immediate and sustainable intervention.

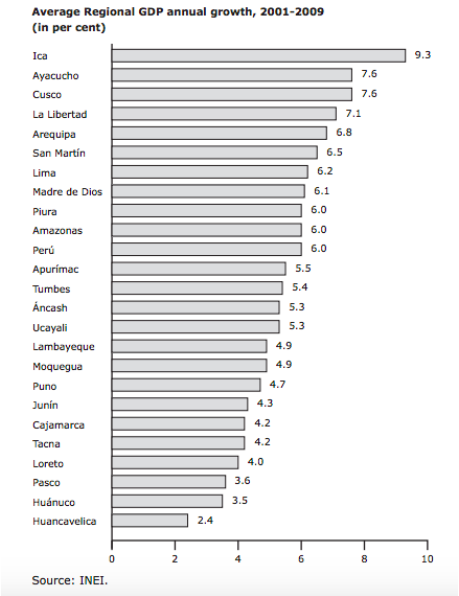
Political and Economic Drivers of Conflict

In order to understand how and why ASGM persists, it is essential to deconstruct how ASGM affects development at the individual, community, and state levels. Through this analysis, we will demonstrate how ASGM benefits disadvantaged communities to some extent, but is predominately beneficial for a select few individuals.

The Paradox of ASGM

Despite the negative impacts and conflicts associated with ASGM, the industry continues to expand. Although ASGM has provided a marginalized community with some economic opportunity, a select few individuals higher up the supply and profit chain benefit the most, encouraging the continuation of this activity.

Figure 4.2: Average Regional GDP Annual Growth 2001-2009



Retrieved From Kossuth & Reiser (2012)

Economic Conditions That Drive ASGM

Since the 1980s, both legal and illegal ASGM have increased drastically throughout Peru, specifically in rural areas that lack state presence. The liberalization of commodities markets, rising mineral prices and a lack of employment opportunities in other industries has spurred the growth of ASGM in Madre de Dios (United Nations Environment Programme [UNEP], 2012, p. 22). Without alternate employment opportunities, ASGM miners in Madre de Dios conflict with the state and formal mining corporations.

Community Development

Now, years later, an international spike in the price of gold facilitated a major rise in informal mining sectors (Evidence and Lessons from Latin America, 2012, p. 2). Across the region, impoverished or disadvantaged populations migrated to Madre de Dios, seeking relief from their current conditions, which has resulted in extreme migratory patterns. As a result, Madre de Dios has the highest population growth rate in Peru—4.8%, almost 2.5 times the national average, with a disproportionate amount of the growth occurring in rural areas (GCF Task Force, 2012). In addition, about 70% of Madre de Dios' population has moved to the region within the past 10 years (Kossuth & Reiser, 2012, p. 10). Indeed, an estimated 25,000 illegal miners live and operate in the region. These miners and others like them play a crucial role in society as an estimated 500,000 people nationally depend on illegal mining for subsistence (Cuba, 2012).

Spread of Illegal Mining

Economic migrants relocate to Madre de Dios because of a lack of opportunity in other regions. Ironically, state inaction is worse in this rural state, with only 355,000 USD given to Madre de Dios for an alternate development investment (Dudenhoefer, 2014). However, migrants experience increased opportunity through ASGM (Hruschka, 2011, p. 4). Without sufficient state action, residents of Madre de Dios become dependent on ASGM (whether legal or illegal), and the activities associated with it, for subsistence. Unfortunately, the opportunity provided by ASGM is inherently unstable, disabling individuals from obtaining a secure future. According to Mario Ortega, mayor of Madre de Dios: "There is no other economic activity here. Mining is what sustains this community. The government should provide us with alternatives, but they haven't given us anything" (Dudenhoefer, 2014).

Distribution of Revenues

In regions like Madre de Dios where there is a lack of government support, miners and their families become dependent on intermediaries, landowners, machinery owners, and even drug cartels. These groups often finance the mining operations and control living expenses. These financial and social constructs frequently lead to cycles of debt and bonded labor (Hruschka, 2011, p. 5). Middlemen and concession holders have proven to be large barriers for both the state and laborers, who would benefit from the improved pay and work conditions associated with formalization. However, these concession holders "have little or no interest in formalizing as this would significantly reduce their profit margins" (Low, 2012, p. 16). Additionally, such illegal establishments disable the state from collecting the necessary taxes for redistribution and social services in Madre de Dios. The informality of much of Madre de Dios' mining creates a serious barrier to official development. Though illegal artisanal mining originates from a lack of governance, illegal extraction further disables government action by only benefitting middlemen and corrupt bureaucracies.

The Core Problem of ASGM

The fundamental problem of ASGM is economic. Economically and politically marginalized Peruvians are dependent on ASGM for financial opportunity that they would otherwise be denied by the state. Despite Peru's national economic growth through formal markets, regions where illegal mining has a strong presence (like Madre de Dios) have grown annually more than the national average (see Figure 4.2) (Kossuth & Reiser, 2012, p. 66). This growth demonstrates that in addition to middlemen, ASGM communities have also benefitted. In 2002, the state did recognize ASGM regions as "development hubs" (Low, 2012, p. 8). However, the illicit nature of this development deprived the state of taxation revenue, furthering economic and political tensions in the region.

ASGM as a Challenge to State Authority

Following conflicts between miners and authorities, the Peruvian state emphasized their preference for foreign investment over community development through several legislative reforms that were supported by large international mining corporations (Low, 2012, p. 8). The reforms focused on restructuring mining codes to attract foreign corporations and their "modernization" promises (Dudenhoefer, 2014). During these initial conflicts surrounding ASGM, the government was aware of the tensions presented by illegal mining, yet legislation failed to recognize small-scale mining as an alternative form of mineral exploitation. These reforms not only allowed for continued informal practices, they also set the stage for current conflict between the state and ASGM communities.

The presence of illegal ASGM affects the state of Peru by directly undermining Peruvian institutions and rule of law through the continuation of illegal activity and deprivation of tax revenues. However, the state's attempts to formalize and address ASGM have indirectly worsened the situation through formalization and interdiction campaigns. State solutions fail to recognize the root economic cause of ASGM, thus disabling it from developing an appropriate solution. Instead of prosecuting the wealthy middlemen and landlords, state processes focus on the criminalization of illegal miners and communities associated with the industry. In addition, the destructive nature of interdictions perpetuates tensions between the state and local communities, disabling the establishment of a sustainable solution to ASGM in Madre de Dios.

Despite the difficulties of addressing illegal mining, the state does have financial incentive to intervene in this conflict. Without action the state creates ideal conditions for the expansion of illegal activities. According to KAS International Reports on Peru: in 2012, illegal mining in Madre de Dios evaded over 170 million USD in regional taxes. This amount would have doubled the annual budget of the regional government (Kossuth & Reiser, 2012, p. 64).

State Relationship with Formal and Informal Mining

Formal mining operations, especially large international companies, are recognized by the Peruvian state, and, in theory, subscribe to Peruvian mining legislation. The formal agreements between corporations and the state are designed to protect miner, environmental, and citizen rights. The

extent to which formal industries actually abide by national legislation is debatable, but in areas where illegal mining persists, it is evident that state control and protection of miner's rights is absent. Informal mining's expansion, in remote places like Madre de Dios, does so without abiding by governmental standards. This section does not seek to praise formal or international mining operations; however, their formality implies state and international involvement and regulation in their extractive practices. Conversely, formally recognized extractive corporations have corporate and legal incentive to abide by mining laws, informal miners do not (UNEP, 2011, p. 9).

Historically in Peru, civil unrest over environmental issues associated with mercury poisoning and land loss has resulted in the mobilization of large citizen groups. This opposition was also enabled by the formal structure of harmful corporations, backed by state support. This is not the case with Madre de Dios. Despite the destructive parallels between informal and formal mining, conflict exists between citizens and the state due to the state's attempt at disrupting informal and illegal mining practices through interdiction campaigns. Prior to these campaigns, the state had little to no presence in Madre de Dios. This not only enabled the initial rise of illegal activity, but it also deprived citizens of an organized structure to stand in opposition to. Without an effective political regime, marginalized citizens lack the political opportunity for popular mobilization against legislative inefficiencies (Arce, 2014, p. xvii). Like other illegal activities in the region (drug trade, and illegal logging), any attempt to regulate illegal mining directly affects about half a million people, no small number in a now democratic nation whose elected officials rely on popular support.

State Regulatory Capacity

Madre de Dios is a region where the effects of illegal mining are at their worst. Illegal mining operations in Madre de Dios are owned by or operate through mafia or middlemen who avert legal procedures, effectively spreading lawlessness and corruption (Wells, 2013). Illegal artisanal mining currently produces about one-fifth of Peru's gold, worth 3 billion USD and is a sector supported by forced and child labor (Koebler, 2013). Jorge Merino, Peru's minister of Energy and Mining, told reporters that the government has been essentially powerless in trying to stop illegal mining.

> We're facing powerful groups and mafias that have corrupted all levels [of government]. For the first time, we've made the decision to solve this probably by creating a legal framework that separates the artisanal from the illegal. (Koebler, 2013)

Formalization and its Discontents

Formalization requires that small-scale miners who operate in permitted areas comply with new regulations (see "Formalization Process" text box) and pay taxes on their earnings. This is nearly impossible for small-scale miners, of which many lack the necessary language skills. The convoluted process of formalization involves 21 different pieces of legislation, requiring applicants to comply with 22 different steps. If individuals are able to comply with the legislative process (few do), many find that mining permits are often already granted to third parties, forcing them to sign work

agreements with the concession owners (Evidence and Lessons from Latin America, 2012, p. 3). Even if a miner is approved for formalization, it takes years for officials to evaluate the applications.

Manuel Pulgar-Vidal, the Environment Minister and an environmental lawyer, is a major proponent of the President Humala's recent reforms. He claims that the area where they have made the most progress is in tracking the movement of gold. However, through this measure in 2013, the state was only able to seize 1 out of 150 illicitly exported gold tons (Dudenhoefer, 2014). Formalization is fundamentally flawed as it fails to identify the root of illegal activity, intervene at an effective level, and is dependent on an underfunded regional government. Madre de Dios is stuck in a "vicious circle": regional governments have to evaluate the applications, but lack the resources to do so in a timely manner because they are deprived of necessary tax income from ASGM (Dudenhoefer, 2014). Formalization, if improved, will eventually increase the government revenues, but achieving such accreditation is highly unlikely for many miners.

The state's current tactics focus on small-scale miners themselves, ignoring other key actors and the socio-economic conditions that make mining the most lucrative form of employment. By attacking small-scale and easily replaceable mining technologies, the state fails to establish a durable solution to the problem of illegal mining, while encouraging miners to retreat further from regulated areas. Thus, the state's solution of formalization has not only failed in its implementation, but it also fails to create a comprehensive solution that addresses the issues of corruption and conflict (Evidence and Lessons from Latin America, 2012, p. 8).

Formalization also fails to address the endemic problems associated with illegal and informal mining. The process emphasizes that there are zones, equipment, and bodies of water where mining is prohibited, limiting legal and illegal categorization into geographic regions. In addition, President Humala declared that as long as miners were in the process of formalizing, they could continue their work (Dube & Kozak, 2014). Currently there are 70,000 miners who are trying to formalize their operations, but Miguel Santillana, a researcher at San Martin de Porras University, estimates that there are more than 500,000 informal miners.All that they've achieved is that gold production in Peru has dropped by 14 percent, and the gold that is being mined in Madre de Dios and Puno [regions] is being smuggled into Bolivia and Brazil," Santillana says (Dudenhoefer, 2014).

As a result of formalization's convoluted process, relatively few miners are even attempting to seek legal status. And, in the meantime, illegal operations are allowed to continue current practices until they are formalized, a process that could take over 15 years, allowing mining's endemic social and environmental problems to expand (Dudenhoefer, 2014).

Interdiction is the state's action approach of reinforcing formalization law. The practice focuses on interrupting the supply line of illegal production through the destruction of ASGM camps and equipment. Police and armed officials frequently execute these operations, increasing violence and conflict in an already unstable region (Low, 2012, p. 10). Victor Zambrano, president of Tambopata National Reserve's management committee and a formalization advocate stated:

> It's like a liberated zone. The state's presence there is ephemeral. The operations all follow the same pattern: The interdiction lasts a day, but the next day, the miners are already replacing the destroyed equipment, and within three days, they're back at work. (Dudenhoefer, 2014)

Interdiction destroys "how" the mining is executed (albeit a temporary, physical method). Despite the state's intention of discouraging illegal ASGM, formalization tactics ultimately exacerbate regional instability.

State View of Success

The slash-and-burn method of interdiction is a fast and quantitative way to measure the state's success against illegal mining. As such, the popularity of this tactic is evident in the state's recent legislation, which give miners 120 days to comply with the formalization process, or face jail time (Low, 2012, pg. 10). Despite the existing difficulties of formalizing, the state has implemented this timeline without providing additional support to miners. Pulgar-Vidal has defended this action plan by stating that the state's goals are not only to evict miners, but to also discourage more from joining. He believes that the government should continue the interdictions until the state has established a presence in the region (Dudenhoefer, 2014). Despite state support, the 150-day timeline was eventually extended after protest by ASGM miners. Regardless, its implementation further reinforced miners' distrust of the state.

Seeing Actors, Missing Structural Forces

The formalization process focuses the blame of informal mining on the miners themselves. The state, instead of focusing on the conditions that require individuals to turn to mining, villainizes impoverished miners and justifies unsustainable interdiction methods. Formalization also omits the individuals further up the value chain, who stand to profit the most, of any blame. As state action proves inefficient, ASGM organizations are no longer limited to small-scaled enterprises in Madre de Dios. Miners, rather than relying on the state, have turned to bribing police and local officials (Boyd, 2013).

Corruption Undermines State Legitimacy

Corruption amongst elites and public officials demonstrates the extent that illegal mining undermines effective state action. The bribing scale reached national proportions when a major representative of the ministry of energy and mining, Luis Zavaleta, was arrested for being one of the biggest informal gold dealers. His company, Hydrocarbons, mined about 97% of its metal illegally, mostly in Madre de Dios (Wells, 2013). Internationally, importers like Oleg Lipin and his company Suwit Mining Company operated both legal and illegal mines, making it easier to account for their excessive stock and exporting business. Nationally, "Gold Cappos," or elite families and politicians, use the billions they get in illegal profits to hire trained police forces to protect their mines, bribe national and regional officials, and operate illegal child and forced labor mines.

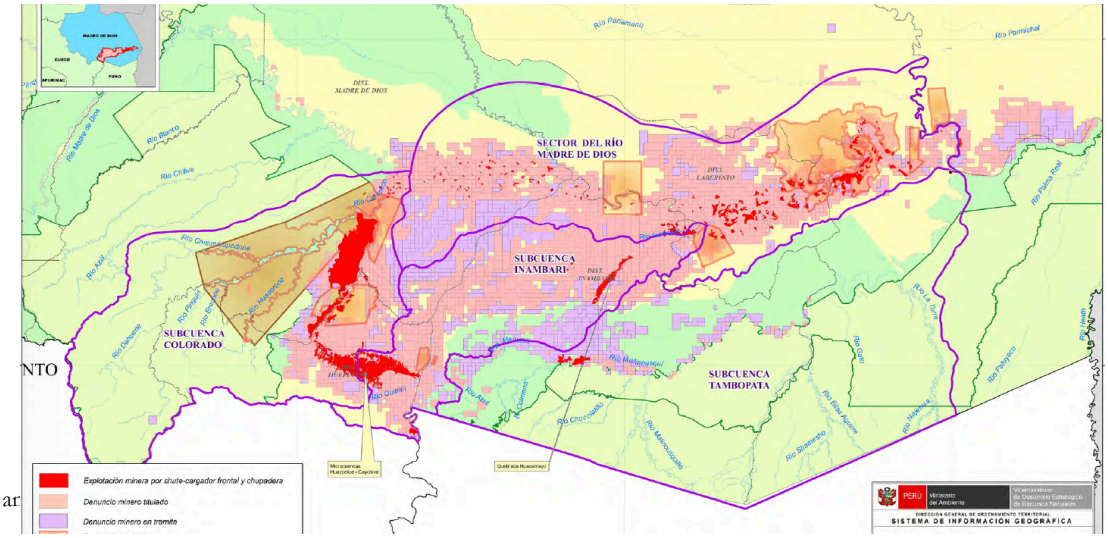
Implications

Madre de Dios is a region suspended in a vicious cycle where a lack of public assistance forces impoverished people into illegal activities. Informal and illegal ASGM deprives the state of necessary tax revenues to have an effective presence in the region. In Oxfam's analysis on economic inequality, "Working for the Few," it recommends supporting progressive taxation reform. Coordination with the state to increase the efficiency of its monitoring and taxes could disrupt this vicious cycle. Improving state oversight of mining firms' reports (detailing production, purchase of inputs, and investments) could allow the state to better detect irregularities while improving its efficiency in analyzing other links in the illegal mining chain (Kossuth & Reiser, 2012).

Informal and Illegal ASGM and Social Conflict in Madre de Dios

Migrant miners, native communities, and farming associations are drawn to informal and illegal ASGM and into conflict over exploitation of territory where it occurs, because of its economic potential when compared with alternatives (e.g., agriculture, tourism, logging) (Low, 2012, p.1). Although the Ombudsman and La Defensoria del Pueblo's official statistics show very few active social conflicts in Madre de Dios, ASGM stakeholders (e.g., miners, farmers, native communities and concession holders) exist in daily conflict over demands for and violations of royalty agreements, management of mining royalties and ownership of territory where ASGM occurs (Barbarán, 2014, p. 33; Pachas, 2013, p. 4). The United States Agency for International Development (USAID) and CooperAcción have made progress defining the specific kinds of conflict that exist in the region; however, most conflicts go unreported because of ill-defined land rights and weak state capacity to enforce the rights that do exist (Barbarán, 2014, p. 33). Weak state capacity to manage the exponential growth of these conflicts warrants increasing support for NGOs performing research and monitoring of these concerns, as well as investigations into alternative forms of social conflict monitoring involving civil society organizations.

Figure 4.3: Overlap of Mining Rights with Native Community Territory, Protected Natural Reserves, and Buffer Zones



Retrieved from Álvarez et al. (2011)

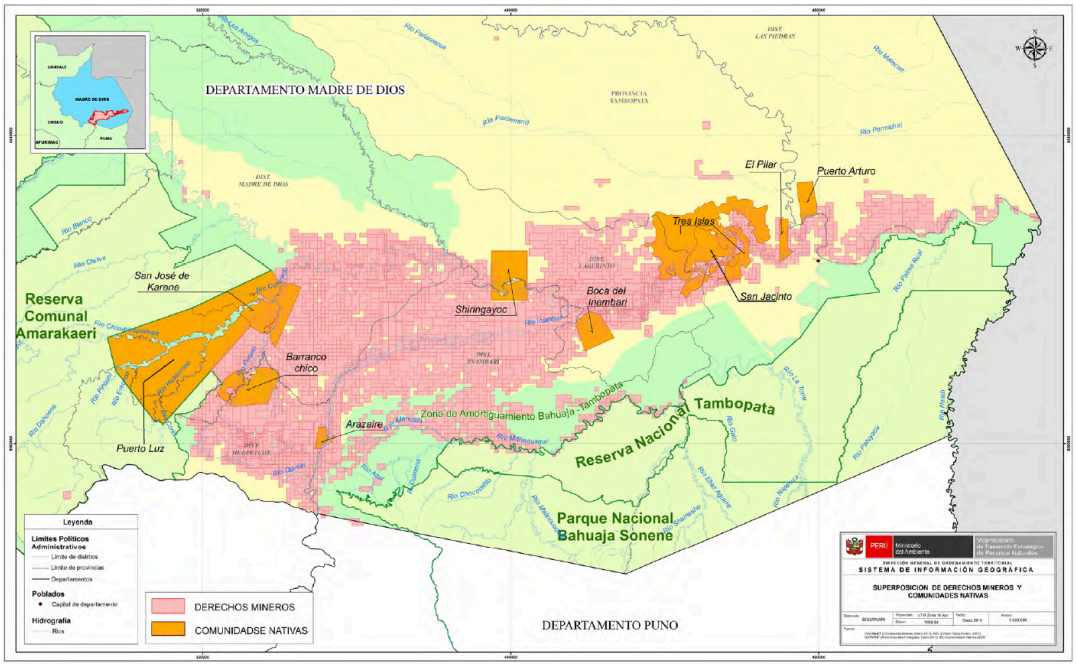
Types of Social Conflict in Madre de Dios

Social conflicts in the region occur primarily as a result of overlapping land rights and are innumerable quantity in Madre de Dios, where the state's presence is particularly weak and over 2900 mineral rights exist (Pachas, 2013, p. 4). Mining rights overlap 20% (25,840 ha) of native community territory in Madre de Dios and overlap in the buffer zone of Amarakaeri Communal Reserve by 9.6% and the buffer zone of the Tambopata Natural Reserve by 12.1% (Pachas, 2013).

Conflicts Related to Mining Royalties

Based in overlapping land use rights: Demands for and violations of royalty agreements (typically 10% of weekly gold revenue) have led to conflicts between miners and native communities, agricultural associations, organized civil societies (e.g., Delta 1, Hueptuhe), forest and chestnut concessionaires and populations living in the buffer zones of the protected natural reserves (Álvarez, Sotero, Egg, & Peralta, 2011, p. 70). Internal conflicts arise within native communities and agricultural associations when there are group divisions regarding royalty management, individual versus community based collections of royalties and general approval or disapproval of mining activity (Mosquera et al. 2009, p 98).

Figure 4.4: Overlap of Mining Rights with Native Community Territory



Retrieved from Álvarez et al. (2011)

Of the seven native communities analyzed by USAID, four (Tres Islas, Arazaire, Boca Inambari and Kotsimba) are in conflict with miners and demand royalty agreements for permission to exploit gold in their territory. Two communities (San Jacinto and El Pilar) have internal conflicts over the

management of royalty revenue from gold mining in their territory; however, these tensions are present in other communities as well. Only one native community (Puerto Arturo) rejects gold mining entirely (see Appendix 4.1) (Pachas, 2013, p 5).

CooperAcción additionally defines conflicts between native communities and miners by the ethnic makeup of the community. Conflicts in mixed (native and settler) communities often involve disputes against external populations and over whether royalties should be collected communally or locally. Conflicts in less-mixed native communities have arisen over the eviction of non-Native migrants miners and corporations (see Appendix 4.1) (Mosquera et al., 2009, pp. 98-100).

In the three agricultural associations analyzed by USAID (San Juan, Union Progreso and Santa Rosa), social conflicts occur between farmers who have established royalty agreements with miners and farmers who seek to evict miners (see Appendix 4.2) (Pachas, 2013, p. 5).

Conflicts Related to Natural Resource Management

In this type of conflict, associations of stakeholders like FEDEMIN, FADEMAD, and the Native Federation of Madre de Dios (FENAMAD), lobby the national government and regional administrations for advantageous decisions regarding proposals for use of territory. Generally these conflicts are related to the mining corridor, a superimposed farming belt on the mining corridor and the preferential land rights of natives (Pachas, 2013, pp. 4, 15-17).

Implications

Perceptions of source of conflicts: In interviews carried out by the Consorcio de Investigación Económica y Social in Madre de Dios, 64% of respondents mentioned overlapping land rights were the primary cause of social conflict, 21% mentioned the weak regional and central institutional presence and 14% mentioned the economic and political power of miners in the area (Barbarán, 2014, p. 40). As overlapping land rights are symptoms of weak state institutional capacity, effectively 85% of those interviewed spoke to the limited capacity of the state as a primary source of conflict (Barbarán, 2014).

State response to social conflict: "El Plan de Ordenamiento Territorial" (Territorial Zoning) in Madre de Dios is the primary state effort currently underway to address overlapping land use rights, the main cause of social conflict. While officially documenting land use rights is a step in the right direction, the scale of the undertaking is immense and won't be finished until 2030 (Gobierno Regional de Madre de Dios, 2013).

Impacts of Informal and Illegal ASGM in Madre de Dios

This section addresses the primary socioeconomic, environmental and human health impacts that are associated with ASGM in Madre de Dios. The increasing rate of these impacts reflects the lack of viable economic alternatives to ASGM in the region and disrupts the land, livelihoods and health

of thousands of impoverished Peruvians living in Madre de Dios (Álvarez et al., 2011). Perceptions of mining within the communities of Madre de Dios are often complicated, however, as most sectors of society (including native communities and agricultural associations) are involved either directly or indirectly in the ASGM economy (through peripheral services or royalty agreements). This is in contrast to cases where the negative impacts of large-scale mining operations are foregrounded as a basis for conflict between communities and mining companies. Addressing environmental and social harms is made more challenging by the decentralized nature of ASGM activity, the isolated locations where it takes place, the lack of state capacity to enforce environmental regulations and the rule of law, and the involvement of many parts of society in mining activity.

Human Rights Violations

Labor Abuse and Human Trafficking

The victims of human trafficking and labor abuses associated with ASGM are most often impoverished Peruvian immigrants looking to improve their quality of life or those of their families. Maintaining a strong state presence is difficult in the region and labor abuses and human trafficking are common (Verité, 2013, p. 37).

Undocumented Migrant workers: Verité's report found that 100% of workers interviewed in Madre de Dios were from other departments (typically Cusco, Puno, Apurímac y Arequipa). Migrants and vulnerable undocumented Peruvians (individuals lacking National Identity Document, often poor, isolated and/or indigenous) are frequently subject to forced labor and illegal activity in informal and illegal ASGM (Verité, 2013, p. 21). This problem is endemic in Madre de Dios, where a system called "habilitación- enganche" is common (see text box) (Álvarez et al., 2011, p. 80).

Habilitación-enganche

A type of "**debt bondage"** that occurs with the false provision of advances or start-up capital. Migrants are recruited from their cities of origin by "labor intermediaries, friends, family members, or advertisements" and are given "advances of money, clothing, tools and transport, which are falsely construed as gifts by some intermediaries" (Verité, 2013, p. 21, 39). Vulnerable workers are told stories of miners "striking it rich," but little about the terms of their employment or the conditions they will encounter (Verité, 2013, p. 39). Upon arrival at ASGM sites, workers are informed that they need to complete a **90-day contract** of work to pay back advances given in recruitment before they can leave or receive pay, which "constitut[es] **induced indebtedness**" (Verité, 2013, pp. 21, 39-40).

Workplace hazards: On the job dangers include: extreme sunburn, exhaustion, dehydration, skin, organ and neurological damage from extensive exposure to mercury, "tropical illness, mosquito bites…animal and snakebites, and all-too-common workplace accidents" (Verité, 2013, p. 40). Days off due to any of these hazards do not count

towards the fulfillment of work contracts and increase workers' debts, making 90 days of work extremely difficult. The absence of quality medical hospitals in the remote areas where ASM gold production occurs increases the chance of fatal accidents significantly (Kuramoto, 2001, p. 30).

Physical confinement: Upon completion of contracts, workers are frequently unpaid or significantly underpaid and those who demand full payment are often threatened with physical violence (Verité, 2013, p. 41). The debt bondage miners are subject to, the isolated locations of ASGM camps and the high cost of transportation to more populated areas, together constitute physical confinement to work location (Verité, 2013, p. 40).

Sex Trafficking

The illicit sex-trade has grown exponentially with the increase in ASGM activity in Madre de Dios. It is responsible for the victimization of thousands of women, many of them under the age of 18. The economic difficulties confronted by the families of these young women, place them in danger of being trafficked to mining camps by family members, a saddening phenomenon that occurs at "a level not seen in other countries" (Verité, 2013, pp. 21-22). According to Asociación Huarayo, a local NGO in Madre de Dios, most women are "deceived, kidnapped, forced into debt bondage, and/or face threats if they complain or try to leave their employment" (Verité, 2013, p. 45)

Underage prostitution: "In 2010, Asociación Huarayo calculated that there were approximately 2,000 sex workers employed in 100 brothels in Delta 1 alone…and that 60 percent of these workers were minors" (Verité, 2013, p. 45).

Physical confinement: Payment and debt deductions are not transparent and subject to the whims of bar and brothel owners ("prostibares"). Victims often endure their tragic situations due to the difficulty of accumulating enough money to hire a non-informant to help with transportation out of the camps and the dangers of being caught trying to leave (Verité, 2013, p. 47).

Child Labor

Although it is becoming increasingly rare to see children under the age of 15 involved in mining due to the physical demands of the work, child labor still exists as a result of a lack of alternative economic activity for rural families (Verité, 2013, p. 42). Minors commonly work in peripheral services or alongside their parents and older siblings to contribute to their family income (Cremers, Kolen, & Theije, 2013, p. 73).

Peripheral services: "In the mining camps, boys were seen washing motorcycles, fixing flat tires, and working as store clerks; and girls were seen washing motorcycles, working as store clerks, selling fruit, and working at restaurants, food stands, and bars/brothels" (Verité, 2013, p. 43).

Teenage victims of the "habilitación-enganche" system: In addition to the typical 90 day work contract, minors employed in ASGM often work unpaid until they turn 18. "During worker

interviews, it was reported that some workers had been killed when they turned 18 so that their employers did not have to pay them" (Verité, 2013, p. 42).

Environmental and Human Health Impacts of ASGM in Madre de Dios

ASGM in Madre de Dios results in the destruction of rainforests, alluvial and agricultural land, the contamination of surface waters and a variety of human health concerns related to mercury ingestion (Álvarez et al., 2011; Mosquera, 2009). These natural resource losses are particularly acute for the indigenous groups that comprise native communities who have cultural and ancestral ties to the land threatened by informal and illegal ASGM activity. Additionally, those that rely on their environment for sustenance (fishing) and occupation (farmers, loggers) are particularly threatened by mining activity (Mosquera et al., 2009).

Deforestation, Loss of Aquatic Habitat and Agricultural Land

Alluvial ASGM involves the movement of large amounts of sand, soil, gravel and crushed stone from riverbanks, which combined with altering river morphology, results in deforestation, the loss of aquatic habitats and the degradation and removal of soil otherwise often perfectly suitable for agriculture (Álvarez et al., 2011, p. 55-58, 60). Farmers are impacted by both the loss of alluvial land suitable for agriculture as well as the contamination of surface waters used for irrigation. In the case of the agricultural association Union Progreso, the contamination of a stream needed for irrigation by miners led farmers into conflict over the eviction of miners from their territory (Pachas, 2013, p. 13). The loss of rainforest is a source of tension for loggers when it occurs within their concessions, as well as for indigenous communities, who have strong cultural and ancestral ties to their environment. Global concerns relate to the impact deforestation has on CO2 emissions (see Appendix 4.3 for statistics related to material displacement and deforestation).

> Mercury Contamination of Fish and Humans
>
> The 2012 Carnegie Amazon Mercury Ecosystem Project found that 9 out of the 15 most consumed fish in Puerto Maldonado had elevated levels of mercury. The study also found that 78% of hair from a sample population in Madre de Dios had tested above the mercury reference value 1ppm, with an average value that was 2.7 times higher. Mercury is transferrable to infants during pregnancy and women of childbearing age (16-49) had average levels three times the reference limit (3.0ppm) (Carnegie Institution for Science, 2012).

Surface Water Contamination

Surface water contamination occurs as a result of mercury emissions during the amalgamation and burning phases of ASGM production (see Appendix 4.4), the removal of large amounts of mineral and metal rich sediment from river bottoms, the washing of fine gold bearing material and the unregulated disposal of oil, lubricants and detergents needed in ASGM operations (Álvarez et al., 2011, p. 56). Mercury contamination puts thousands of Peruvians at risk for neurological disorders

associated with mercury ingestion and additional contamination from ASGM activity significantly disrupts river ecosystems (see Appendix 4.5 and 4.6) (Álvarez et al., 2011).

Implications

The exponential growth of informal and illegal ASGM threatens the health, environment and livelihoods of thousands living in Madre de Dios.

Those directly victimized by informal and illegal ASGM activity are often vulnerable populations who view mining as the only viable economic activity available. Widespread economic involvement in the industry of informal and illegal ASGM complicates large-scale, organized efforts against them or their effects.

The gravity of these environmental and social concerns and the lack of state capacity in the region, indicate an increasing need for support of NGOs conducting research projects and the organization of alternative methods of monitoring.

Mechanisms of Conflict Resolution

The environmental, human health, and socioeconomic impacts and social conflicts in Madre de Dios are ongoing concerns. Levels of NGO involvement and community organization and mobilization are relatively minimal compared to the cases of Tambogrande and Tintaya. Organizations working in Madre de Dios are primarily focused on mitigating the environmental and human health impacts of ASGM, rather than negative effects such as child labor, illegal trafficking, and the superimposition of land rights in the region. While the core, economic drivers of illegal and informal mining expansion are vast, NGOs and civil society organizations could make strides in mitigating negative impacts from these mining activities through education campaigns and funding research and continual monitoring.

Formalization and Interdiction

Formalization's convoluted process discourages miners from attempting to seek legal status. Illegal operations can continue current practices until they are formalized, a process that may take over 15 years, enabling informal and illegal mining's endemic social and environmental problems to grow. The current method of formalization relies on miners to submit their applications by a set deadline; however, many ASGM operations have not applied (Kossuth & Reiser, 2012). The central government's response has been violent, launching interdiction campaigns using slash and burn methods to destroy mining equipment (Kossuth & Reiser, 2012).

Accomplishments

Measurable, temporary reduction in informal and illegal mining. Via violent slash and burn methods, the central government has been successful in its goal of reducing the number of illegal mining operations, and this impact is concretely measurable. However, 97% of mining revenue in Madre de Dios remains informal (Low, 2012, p 10).

Formalization increases regulation of ASGM's environmental effects and rate of goal extraction. Formal mining operations must follow legal regulations regarding environmental impacts and its rate of gold extraction.

Challenges

Formalization fails to address the endemic problems associated with illegal and informal mining. The process emphasizes that there are zones, equipment, and bodies of water where mining is prohibited, limiting legal and illegal categorization into geographic regions and not acknowledging or addressing other associated issues affecting human health and livelihoods (Low, 2012).

Interdiction does not solve overarching issues associated with ASGM. Interrupting the supply chain on the lowest rung of ASGM operations at the site of mining operations does not create change within the mining communities. The slash and burn methods destroy the livelihoods of many families involved in ASGM, increasing tensions between those engaged in ASGM and the central government (Low, 2012, p. 10).

Enforcing deadlines throughout formalization process has been difficult. Many ASGM operations continued even after the original and extended formalization deadlines had passed (Kossuth & Reiser, 2012).

Mining is still the most lucrative economic option available in Madre de Dios. Targeting small-scale, replaceable technologies does not stop the cycle of poverty or the return to these mining operations. Interdiction and slash and burn address the symptoms rather than the causes of ASGM mining, therefore the central government's response does little to quell the growth of ASGM in Madre de Dios (Evidence and Lessons from Latin America, 2012, p. 8).

Research as a Strategy

Research reports have the ability to set the framework for positive change in Madre de Dios. CooperAcción and SPDA currently produce and distribute reports outlining conditions in Madre de Dios (Mujica, 2014; Mosquera et al., 2009). Their most recent report focuses on problems related to mining, such as: pollution, public health, tax evasion, human trafficking, and conditions of employment. These reports, in particular Mujica's report, create a narrative of conflict and tension in the region reflecting mining related issues (Mujica, 2014). Spreading awareness of the negative impacts of ASGM holds to potential to attract attention from groups and communities outside of Madre de Dios.

Accomplishments

SPDA produces information on the environmental effects of ASGM. Publishing reports online enables those within and outside the region to see specific impacts that ASGM has had in Madre de Dios.

Spreading information holds the potential to inspire local communities and national and international organizations to create change. While mining has shown economic benefits, negative social consequences are taking a toll on public and environmental health. Producing and disseminating reports serve as a foundation for creating awareness, and holds the potential to inspire mobilization and action.

Challenges

Less-densely populated, rural communities make distributing report information difficult. Currently, there are not enough resources to share these reports in all of the remote mining towns

and communities. These reports and news articles are available online and easy to locate if one knows what to search for, however, a lack of infrastructure and poverty limits communities' access to this information (Mujica, 2014).

Documentation alone is not sufficient to create positive change. The need for increased research and reports is evident, yet because of the conditions in the region, the organizations have a limited ability to disseminate information. However, with increased development and support, this can be made possible.

Information Campaigns: Information Gathering and Forestry Concessions

Madre de Dios has helped slow the spread of ASGM by gaining access to forestry concessions by the mining sector, preventing miners from advancing into these protected areas. After examining reports from 2205-2013, Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre (OSINFOR) determined that areas with forestry concessions have been less affected by ASGM. However, the report fails to produce concrete numbers describing the decrease in ASGM activities (SPDA Actualidad Ambiental, 2014).

Accomplishments: Visibility of Progress

The positive effects of forestry concessions are emphasized by these studies. The ability to demonstrate progress via reports on forestry concessions shows that monitoring land use is possible. ASGM still causes grave problems, but demonstrating progress is key to understanding how to make a future impact.

Challenge: Data Problems

Without concrete data it is difficult to show clear progress. Without clear numbers the report does not hold a lot of credibility. Using this information to make a change is difficult without solid numbers to demonstrate findings (Sociedad Peruana de Derecho Ambiental: Actualidad Ambiental, 2014). Additionally, the report offers little insight on the socioeconomic impacts of ASGM.

Information Campaigns: Participatory Information Gathering

The Amazon Conservation Association (ACA), through a conflict-sensitive conservation methodology, has mapped socio-ecological drivers of land degradation and social networks in Madre de Dios (Fisher, n.d.). The framework takes roots from the International Institute for Sustainable Development (IISD). The overall goal of the project is to further understand the roots of conflict in the region. The project focused on large protected areas in Madre de Dios and built social capital with native and migrant communities in mining affected areas (Fisher, n.d.).

Accomplishments

A coherent sense of conservation challenges has been created. ASGM operations are complex; mapping out the connections has helped identify different management and engagement strategies that could eventually relieve some of the long-term tensions (Fisher n.d.).

The success of this non-invasive information gathering campaign shows that monitoring is possible in Madre de Dios.

Challenges

Gathered information is participatory. Only those who are willing to participate are supplying information for mapping out the conflict (Fisher, n.d.). The interests of those who participate and those who do not may be conflicted. To fully understand the web of conflicts in Madre de Dios more than a small sample of information will need to be gathered.

Making an impact through this type of information gathering does not guarantee success. The ACA states that this project has the *potential* to reduce long-term tensions in Madre de Dios (Fisher, n.d.). Additionally, there are no concrete measurements to show progress.

Information Campaigns: Strategic Health Care Efforts

One of the primary concerns in the Madre de Dios region is the impact of ASGM on human health. AISPED is a branch of the Peruvian government under the Ministry of Health comprised of multidisciplinary health workers seeking to increase public health within current infrastructure. The group forms strategies for spreading healthcare to the most isolated populations of Peru (including, but not limed to, Madre de Dios) using culturally and community-sensitive approaches. AISPED engages in health promotion activities such as communication and advocacy, coordinates with the local authorities and population to create a system of community monitoring (Ministerio de Salud, 2013).

Accomplishments

AISPED has encouraged and facilitated community involvement with healthcare. AISPED actively promotes community engagement in health and wellness.

AISPED collaborates with local organizations and populations to promote healthcare. Their multifaceted approach to advocating for healthcare develops relationships among multiple communities in order to raise awareness surrounding serious health issues.

Challenges

AISPED focuses on health issues in general, not the specific health effects that result from ASGM. The organization has not been effective in spreading awareness on mercury poisoning and other serious health effects that result from ASGM.

AISPED does not have enough resources to spread awareness to all of Madre de Dios. Sending workers throughout the most remote region in Peru requires a lot of personnel and time. AISPED have not been able to reach all those affected.

Fuel Regulation

Decreto Supremo N° 015-2013- IN, intended initially to combat narcotics trafficking, regulated the distribution of fuel within Madre de Dios. Rising fuel prices negatively impacted ASGM operations, as they struggled to transport gold and find fuel to run their machines (ACA, 2014).

Accomplishments

This decree slowed ASGM production. Mining slowed in the region once this decree was implemented. Difficulties in obtaining fuel made mining operations difficult (ACA, 2014).

Challenges

All economic activity suffered in Madre de Dios as a result of this decree. The government had to repeal the law in order to restore economic activity in the region. As a result, ASGM began to grow again (ACA, 2014).

Cooperatives

Mining group cooperatives have been able to form connections between different native communities, and could be a means of creating sustainable ASGM operations (Manzanedo Duran, 2005, p. 81). These cooperatives operate more or less as collective businesses and are able to have legal representation for their interests (Manzanedo Duran, 2005, p. 82).

Accomplishments

Cooperatives create mining guidelines for each group that operate within the cooperative. This helps reduce ASGM's negative impact on human health and the environment (Manzanedo Duran, 2005, p. 82).

Cooperatives have more of a legal standing than if each mining operation were to act on its own. Together, mining operations are able to leverage their combined resources to seek legal

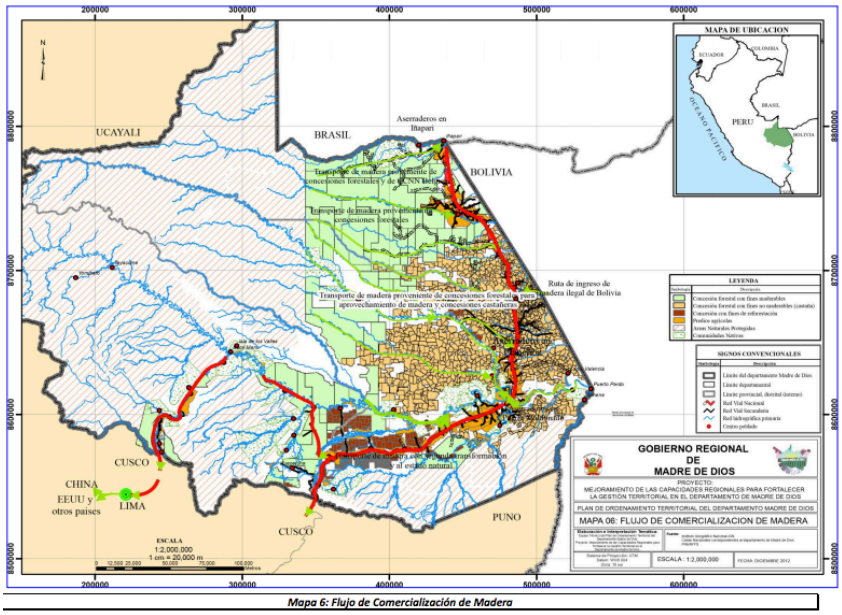
Figure 4.5: Map of Zoning Plan
A detailed map of the proposed zoning plan in Madre de Dios.

remedies addressing the concerns of their members, like land and labor rights (Manzanedo Duran, 2005, p. 82).

Challenges

The process of forming cooperatives is difficult. Many ASGM operations have their own interests in mind and it is difficult to get each group to come together and create a new organization.

There is a lot of distrust among the mining groups. Each community has its own people and resources to manage and merging the interests of one community with another is a large task (Manzanedo Duran, 2005, p. 81).



Mapa 6: Flujo de Comercialización de Madera

Retrieved from Gobierno Regional de Madre de Dios (2013)

Zoning Plan

Creating a zoning plan helps to solve conflict over overlapping land rights while demonstrating that the regional government of Madre de Dios is willing to move forward with solutions aside from formalization. The regional government is implementing a series of zoning regulations to prevent the overlapping from continuing. This project is titled "el Plan de Ordenamiento Territorial" or the land use plan. The goals of the project are to plan for the future management of the territory and to promote sustainable development (Gobierno Regional de Madre de Dios, 2013).

Zone Descriptions

The zoning project is broken into five different zones and nine areas. These zones and areas function as buffer zones to prevent superimposing land use. The regional government of Madre de Dios introduced this project in 2012 to combat the superimposition of land use rights. The most important sector of this plan is the third zone, titled the "Special Treatment Zone." It targets ASGM specifically and focuses on the rights of different economic activities that occupy the same physical space. This zoning establishes that agriculture and forestry have a priority over mining. However, the expected date for this plan to be fully implemented is 2030 (Gobierno Regional de Madre de Dios, 2013).

Accomplishments

A regional government attempt to address issues surrounding land rights outside of formalization. This is one of the most prevalent issues in Madre de Dios and forming a legal avenue to change rights is the first step in finding a solution. If fully implemented, It will regulate the use of land for agriculture, forestry, mining, and protected areas (Gobierno Regional de Madre de Dios, 2013).

Challenges

The project will not be realized in the short-term. Full implementation is not expected until 2030, and the plan has a higher likelihood of being rendered ineffective in such a long time frame. The regional government of Madre de Dios has released documentation for what it intends to do, but has not begun implementing the plan (Gobierno Regional de Madre de Dios, 2013).

The scale of the project is not feasible with given resources. Enforcing all these new rules and regulations takes a lot of people and resources that the regional government will need to spend money on. However, sustaining this system could prove too costly. The regional government does not currently have enough infrastructure to monitor the zones and regulate the use of land (Gobierno Regional de Madre de Dios, 2013).

Lessons Learned

1. **Despite the growth in informal and illegal ASGM in Madre de Dios, methods of conflict and impact resolution remain limited.** While some active NGOs have a stake in reducing tensions in the region, these efforts remain challenged due to the widespread economic dependency on mining income in the region. In addition to the support for the activity from otherwise impoverished families, large firms have a lot at stake in this mining economy. These interests have prevailed, as ultimately little has been done to address issues resulting from. NGOs have focused on human health and environmental consequences, but significantly more remains to be done regarding formalization, a lack of social support for communities from the central government, and conflicting zoning agreements.

2. **The Peruvian state's limited capacity in Madre de Dios has led to an increase in labor rights abuses, environmental damage and social conflict related to ASGM**. The formalization tactics of interdiction are at best bothersome for mining operations and at worst, the catalyst for violent conflict against the state. Problematically, the barriers to formalization for most miners are too high and incentives to formalize too few. Although formalization laws take into account environmental concerns related to ASGM, they don't address overlapping land use rights, the source of most of the social conflict in the region. While large-scale government projects plans for zoning (and formalizing) the entire region are ongoing, the capacity of the government to monitor and enforce the law regarding the issues resulting informal and illegal ASGM remains limited.

3. **Taxation of informal miners and firms associated with informal and illegal ASGM in the region could act as a potential incentive for the state to increase its presence in Madre de Dios**. Oxfam's analysis on economic inequality in "Working for the Few," recommends supporting progressive taxation reform (Oxfam International, 2014b). Madre de Dios is a region suspended in a vicious cycle where a lack of public assistance for the poor has driven many towards untaxed illegal activities associated with illegal mining. This in turn deprives the state of necessary tax revenues needed to increase its effectiveness in the region. Pursuing research regarding ways for the state to increase its capacity for oversight of revenue and tax collection, intervening higher in the ASGM supply and profit chain, could help stop this disruptive cycle. Mining firms that source and profit from informal and illegally mined gold (i.e. mining operators, concession holders, intermediary processors and exporters), file reports on information relating to production, purchase of inputs and investments (Kossuth & Reiser, 2012). Improving and expanding state oversight of these reports could allow the state to better detect irregularities and improve their efficiency in analyzing other links in the illegal mining chain.

Recommendations

1. **Research and monitoring of impacts, conflicts and revenues associated with informal and illegal ASGM should be expanded**. In addition to research efforts regarding the environmental and social impacts and conflicts related to mining activity, Oxfam America could work with NGO partners and the state to expand research regarding national taxation of individuals collecting informal and illegal ASGM revenues higher in the supply and profit chain. Research mapping supply and profit chains would help the state identify individuals driving larger networks of informal and illegal mining. With this information, the state could more efficiently target illegal mining operations to bring them under state regulation.

2. **Fund, conduct, and distribute research regarding more environmentally friendly alternatives to current ASGM practices.** Oxfam America could explore research into more environmentally conscious methods of ASGM operations that miners could employ individually and on a small-scale. In the absence of government regulation, these alternatives could reduce health, agricultural, and environmental threats currently posed by ASGM.

3. **Collaboratively develop education campaigns with the help of organizations currently working in Madre de Dios to disseminate information**. Oxfam America could provide support for NGOs and local organizations to develop education campaigns regarding alternate, more environmentally conscious methods of beneficiation without mercury. Additionally, these networks could be used to distribute reports and other information related to formalization, health concerns, and environmental conditions.

4. **NGOs and partners should be encouraged to organize around community monitoring programs of conflicts and impacts associated with informal and illegal ASGM**. Community monitoring programs have had success working with large-scale extractive industry and elements of these programs (including selection and training of monitors) might transfer to cases of informal or illegal mining in native communities (see Appendix 4.7). Database tracking of air, soil and water monitoring equipment, as well as potentially photos or videos, could be used in an online community database system. The information produced could help NGOs more efficiently fund necessary research efforts, find improved solutions to the problems of informal and illegal ASGM and aid in formalization and zoning efforts led by the government.

Conclusion

In summary, our recommendations highlight sustainability, relationship building and strengthening, knowledge production and dissemination, transparency, and education. Case-specific recommendations appear after each case study.

Recommendations Summary

- Pursue sustainable solutions focusing on long-term outcomes.
- Expand and strengthen relationships with mining stakeholders on local, national, and international levels.
- Continue and expand knowledge-gathering and dissemination efforts.
- Promote transparency between different levels of government, extractive industries, and communities.
- Broaden and develop education campaigns to inform and empower mining stakeholders.

Each case study offers unique insights: in the case of Tambogrande, a re-thinking of the "emblematic" case, in Tintaya, an analysis of conditions leading to successful negotiations, and in Madre de Dios, an introduction to the new frontier of illegal and informal mining. Our report accentuates continuing and retrospective information gathering as applied to evolving efforts to engage with social conflict related to mining activities in Peru. We provide recommendations for Oxfam America to consider when engaging in these issues.

Limitations of this Report

Given the short timeframe to research and write our report, there are several factors that may have limited the thoroughness and complexity of our findings. In general, our access to research was constrained by our limited Spanish proficiency, geographical distance from our case study locations, and a general shortage of scholarly research about current events for our case studies. We also would have liked to talk to more individuals directly involved in those regions, including those who currently or previously worked at Oxfam America to gain a better understanding about the organization's culture, goals, and current projects.

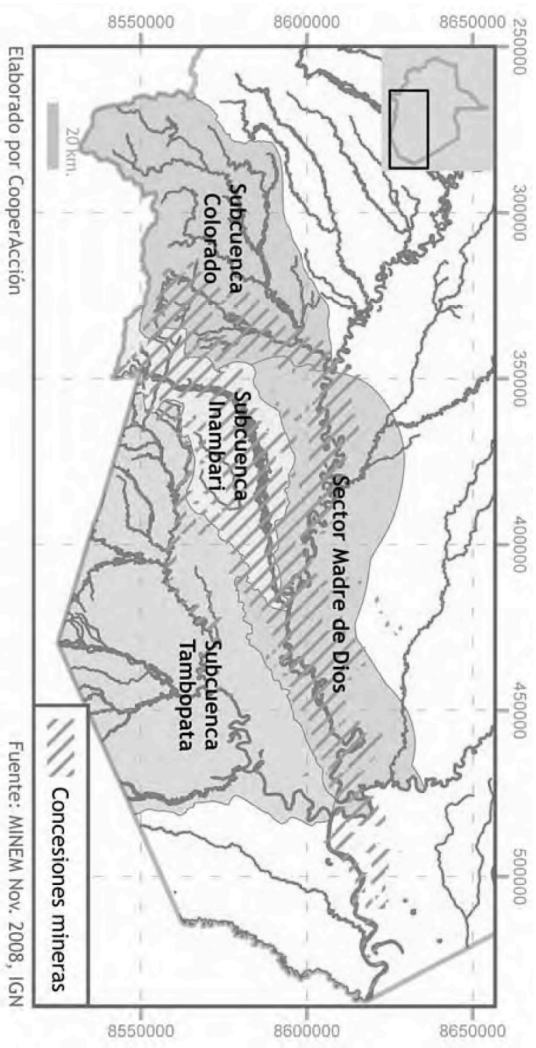
More specifically, our analysis regarding the Tambogrande conflict could have benefited from more information about the demographics of the region and small-scale and artisanal mining. For the Tintaya case, we would have liked to find more scholarly papers about the Dialogue Table after Glencore Xstrata took ownership of the mine, as well as more information regarding CONACAMI's separation from the case and overall disbandment. And finally for Madre de Dios, it would have been helpful to speak with someone with direct knowledge about conflicts related to ASGM. That

said, we hope that a consideration of these cases will generate a productive set of conversation and reflection about future intervention by Oxfam America and other INGOs working to address these complex issues.

Appendix

4.1. Conflicts in Native Communities

CooperAccion Conflict Breakdown	Native Community/ Year of CN Titling	River Basin (populated towns or cities)	Location (district, province)	Ethnic Group(s)	Area of the community (ha)	# of overlapping mining rights	Area of overlap (ha)	% overlapping native territory	Population	Source of Conflict
Conflicts over royalty agreements between native communities and mining settlers	Puerto Luz 1986	Rio Colorado (Huepetuhe, Delta 1)	Inambari, Tambopata	Harakmbut	62147	41	2044	3%		Royalty agreements/ miner invasions
	Barranco Chico 1988		Huepetuhe, Manu	Harakmbut	12109	107	5910	49%		Royalty agreements/ miner invasions
	San José de Karene 1986		Laberinto Tambopata (Madre de Dios, Manu)	Harakmbut	22833	178	1197	5%		Royalty agreements/ miner invasions
	Arazaire 1976	Rio Inambari (Mazuco, Santa Rosa/ Puerto Carlos)	Inambari, Tambopata (Hepetuhe, Manu)	Harakmbut	1272	32	1272	100%	110	Royalty agreements, division in community over miner evictions
	Boca Inambari 1984		Inambari, Tambopata	Harakmbut	6252	89	4831	77%	172	Royalty agreements and management, in 2013 unsuccesfully attempted to evict non-native miners from territory
Conflicts over royalty agreements between native communities (of settlers and natives) and external populations	Kotsimba 1992	Rio Tambopata	Tambopata, Tambopata	Harakmbut	33030	29	2974	9%	250	Royalty agreements, miners on the border of the community (Manuani) have entered and expanded operations without consent or agreements
	Tres Islas 1992		Tambopata, Tambopata	Shipibo/Ese'Eja	33731	570	1840	5%	250	Royalty agreements with holders of mining rights from 1979 not honored
	San Jacinto 1992	Rio Madre de Dios, (Puerto Maldonado, Laberinto)	Tambopata, Tambopata	Shipibos	12031	348	9082	75%	220	Royalty management, demanded change of community president
	El Pilar 1984		Tambopata, Tambopata	Shipibos-Conibos	2325	20	1720	74%	200	Royalty management, demanded change of community president
	Shiringayoc 1984		Laberinto (Inambari), Tambopata	Ese'Eja	11702	11	2363	20%	76	
Reject mining completely	Puerto Arturo 1984	Rio Las Piedras	Las Piedras, Tambopata	Kiwcha-Runa	3764	12	754	20%	180	Miner evictions, the community succeeded in forcefully evicting Fortuna Milagros in 2011 (without the state) after the company began exploiting concessions without approval in 2005



Retrieved from Pachas (2013); Mosquera et al. (2009)

4.2. Conflicts in Agricultural Associations

Agricultural Association/ Without Title	Location	Ethnic Group(s)	# of overlapping mining rights	Population	Source of Conflict
Agricultural Association San Juan	Inambari, Tambopata	Quechua (Cusco, Arequipa y Puno)	0 (informal mining agreements)	160	Internal conflicts over minining activity, two farmers have agreements with miners and the rest are against mining in the area and have been unsuccesful in forcefully evicting miners (without the state)
Agricultural Association Sarayacu	Inambari, Tambopata	Quechua (Cusco, Arequipa y Puno)	4	300	Relationships with external miners, the community does not accept outsiders practicing mining in their territory because they collect mining royalties from miners
Agricultural Association Union Progreso	Inambari, Tambopata	Quechua (Cusco, Arequipa y Puno)	2	300	Internal conflicts over minining activity, the contamination of a stream needed for agriculture caused part of the community to destroy machinery used by a miner who had a royalty agreement with the farmer/landowner (causing infighting in the community)
Agricultural Association Nueva Arequipa	Inambari, Tambopata	Quechua (Cusco, Arequipa y Puno)	13	85	Government interdiction processes
Agricultural Association Santa Rosa	Inambari, Tambopata	Quechua (Cusco, Arequipa y Puno)	13	300	Relationships with external miners, the community has attempted forceful evictions of invasice miners from farmland who do not have agreements with the community

Retrieved from Pachas (2013)

4.3. Earth Material Displacement: 70% of ASGM in Madre de Dios uses front-end wheel loaders. To obtain 1kg of gold with this machinery, 6.68 m^3 of earth need to be moved. Between 1995-2007, 116.57 tons of gold were produced in Madre de Dios, indicating that 778,687,600 m^3 of earth were displaced without methods for recovering areas where the material was excavated or areas where it was deposited (Mosquera et al., 2009, p. 37).

Deforestation**:** A Carnegie Institute study found that between 1999 and 2012, ASGM activity increased the deforested area from less than 10,000 to 50,000 ha in Madre de Dios (Asner, Llactayo, Tupayachi, & Luna, 2013). The same study estimates that the rate of mining expansion in Madre de Dios tripled from 2,166 ha/year in 2008 to 6,145 ha/year in 2012 (Asner et al., 2013).

4.4. After use of the "sluice box" (separating nuggets) beneficiation method, the residual fine material is treated with large amounts of mercury for amalgamation. The amalgamated black sand (more than half mercury) is then panned along rivers where mercury escapes into waterways (Kuramoto, 2001, p. 20). In the burning process, evaporated mercury molecules become suspended in the atmosphere and return to waterways in rainfall (Kuramoto, 2001, p. 28). While methods to recover gaseous mercury exist, they are not used in ASGM production (Álvarez et al., 2011, p. 29).

4.5. The Ministry of Health in Huepetuhe analyzed urine samples from a random sample of the local population that were occupationally uninvolved in mining. The maximum recommended level of

mercury is <5 μgHg / L for people not occupationally exposed. Results showed 73.6% of the 231 sample had Hg values below the reference limit (<5 μgHg / L of urine), while 26.4% showed values reference above; among them, 2 people showed extreme levels, above 300 μgHg / L of urine (Arroyo, 2014, p. 193). These relatively low levels are partially explained by the low quantity of fish present in the diets of those living in the district Huepetuhe, the majority of whom are from the Andean regions. More concerning, however, were the symptoms reported in the study at Huepetuhe: 31.2% of the population reported memory loss, 29.5% moodiness, 24.3% irritability, 31.2% muscle weakness, 12.7% muscle aches, 37.7% headache, 22.3% allergies and 15.1% skin peeling (Ipenza & Valencia, 2014, p. 193).

4.6. The natural turbidity of the area's rivers is 100 NTU (Nephelometric Turbidity Unit), but in alluvial ASGM areas, turbidity ranges between 280 and 1000 NTU (the maximum limit for drinking water is 10 NTU). In the Caychive and Puquiri rivers, suspended solids reached 50,000 ppm. The normal color of surface water is less than or equal to 75 UC (color units), but in ASGM mining areas, color ranges between 80 and 280 UC (Álvarez et al., 2011, p. 66).

4.7. The 2008 "Participatory Social and Environmental Monitoring Program" was implemented in 35 rural Andean communities along the 408 km buried natural liquefied natural gas pipeline. The program involved community members in the oversight of the company's environmental performance. Upon completion of extensive monitor training, "Every month, monitors spend eight days in the field, and two days at ProNaturaleza office [the NGO coordinating the program], uploading findings into the monitoring database and action tracking system, and coordinating the logistics and requirements for the next survey" (Taborga & Casaretto, 2013, p. 4). "A website was created to disclose the monitoring results to the general public and to validate it with the communities" and through improving trust with the company, the program has helped prevented potential social conflicts from arising between the communities and Chicago Bridge & Iron Company, the company building the pipeline (The World Bank, 2013, p. 2).

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