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Socio-Environmental Conflicts and Institutions in Resource-Based Economies: The Case of Mining in Peru and Colombia

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Abstract

The academic debate on the "resource curse" frequently presents social conflicts as one of many negative consequences of a resource-based development model. By contrast, critics argue that it is the institutional framework within a state that causes these problems. With this assumption as a starting point, I show in this paper how different institutional settings in structurally similar countries cause different types of conflicts using the examples of mining policies in Peru and Colombia. I argue that social conflicts in the context of resource extraction must be understood as multi-dimensional socio-environmental conflicts. I thereby criticize common approaches that perceive natural resources and rent-seeking behavior as given objectivities. I conclude that even though armed non-state actors impede the orderly function of Colombia's institutions, these institutions provide more effective conflict management tools than those in neighboring Peru.

Keywords: mining, socio-environmental conflicts, institutions, Peru, Colombia

Introduction

Mining is often considered one of the most environmentally invasive industries there are. It is not surprising then that mining regularly causes socio-environmental conflicts. The Environmental Justice Atlas counts 707 active mining conflicts worldwide (EJAtlas) – 336, about half of them, in Latin America and the Caribbean. In 2019 alone, 25 anti-mining activists died in the region (Global Witness).

One of the countries with the most conflicts in Latin America is Peru. The Mining Conflicts Observatory for Latin America (OCMAL) counts 46 mining conflicts for the Andean country (OCMAL). Human rights organization Global Witness registered 27 killed mining opponents for the period 2012-2020 – 19 of them by state security forces, making Peru one of the countries in the region with most deaths linked to socio-environmental conflicts (see Betancourt 37-8).

Another country with a high death toll in the context of extractive activities is Colombia. OCMAL observes only 19 active mining conflicts there. According to Global Witness, on the other hand, there were 42 fatalities among anti-mining activists between 2012 and 2020. What is striking about this significantly higher number of victims, however, is that only one person was killed by state security forces, whereas 41 people were murdered by non-state actors in this context (ibid.).

The violence in both cases manifests itself in very different ways, even though Peru and Colombia are characterized primarily by their structural similarities: Both countries pursue the same neoliberal strategy in their natural resource policies by attracting foreign direct investment into the extractive sector with favorable conditions and deregulation. In both countries, mining is one of the most important export sectors. Peru and Colombia furthermore display a comparable per capita economic output. The two Andean countries also have similarities in terms of social policy: As two of only a few countries in Latin America, neither state experienced a post-neoliberal turn during the phase of the regional shift to the left generally known as the pink tide of the 2000s and early 2010s (see Fernandes and Casas). [1] Colombia's history of internal armed conflict, which came to a supposed end with the peace agreement in 2016, is often cited

as a distinctive feature of the country. However, Peru also experienced an internal armed conflict with a high number of victims until 2000, which left its mark on many parts of the country. In both states, there are still active remnants of combatant groups today. Accordingly, the post-conflict thesis can only in part explain the Colombian peculiarity of the high murder rate against social activists and environmentalists in the context of resource extraction in comparison with neighboring Peru (see Hamilton).

Peru and Colombia are thus two countries in which a clear link can be observed between the extraction of raw materials – especially mining – and violent socio-environmental conflicts. They represent classic empirical examples of the resource curse hypotheses. The resource curse hypothesis assumes that the abundance of (non-renewable) natural resources brings predominantly negative consequences for a country or region (overview: Abubakr et al.). These consequences can be of economic (Gelb; Auty; Sachs and Warner) or political nature. Abundance of resources can furthermore lead to social conflicts and even civil wars (Collier and Hoeffler). Nevertheless, it can be observed that in these discussions social conflicts over environmental concerns are mostly neglected. Instead, the Social Sciences consider conflicts and natural resources from a security policy perspective. [2] This threatens not only to narrow the view of a broad field of phenomena, but often also to misjudge the object of conflict itself. Representatives of Social and Political Ecology have long pointed out that natural resources are not objects external to society (Görg; Watts; Robbins). Rather, they are socially constructed and embedded in social power structures.

Critics of the resource curse hypothesis mostly point out that it is not the natural resources themselves that produce the problems, but "bad" or "weak" institutions (Mehlum et al.; Menaldo). Natural resources could thus bring positive effects to a country, provided that "good" or "strong" institutions channel this potential in the right directions. Differing institutions might also produce different kinds of conflicts. [3] Existing systematic approaches to the study of structural conditions of socio-environmental conflicts have so far remained entrenched within the framework of individual nation-states (Arellano Yanguas) or completely ignored nation-state embedded institutions (Haslam and Tanimoune; Conde and Le Billon). Peters (408-409) instead points to the advantages of comparing countries in terms of "comparative extractivism" in order to avoid "one-size-fits-all notions" among explanatory patterns on the one hand, as well as to be able to identify generalizable characteristics of commodity-dependent societies on the basis of empirical case studies. Accordingly, this paper aims to fill this gap of systematic country case studies on the structural causes of socio-environmental conflicts in resource-based economies.

In this context, a comparison of Peru and Colombia can serve as a suitable empirical basis for a more in-depth analysis of their institutional structure and its impact on the intensity of socio-environmental conflicts in the context of mining. In contrast to previous work that focused on the relationship between institutions and negative impacts of a resource-based development model (Bulte et al.; Mehlum et al.; Arezki and Van der Ploeg; Brunnschweiler; Sarmidi et al.; Paredes et al.; Orihuela; Amundsen), the aim of this paper is to develop a deeper understanding of institutions and their influence on social actors.

Building on the theoretical research gap identified above and the empirical problem statement of the two country examples, the following questions arise. How do institutions affect social actors in a resource-based economy? And: How do socio-environmental conflicts arise from this? These questions will be answered by means of an empirical study of the mining sectors in Peru and Colombia building on existing literature on individual conflicts as well as expert interviews with representatives of the mining sector, the state and civil society.

The structure of this paper is as follows: First, the basic concepts '(socio-environmental) conflict' and 'institutions' will be explained. These concepts will be operationalized for the methodological approach of the empirical study of the country cases Peru and Colombia. This will be followed by an actor analysis. For methodological reasons as well as for clearer structuring the main section is divided into three analytical dimensions for each country: the political-participative, the politico-economic and

the ecological dimension. In the third section I will present the overall research results drawn from this analysis.

1 Theoretical and Methodological Premises

This paper focuses on social conflicts over nature, i.e. conflicts between actors over the use of natural resources in an institutionally embedded context. Following Arellano Yanguas (111), social conflicts are manifest local conflicts that do not fall within the definition of war. They take place within a stately regulated system, so they are not anarchic, and they are usually asymmetrical because they occur within social structures of domination.

Meanwhile, nature as an object of conflict is not an object of dispute like any other. The basic assumption of Political Ecology approaches is that nature is not simply a materiality external to society, but already an intrinsically political sphere (Watts; Robbins). In this context, nature and society stand in a dialectical relationship that is subsumed in German Political Ecology approaches under the term "societal relationships with nature" (SRN) (Görg). These relations must always be thought "plurally", because "society and nature are not related to each other as wholes, as undifferentiated entities, rather different social and natural elements are selectively and dynamically linked" (Becker and Jahn 12). Especially in postcolonial societies – such as those of Latin America – widespread alternative conceptions to the hegemonic, capitalist SRN can be observed to this day, for example in indigenous or peasant communities (Astor Aguilera).

Mining conflicts as social conflicts over the use (and interpretative dominance) of natural resources in a given territory can be subsumed under socio-environmental conflicts. Empirical evidence, however, reveals the complexity and simultaneous vagueness of this concept. In an empirical mixed methods study of mining conflicts in Peru, Arellano Yanguas discovers a wide variety of conflict triggers that lead him to an analytical typologization: First, conflicts as the cause of a fundamental rejection of a mining project by the population. Second, conflicts as escalated negotiations over the distribution of resource rents or economic compensation for negative impacts of mining on certain economic sectors, and third, conflicts over the state distribution of resource rents (151-3). In an analysis of the causes of mining conflicts, Oxfam (5-7) also recognizes not primarily environmental damage, but also local economic effects and the lack of effective communication opportunities between the local population, the state and mining companies. Haslam and Tanimoune underpin these qualitative analyses with quantitative data on mining conflicts in Latin America, where they identify economic rather than ecological issues of contention as the most common conflict triggers.

Purely ecological issues are thus reflected in only one dimension of mining conflicts. Economic distributional struggles are another important component of mining conflicts, as is political participation. Accordingly, mining conflicts should not only be subsumed under conflicts about nature in the narrow sense, but should be understood as multidimensional socio-environmental conflicts, which, in addition to the ecological dimension, also have a politico-economic as well as a political-participative dimension. This distinction is purely analytical, for political, economic as well as ecological factors are usually closely interrelated. However, such a perspective can serve to structure the research field and thus provide a schematic guide for the actor analysis.

The political-participatory dimension encompasses all institutions that concern the planning a specific project. The politico-economic dimension subsumes those institutions that affect the distribution of resource rents as well as those economic interests that see themselves threatened by mining. Finally, the ecological dimension focuses on the institutions that shape SRN.

In the Social Sciences, institutions are generally understood to be the regulatory systems of a society. In neo-institutionalist approaches, these include not only formalized rules such as codified laws or policies, but also informal rules such as practices, social norms, or implicit conventions (see March and Olsen; North; Hall and Taylor). While unified definition of 'institutions' cannot be found within the New Institutionalism, North (3)

offers a widely accepted definition:

> "Institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. In consequence they structure incentives in human exchange, whether political, social, or economic."

In this paper, I will distinguish between three different types of institutions: formal institutions, practices, and norms.

Formal or formalized institutions are systems of rules that are explicitly formulated and articulated, and whose violation is followed by clearly defined sanctions. These include laws or contract-based regulations. In addition to formal institutions, there are informal institutions. These include practices. Practices are usually not made explicit, but are unconsciously followed, internalized patterns of action. The third type of institution to be examined here is social norms. Norms can be defined as interpretive horizons and value systems that determine actors' actions. Unlike practices, these norms are usually quite explicitly articulated, but violations of them are not uniformly sanctioned.

In a macro-analysis such as the one carried out here, social actors are not only individuals, but also organizations such as ministries, courts or authorities (March and Olsen 738). Such entities can be captured as "corporate actors" if they are composed of a group of individuals pursuing the same purpose under a common sign (Mayntz and Scharpf 49-51).

Just because institutions, by definition, provide actors with a common framework for action that they accept, does not mean that they make conflict impossible (Thelen 387). Rather, institutions shape the way in which conflicts are carried out and can even be the object of conflict themselves (see ibid.). Accordingly, they also have a significant influence on the intensity of the conflict.

A basic question of institutionalist conflict theories is how institutions can induce actors to behave either conflictively or cooperatively. In this context, the focus is on conflict management (Spindler 146-9). Conflict management occurs when a conflict between actors with different goals and interests is first regulated and channeled through commonly accepted rules – an escalation is to be avoided. Conflict resolution would be achieved when the incompatibility of positional differences is eliminated and all actors can achieve their goals. This would be an ideal case, which, however, is often not what happens: An end to the manifest conflict, can already occur if the incompatibilities regarding the actors' objectives remain, but they have been able to agree on the establishment of joint decision-making mechanisms (ibid. 148). In this case, the causes of conflict themselves are not eliminated; it is merely a matter of constructive conflict management that succeeds in significantly reducing the intensity of conflict.

Thus, institutions can reduce conflict intensity by providing instruments for effective conflict management. These are formal or informal rules that actors accept to moderate differences of interest.

In this paper I conduct a qualitative small-N country comparison based on an actors analysis (see Collier 105). In addition to a pure description of the actors involved, the actor analysis will ask about the institutions and the actor-institution interrelationship. Such an actor-centered institutionalist approach was designed by Mayntz and Scharpf. They combine actor analysis with the study of the institutional structures that condition their actions (Scharpf 36). Actors are determined by institutions insofar as they provide them with a stimulating, enabling or also restricting context for action (Mayntz and Scharpf 43). In this context, a certain autonomy of actors and a clearly limited concept of institutions has to be assumed in order to avoid a „crypto-determinism" that assumes actors are completely determined by their environment. At the same time, such an actor analysis should also not do without a reference to structures, as other actor-centered approaches do (ibid. 45-6). In contrast to game-theoretical interpretations of actor-centered institutionalism (see Scharpf), whose analyses include model calculations, elements of this approach will be integrated into a qualitative actor analysis here.

The qualitative actor analysis draws from the extensive, predominantly local academic literature that exists on individual cases of socio-

environmental conflicts as well as from expert interviews I conducted between 2019 and 2021. Developments after 2019 will not be considered, as the 'state of emergency' of the pandemic years 2020 and 2021 could distort the results.

2. Actors and Institutions of the Mining sectors in Peru and Colombia

2.1 Peru: Protest as Means of Participation

The political-participatory dimension

Local non-state actors

When confronted with a large-scale project, opponents of mining in Peru join together in temporarily organized civil society associations such as "frentes de defensa" or "comités de lucha", which are dedicated to information work and the organization of protest actions (see Paredes and De la Puente 82-6). These groups are not necessarily representative of the entire population of a municipality or province, but derive their legitimacy from broad popular support. However, it is a long process to reach such mobilizations, which is preceded by lengthy information campaigns by a few committed people.

The major communication tool between local non-state actors and other actor groups is the "round table". It brings together representatives of the local population, the central government, the mining companies and possibly the regional government. Yet they are scheduled only in exceptional cases. Such exceptional cases arise in response to local protests. Because of the lack of other, formal channels of communication, this paradoxically creates an incentive for local populations to resort to means of civil disobedience. Forms of civil disobedience, such as road blockades, have thus become a popular means of exerting pressure to get state actors to make concessions and enter dialogue (see Durand 31). Marle Livaque, one of the protest leaders against the Conga project in the Cajamarca region, describes it this way:

> "The gentlemen in Lima don't know the reality on the ground, 'yes just let them protest for a year.' Because they don't feel it, they don't see it, so you have to make them feel it by blocking the highways and informing them what is being protested." [4]

Ultimately, however, round tables once established are only effective to a limited extent. On the one hand, this is due to a fundamental lack of trust between the actors, and on the other hand, a dialogue can only help if there is a certain amount of room for negotiation (see Brandt 233). In many cases, the parties are not willing to make any concessions. Furthermore, power asymmetries are not eliminated in these spaces, but are rather being reproduced, thus blocking a fair participatory process (Paredes and De la Puente 95). Short-term solutions or agreements that are broken shortly after are among the constant weaknesses of these negotiations. Moreover, no fundamental and legally binding decisions can be made there.

The only formal institution of participation is the "prior consultation" (PC) of indigenous peoples. Its application remains limited to a narrow definition of indigenous communities, making the very question of its applicability a subject of dispute. If PC does come to be applied, in practice this usually does not mean genuine co-determination in the sense of the ILO's proclaimed principle of "prior, informed and free consensus" (see MINCUL). Rather, PCs function as an additional communication channel for the affected population, in which some legally non-binding agreements can be reached, but no fundamental right of veto exists. Active consent from the consulted groups is only required in the case of hard interventions such as resettlement. The timing and nature of its application remain largely unregulated. Consulted populations also usually lack knowledge about the exact process of PC, and there is also disagreement on the part of the central state about the exact responsibilities and the role that companies should assume within the consultation processes (Bebbington et al. 94-5).

Mining companies

Mining companies do not have to apply for licenses for initial analyses of geological conditions and accordingly begin planning potential projects before any communication with the population affected by the consequences of the project takes place. Only when they conduct the Environmental Impact Assessment (EIA) for the official exploration phase do they have to inform the local population. Next to the presentation of technical aspects, companies early on promise the implementation of social development projects. In doing so, companies specifically involve local authority figures and try to win them over – in some cases through open bribery as activists report:

> "When [the mining companies] go to a community, they grab the president or the local council first, buying them with money or things." [5]

The incentives and supposed benefits of a project presented in the early stages often turn out to be misinformation. In the public discourse, companies benefit from the hegemony of capitalist development ideals in the national media. Mining projects are usually assumed to have a 'silent majority' of supporters among the population, while project opponents are portrayed as radical forces (see Silva Santisteban). In addition, there are close ties between the mining industry and the central State, especially the Ministry of Mines, through 'revolving door effects'.

Central state actors

Legally, the central government is the administrator of all natural resources on its territory. When it comes to the actual implementation of mining projects, however, it is largely left out of the picture. Only in the case of PC, the supervision and implementation of which is the responsibility of the Ministry of Culture, are central government actors directly involved (see Bebbington et al. 94-5).

The local population communicates with central government authorities only in cases of conflict, i.e., in response to provocation by protests and civil disobedience. Since only the central state actors have the authority to license mining projects, protesters demand talks with high-ranking representatives of the state authorities. Mediation through intermediate administrative levels cannot take place because of a general lack of decentralization of the Peruvian State.

Dialogue with the local population is not always the immediate response to protests. It is usually preceded by a phase of repression by police or military forces. Both are also directly subordinate to the central state, that is, the Ministry of the Interior and the Ministry of Defense. Repression is regularly reinforced by the imposition of a state of emergency, within which the central state can suspend the fundamental rights of the local population (Const. Art. 137). The president can declare a state of emergency for up to 60 days to "restore public order". The state also deliberately resorts to the narrative of "fighting terrorism" to legitimize repression. Sporadically, however, there are also solidarizations by members of Congress. Audiences before parliament are also possible in cases of national radiance, although their effect appears more symbolic.

Local state actors

Regional, provincial and municipal governments take different positions depending on the case. Despite a decentralization process initiated in 2002, subnational governments have few powers. While regional governments are primarily responsible for economic development at the departmental level and for carrying out administrative tasks, provincial and municipal governments have authority over spatial planning and local public services (Ley 27783 de 2002). With respect to mining, subnational governments have little say. With the Regional Directorates of Energy and Mining, they only assume some administrative functions for small-scale mining. In certain cases, concessions can also be granted. Traditional authority structures such as the "peasant rounds" or indigenous self-governments exist parallel to the subnational state administrations. The degree of cooperation between these informal but constitutionally recognized structures and local state actors

varies considerably and depends on the respective political position of the officeholders.

Depending on the political constellation, subnational governments side with the mining opponents or the companies. The exact responsibilities are sometimes unclear. 80 percent of all municipalities and 92 percent of all provinces in Peru have no clear delimitations (Thiery 150). Mining companies deliberately exploit these inconsistencies to play off local governments competing for territory against each other. The regional party landscape exists virtually detached from the national one, which is why subnational authorities are more responsive to changing local power relations (see ibid. 151). As a result, some regional politicians are easily influenced by mining companies, while others sometimes use solidarity with mining opponents to profit politically (see Arellano Yanguas 102-4). Thus, when the open conflict of interests with the central state erupts, resistance on the part of subnational governments can occur in individual cases.

The Politico-Economic Dimension

Local non-state actors

The establishment of a mining project in a region produces economic winners and losers. Mining companies usually employ workers or contractors from outside the region, since only they have the desired professional skills. Thus, only a few local companies benefit directly from the newly emerging economic linkages. Only over time and through experience of conflict has the sector attempted to counteract this dynamic. This has been explicitly required by law since the early 2000s: According to Decreto Supremo 042/2003, mining companies are obliged to employ local staff when possible. For 2018, according to estimates from the Ministry of Mines, 52.2 percent of employees in the mining sector were hired from the respective departments, while 47.8 percent came from outside (MINEM 107). Local workers are mostly assigned to simple and lower-paid tasks, while well-paid professionals are brought in from Lima or other major cities.

Local jobs become a bargaining chip in the conflicts. Clientelistic relationships develop between mining companies and the population, which can be exploited by both sides. Former advisor to the Ministry of Finance, Carlos Adrianzen, comments:

> "I see the conflicts as a kind of private business, [...] given unclear property rights, those who invest run the risk and those who live near a project receive a lot of money as looters, as systematic besiegers." [6]

The sudden increase in demand with the construction of a mine leads to local inflation (see Aragón & Rud 3), from which those who cannot profit directly from the mining business suffer – especially small informal businesses or people living in subsistence structures. This is accompanied by socio-cultural uprooting processes. Land acquisitions by mining companies often lead to displacement of the local population. Smallholders who sell their land – often under unfair conditions – abandon their traditional way of life and find themselves in unfamiliar contexts. Others, such as small business owners and employees in service sectors such as hotels or transport companies welcome the arrival of mining companies. A small number of well educated people as well as business-savvy peasants can profit, too. [7]

Mining companies

Mining companies are important shapers of the political economy at the local level. The multiplier effect on the local economy of a mining project is characterized by forward and backward linkages. Forward linkages are processing procedures of natural resources. Although a small part of the refining process already takes place locally in large-scale mining, major processing plants are rarely found in mining regions. Backward linkages result from increased demand for labor, services, and land. In industrial mining, CSR programs are being designed to reinforce these backward linkages (Bebbington 16-20).

The mining industry in Peru invests directly in

public infrastructure locally to facilitate its own transport and supply chains. It also benefits from the "Constructions for Taxes" program established in 2008. When a company undertakes the construction of a public infrastructure project, it can offset the expenditure against corporate tax. Accordingly, the amount spent no longer has to be paid as tax. In addition, there are also 'voluntary' investments in public infrastructure as part of CSR strategies (see Arellano-Yanguas: 37). Thus, there is not only a fiscal economic dependence on mining, but in addition, quite directly, a dependence on the industry as a guarantor of public infrastructure.

Mining companies must make a "preliminary commitment" on social development projects prior to their activities. The scope and manner of these development projects are left up to the companies. Local development projects include projects to diversify and strengthen the local economy, education, environmental protection, nutrition, culture, infrastructure and health. Skills training programs for local entrepreneurs and continuing education programs for workers are also offered. In 2018, these projects included USD $205 million nationwide. Also, since 2008, the rule for each major project (Decreto Legislativo 996) has been to create a social fund under the care of a management body. In 2019, the estimated amount of all active social funds was USD $618 million (MINEM 120-5).

The population welcomes such projects because the state can hardly guarantee general basic services, let alone local development programs. Thus, many accept mining in their vicinity in order to benefit from social investment projects that provide them with basic services for the first time. Nevertheless, the focus on external effects often prevails in the case of company-led development programs, because there is neither a legal guarantee nor a monitoring authority for their actual benefits. Moreover, CSR strategies repeatedly fail in their claim to reduce conflicts through local economic development. Instead, they intensify patronage-based dependency relationships that provide negotiating leverage for a protesting local population. [8]

Local state actors

The largest investment program for local development is through the state distribution mechanism of the Mining Canon (MC). This was originally conceived as a means of decentralizing state resources (Arellano Yanguas 116). Through this mechanism, half of the mining sector's corporate tax goes directly to the respective region where the revenue was generated. 10 percent of the transferred funds goes to the municipalities where the commodities are extracted, 25 percent to the municipal governments of the affected province, 40 percent to the municipal governments of the entire department, 20 percent to the regional government, and 5 percent to the department's public universities (see Dargent et al. 10-1).

Meanwhile, 100 percent of the mining royalties go to the mining regions, where they are distributed among regional, provincial, and municipal governments (Flores Unzaga et al. 47). In 2019, mining sector transfers to subnational governments (MC, royalties, concession fees) amounted to USD $1.4 billion. But benefits vary significantly from year to year and by department. The MC itself is all the more volatile: in 2012, at the height of the commodity boom, it comprised USD $1.55 billion nationwide, dropped to USD $462 million by 2016, and reached USD $870 million again in 2019.

Often, regional governments lack the technical skills to manage and invest the finances transfered to them by the MC in a meaningful way. The National System for Public Investment created for this purpose is considered ineffective and provides little oversight of regional government spending (Ghezzi and Gallardo 77). While some departments certainly benefit from the MC, others lack the capacity to manage the decentralized financial resources (Sexton 643).

Moreover, transfer payments are usually not used to make or attract sustainable investments. Narrow guidelines from the central state limit the subnational governments' room for maneuver in this regard. At the same time, the population presses for rapid results in public investments because trust in local administrations is low (Arellano Yanguas 28). This effect is reinforced by participatory processes. But mining companies

also exert pressure as they, too, are interested in quick results (ibid. 216). This leads to short-term prestige projects, while long-term projects are not tackled. Juan Rozas, an employee of the municipal government of Velille, which is located near the Las Bambas mine, reports large-scale waste:

> "A bullring was built. Nevertheless, in the same municipality, the sewage system is full of defects." [9]

A statistical analysis of the impact of the MC on living standards data by Arellano Yanguas found that there were no improvements at the municipal level. The only positive feature was a slight increase in schooling rates at the departmental level (213). Although the MC led to higher incomes, this effect worked against the local economy: If people in mining regions earn more, they are less inclined to buy local products, preferring more expensive manufactured goods. This weakens domestic production (ibid. 262). The MC also leads to a bloated public sector typical of rentier societies (see Peters 486). The oversupply of jobs counteracts an effective increase in the schooling rate (Arellano Yanguas 262). Accordingly, transfer mechanisms such as the MC, but also the royalties to the regions, prove to be less effective and do not meet their goal of local economic development (see ibid. 26).

The Ecological Dimension

Local non-state actors

Local populations have diverse relationships with their environment. Rural Peru is very agrarian, and accordingly the quality of soils and waters is an important constant in the lives of many subsistence smallholder farmers. Medium-sized and large agricultural enterprises depend on these elements, too. Environmental pollution from mining thus poses a threat to the livelihoods of many people in rural areas. According to estimates, more than half of all peasant communities in Peru are affected in some way by environmental impacts of mining (Bebbington and Williams 190). This results in displacement and threat scenarios that are not limited to local dynamics but have nationwide implications. Pollution of water bodies can also affect regions that lie far outside the actual mining zones.

Mining consumes large quantities of water. This is becoming a problem in Peru in particular, as the country's water supply is considered one of the most vulnerable on the continent (ibid. 191). [10] At the height of the mining boom in the 2000s, the sector used five percent of the national freshwater. In this context, mining activity poses a risk to the water supply of large parts of the country due to its location in source areas at high altitude. Entire river systems and water reservoirs are at risk due to acid mine drainage and chemical additives entering groundwater. Contamination causes permanent damage here. 13 billion m^3 of industrially used water was released into the water cycle annually by the mining industry in the 2000s (ibid.). Additionally, the contamination of drinking water by heavy metals or chemicals has strong implications for the health of local consumers. Especially in children, such contamination can lead to serious deformities or cancer. Studies near the Antamina mine, for example, showed elevated levels of lead and cadmium in the blood and urine of local residents (Cooperacción).

In addition to being a purely physical threat to the environment, mining also leads to cultural damage through changes in the SRN. In many places in Peru, especially among traditionally Andean populations, nature has a metaphysical meaning and is subjectified, for example, in the form of 'mountain spirits'. The alteration of the landscape leads to an impairment of this spiritual connection (see Li 110). In the constitution, this plurality of SRN is only partially taken into account. According to Art. 89, the "cultural identity" of small farmers and indigenous populations should be respected. However, issues of identity and its connection to territory or nature in practice are reduced to economic parameters. State actors recurrently argue in cost-benefit categories (see ibid. 24).

Mining companies

When planning a project, companies must involve the population in the preparation of the EIA and provide detailed information. However, this information is effectively inaccessible to lay people. Milton Sánchez, protest leader in the Conga conflict, recounts his experience:

> "We started to study the environmental impact study […]. It was very large though, we only read the executive summary, which was about 8,000 pages, but in total there were 17 volumes with about 22,000 pages." [11]

After the company has carried out an EIA that is accepted, it is issued an environmental license by the National Service for Environmental Certification (SENACE). One problem with the EIA is that its validity is fixed for the entire duration of the project. Tightening of environmental standards or minor changes in the project design do not require updating the EIA (see Wiener Ramos 69-75).

Mining companies, through sustainability discourses and 'green washing' strategies, overplay in their communication strategies the fact that a mine is a strong permanent intervention in nature. Complex ecosystems are irrevocably damaged. It also leaves out the fact that most companies lobby against stricter regulations (Merino 6). Instead, the image of modern, clean, large-scale industrial mining is used, in stark contrast to informal small-scale mining. Some companies though go really beyond mere rhetoric in this regard and invest in higher environmental standards.

Central state actors

The Environmental Evaluation and Sanctioning Body (OEFA) is the responsible actor to check the maximum permissible levels of emitted substances or materials. These checks are carried out twice a year, unannounced, and take place to the exclusion of third parties (Godfrid et al. 33). If a mine operator violates requirements, a sanction process begins that can last up to six months and before the end of which the public may not be informed. The National Water Authority (ANA) is responsible for measuring water quality. Both authorities are required to carry out announced participatory inspections twice a year as part of large-scale mining projects, accompanied by a comprehensive information program where representatives of the mining company, State authorities and the local population are present. However, the population's trust in the authorities is low. The population generally perceives State actors – whether the Mining Ministry or the environmental authorities – as a unified block that stands together behind decisions.

There are also criticisms that the controls do not do justice to the complexity of the controlled ecosystems (ibid. 33-6). NGOs also conduct measurements and train local populations to conduct their own measurements. In turn, the contamination perceived by the population or that measured by NGOs is not accepted by state actors. Instead, the environmental authorities resort to exclusionary, highly technical discourses in their communication with the local population, which make a more open dialogue with laypersons impossible (ibid. 44). Discussions about environmental consequences are thus reduced to technical problems in a depoliticized way. Non-technological, 'local' knowledge linked to alternative SRN is delegitimized (see Li 75-6).

Local state actors

Regional and municipal governments have little authority in environmental regulation. In addition, subnational administrations lack qualified personnel in environmental matters. In contrast to the national level, there is no technocratic tradition at the local administrative levels, which leads to a massive exchange of personnel in the administrations with a change of government, preventing the establishment of an expert tradition. Accordingly, local government actors are easily influenced by short-term incentives and economic interests.

Rather, there are top-down relationships in environmental management between national authorities in Lima and regional and local governments. The centralized environmental authorities doubt independently conducted

measurements by local governments. Both OEFA and ANA have their own local offices (Godfrid et al. 32). Thus, although OEFA and ANA formally try to strive for more inclusive structures and to integrate local populations, in practice the relationship between central and local state actors remains asymmetrical (see Ulloa et al. 55).

Conclusion

In the political-participatory dimension formal processes of political participation in the planning and implementation of mining projects hardly exist in Peru. In this vacuum of formal structures, informal practices emerge as substitutes. These practices are characterized on the one hand by their conflictual nature (civil disobedience, police repression), and on the other by approaches of cooperation (round tables). Effective channels for cooperative action among actors are lacking. This creates incentives for protest practices of civil disobedience by populations affected by mining making escalation more probable.

As seen in the politico-economic dimension, mining creates few economic links with the rest of the local economy. Measures designed to counteract this effect show only limited positive effects. State rent distributions also fail to achieve the goal of local development. Clientelistic structures emerge that, instead of pacifying conflicting interests, exacerbate distribution conflicts.

In the ecological dimension negative environmental impacts are – in practice – accepted by state actors. Alternative SRN are only in part formally recognized by state actors and in practice not at all. Both state actors and mining companies exclude the concerns of local populations from the environmental discourse by referring to technical arguments. This monopolization of SRN on the extractivist model radicalizes local actors as the livelihood of those affected is fundamentally at stake.

2.2 Colombia: Between Participation and "Grey Zones of State Violence"

The Political-Participatory Dimension

Local non-state actors

Like in Peru, mining projects in Colombia do not always immediately face an existing local civil society. While the constitutionally recognized ethnic minority groups [12] (EMG) generally already have existing structures of representation, in many cases protest alliances first have to form (see Dietz, "Politics" 138-9).

In Colombia, all EMG have the right to PC in cases where their territory or way of life could be affected by a project. In these cases, a preliminary consultation of the communities is required, involving representatives, considering their traditional authority structures (see Amparo Rodríguez). This is not always easy as the authority structures of the EMG are not always clear and in some cases disputed, which means that sometimes several representatives display contradictory opinions. Also present in this process, which is supervised by the Ministry of the Interior, are, in the case of mining projects, the company operating the project and the responsible environmental authority. During the entire consultation process, standards of interculturality and, if necessary, correct translation into vernacular languages must be taken into account (Amparo Rodríguez and Muñoz Ávila 122-3). The extent to which PC includes a veto function remains controversial. In 2009, the Constitutional Court ruled (T-769) in favor of a veto in the Mandé Norte case, building on the decision of the Inter-American Court of Human Rights in the case of Saramaka v. Suriname in 2007. In 2011, the Constitutional Court again strengthened the PC by establishing respect for the "life plans" of EMGs as a discretionary criterion (T-129).

Despite this strong legal foundation, PC is relatively weak in practice. On the part of executive bodies, there is a lack of political will to implement it and in many cases it is simply ignored (DPLF and Oxfam 9). [13] The procedure of PC is not always entirely clear and often consensus cannot be reached (DPLF

and Oxfam 9). Instead, a "transactional" logic sets in, where the PC converts into 'horse-trading'. The PC is thus used as a mouthpiece to demand state-guaranteed but unimplemented infrastructure projects, as described by Laura Galvis of the dialogue group GDIAM:

> "In Colombia, there are no spaces for dialogue at a significant level for the ethnic minority groups [...]. So because the communities don't have a space, where they can say 'listen, I have this health problem, I have this education problem,' it's like a catharsis when the prior consultation comes." [14]

Another instrument that endured during the 2010s was the popular referendum (PR) on a municipal, regional, or national level. It could be initiated by the central government, a governor, or a mayor – depending on its scope. Its results could act as a veto against a particular project and were considered legally binding (Ley 134/1994; Amparo Rodríguez and Múñoz Ávila 138). PRs usually had a turnout of over 33 percent and achieved clear results of over 90 percent (Dietz, "Consultas" 95). As the case of La Colosa mine makes clear, in many cases they led to a pacification of conflicts. Nevertheless, the way the PRs were used was legally controversial from the beginning and it was considered more an instrument of resistance than an official participatory element in the project planning process (see Dietz, "Demokratie" 20-1). In this context, national environmental NGOs played a crucial role by providing legal assistance to the respective communities. On the other hand, a number of central state actors tried to prevent the implementation of PRs (Le Billon et al. 6). In 2018, the dispute culminated in the Constitutional Court's decision that mining projects are excluded as subjects of PRs (SU-095). How this institutional change will affect mining conflicts in Colombia could not be determined at the time of the 2019 study. However, in the affected conflicts, the decision led to a great deal of uncertainty among anti-mining movements.

Legal instruments are also available to opponents of mining in Colombia. Through individual or collective constitutional claims, they can take action against a project if they see their basic constitutional rights impaired by direct consequences. Legal action can often channel discontent in this way and sometimes results in a demobilization of the protest movement.

Mining companies

Mining companies initially carry out their planning independently of the local population. They do not yet have to inform them about the project during the exploration phase. Mining titles are granted without explicitly contacting or consulting the affected communities. Only when the project applies for an environmental license does the population have to be informed (see Amparo Rodríguez and Muñoz Ávila 166-72). Once communities become aware of a project that could greatly alter or even completely threaten their way of life, the local population mobilizes. To avoid this, initial activities and contacts are often not conducted by the mining company itself, but by generally unknown subsidiaries. This may buy time for the company before it encounters resistance.

To prevent resistance as far as possible, the companies try to buy sympathy from the population through financial contributions, leading to splits in the communities. This happens even or especially in the course of PC, as Galvis explains:

> "There are international mining companies that arrive with a transactional logic, so to speak: 'How much do you want? I'll pay you and that's how we'll come to an agreement.'"

Early on, social projects and elaborate image campaigns are initiated to highlight the benefits of mining for a region. In the process, local media are also influenced in their reporting, for example by generous benefits for journalists provided by mining companies (see Dietz "Demokratie" 21).

Central state actors

Compared to Peru, the Colombian central state behaves relatively passively toward mining conflicts. Direct dialogue between executive

bodies and the local population is rare. In contrast to the executive central state organs, the judiciary often intervenes in mining conflicts – especially the Constitutional Court (see Dietz "Demokratie" 17). Nevertheless, in recent years the government has shown an interest in improving participatory processes in mining projects. Since 2012, the Ministry of Mines has had a central office for social affairs, after these tasks were previously distributed among smaller offices within subdivisions. This is intended to facilitate better communication with local stakeholders, for which additional regional offices have been established.

This paradoxical position of the central state actors, who on the one hand block direct dialogue opportunities and active participation, but on the other hand create new authorities for communication in mining conflicts, shows the technocratic understanding that prevails in the central state: the handling of conflicts is understood merely as enforcing industry standards, but not as real conflict management (González Espinoza 588-9).

Local state actors

Regarding the regulation of mining, local governments are responsible up to a point through their spatial planning competencies. However, since the competences for spatial planning and natural resource management are set at different administrative levels, a legal contradiction arises here, which has been repeatedly addressed by the Constitutional Court, which granted local governments a limited say (Bastida and Bustos 251-2). Regional governments are left out in terms of competence. They are responsible for carrying out public services and control functions at the regional level, which means they can hardly act autonomously vis-à-vis the mining sector (Const. Art. 300). Municipal governments in particular can easily be taken over by mining companies. However, the mobilization of the population can lead to the election of mining critics into office. In other cases, local governments are consistently close to local associations critical of mining. It is clear that positioning ultimately depends on the political calculations of the individual actors. [15]

Armed non-state actors

In Colombia, a separate group of actors in the political-participatory dimension of mining are the Armed non-state actors (ANSA). Often grouped together under one collective term due to blurred dividing lines and similar tactics, in reality ANSA cover a broad spectrum of groups.

On the one hand, there are the guerrilla groups that are still active, such as the ELN or units of FARC dissidents. In the guerillas' ideology, mining companies are perceived as enemies, while they see themselves as fighters on the side of the social movements. As can be observed in the Cerrejón case, this is expressed in bomb attacks, but also in the extortion of protection money or ransom demands for kidnapped company employees. In turn, supporters of mining projects use the guerrillas' self-portrayal as the enemy of industrial mining to delegitimize mining opponents across the board like in the case the Colosa project, where civil society opponents of mining were stigmatized as guerrilla allies. The operating company AngloGold Ashanti had deliberately spread misinformation (Le Billon et al. 14).

ANSA that do not belong to the guerrillas but are rather hostile to them are commonly grouped under the term 'paramilitaries'. [16] Today they exist as diverse ANSA without a clear political position, but with at times concrete connections to political actors. In contrast to guerrillas, they are not rebels whose goal is to overthrow the government, but rather actors who fight autonomously on the side of the state's regulatory power and are motivated by economic profit. They are involved both in illegal economies-drug trafficking or illegal mining and in the formalized economy (Zelik). Individual private companies are said to have financed paramilitary forces – either directly or through security firms.[17]

Along with guerrillas and paramilitaries, drug cartels represent a third group of ANSA. Here, the distinction is more difficult and is commonly disputed because paramilitaries and drug gangs are historically closely linked (see Rettberg et al. 16). A trend can be identified for drug gangs in Colombia in recent years, according to which the drug business is increasingly being

supplemented or displaced by illegal mining (Ambos 387). The same trends can be observed for guerrillas and paramilitary groups (Álvarez 58). This way, mining opponents of all kinds are increasingly becoming targets in this context.

Links between mining and ANSA are not always direct. Companies often benefit indirectly from a climate of threat and violence against civil society actors and accordingly tolerate the status quo. In this context, the violent practices appear diffuse and cannot be clearly attributed. A general threat situation is constructed, which also influences formal participation mechanisms. Jenss, refers here to a statehood outside of state institutions in which accumulation processes are secured precisely through such "grey zones of state violence". Le Billon et al. (6) describe this as a shadow state governance in which parastatal actors assume public order functions according to their own purposes.

The Politico-Economic Dimension

Local non-state actors

Mining – in all its forms – has a generally positive impact on the local economy in Colombia, according to a model calculation by Cárdenas Estupiñán and Reina. However, this does not always translate into a noticeable improvement in the living conditions. Cárdenas Estupiñán and Reina (xi) also make qualifications in their analysis: In particular, the «quality of institutions» and the human capital of a particular department determine whether the economic effect of mining is positive or negative. Inflation effects can also make growth unrecognizable. Local Dutch disease phenomena are occurring: mining and its contractors are becoming the most lucrative employer, drawing labor away from other sectors such as agriculture. At the same time, prices for consumer goods are rising, which further harms the other sectors and the people employed in them. Thus, a clear distinction can be made here between winners and losers of the economic effects of mining.

The latter clearly includes agriculture: Industrial mining in particular impairs any agricultural activities in its vicinity through the large-scale conversion of land. This effect is particularly evident in the context of Colombian coal mining, whose large-scale open-pit projects sometimes cover hundreds of square kilometers. Considering the environmental impact this has on surrounding areas, the loss of arable land for the affected regions is enormous. In 2017, for example, mining titles existed for 1,330 km² in the department of La Guajira alone, with a total area of 20,800 km² (ANM). In addition to the economic damage, these displacement processes also provoke social uprooting phenomena that cannot be fully mitigated by newly created jobs and monetary compensation.

Not only agriculture and mining compete with each other in Colombia, but also different types of mining. In addition to large-scale mining, which is dominated by multinational companies, there are also medium-sized and small mining operations, most of which are owned by Colombians, as well as traditional informal mining, which is a traditional source of income in many regions. Among Afrocolombian communities, for example, this has a centuries-old tradition and is considered a form of subsistence economy (see Álvarez 36). This is also recognized in mining law, which is why, in purely legal terms, the mining activities of EMG must be given preference over other interested parties (Bastida and Bustos 249). However, former smallholders also sometimes devote themselves to this activity if they have lost their old income due to industrial mining projects. In addition to traditional informal mining, there is also illegal mining, which is used by ANSA and criminal organizations to generate additional income or launder drug money. Geologist Julio Fierro explains the rational behind this:

> "If they catch you with a kilo of cocaine, that's illegal. But if they catch you with a kilo of gold, there's an assumption that that might be legal." [18]

This competition between mining types often itself becomes the subject of conflict, as happened in the case of Santurban. There, opposition to a large-scale industrial mine on the border of a páramo led to a conflict with informal miners who opposed the large-scale mine on one side and environmentalists on the other

(see Le Billon et al. 9).

Mining companies

In Colombia, mining companies have only recently begun to take on more important roles in local development. A regulation introduced in 2015 (Ley 1753) stipulates that social programs, in scope proportionate to project size, are mandatory for new industrial mining projects. This is intended to pre-empt "social risks." This is the first time that state actors are setting more precise requirements for the CSR strategies of the mining industry. For a long time, these depended on the voluntary nature of the mining companies. Accordingly, development programs remained severely limited and companies referred to state responsibility in local development. Demands from the population were not addressed. Rather, programs and smaller one-time gifts were primarily for PR purposes.

Companies also invest in "gifts" such as travel or job guarantees for family members of local authorities. The intended shift toward more sustainable local development initiatives is not yet fully evident: in 2019, the mining industry in Colombia reported spending USD $30.3 million – a small amount compared to similar programs in Peru. Of this, only 29 percent was part of mandatory social programs, while the vast majority, 71 percent, was voluntary (EITI 156). In 2017, Colombia also adopted the Construction for Taxes format (Decreto 1915). In certain regions particularly affected by poverty and a history of conflict, companies can directly finance infrastructure projects and write them off from the corporate tax (ibid. 105). In 2018 (Ley 1942), the principle was extended to mining royalties (ibid. 107).

The Colombian model has so far prevented an intensification of conflict through open struggles on matters of rent distribution. This is due to the fact that companies have long played a rather restrained role in local development. The new system, with strictly regulated state requirements and thus little room for negotiation, also seems to perpetuate this tendency.

Local state actors

A similar situation applies to the state-led rent distribution: since 2012, only a small amount of the extraction royalties have gone directly to the extracting municipalities, but instead is distributed to the departments as part of a biannual budget. The budget is drafted by the National Planning Department (DNP). The DNP consults with representatives from all levels of government: national, departmental and municipal. The funds themselves are distributed through the General System of Royalties (SGR) (Amézquita 54).

The SGR consists of five funds as well as several smaller distribution quotas. More than half of the royalties is distributed to all departments according to need. This share is divided into two funds: one for local development and for general compensation. In addition, there are direct allocations of funds to selected departmental and municipal governments. EMG also receive a small share of the funds. 25 to 30 percent goes to a Savings and Stability Fund, which is based on international standards for commodity funds. Other funds include the Science and Technology Fund (10 percent) and the Pension Fund for State Employees (7 percent). The remaining resources go directly to a peace fund (7 percent), to management and control authorities, or are distributed as direct allocations (20 percent) (DNP 8-14).

The administration of the funds is the responsibility of the Collegial Administration and Decision Bodies (OCAD) (ibid. 5). Their purpose is to prevent the misallocation of funds by local authorities. OCADs specifically select projects into which the funds are to flow. Despite the complex design, some problems persist. For example, despite all the institutional precautions, there are still cases of corruption in the awarding of projects. The introduction of the SGR led to great resistance from municipalities and departments in mining regions, which now had to share their royalties with other subnational entities. In addition, local state actors in mining regions now had significantly fewer funds at their free disposal.

The royalties that end up with municipalities from the distribution formula have a positive

effect on local development only in some areas. In many cases, they only serve to finance the maintenance of infrastructure, while long-term effects such as increased productivity, improved living standard indicators or a diversified economy do not materialize. At the same time, clientelistic structures are built up or intensified. To counteract this, local state actors lack not only the will, but also the expertise. Lack of expertise at the municipal level is not the only problem. Projects often fail because of contractors who do not deliver, due to a lack of sanction mechanisms (cf. Le Billon et al. 7).

The Ecological Dimension

Local non-state actors

Due to Colombia's specific geography, the country's hydric cycles are particularly vulnerable (see Ramos and Restrepo-Calle). The Páramos, a type of alpine tundra ecosystems, represent one of these extraordinary geographic features. Despite legal protection, mining concessions have also been granted in Páramo areas in the past (see Colombia Solidarity Campaign 14). Although projects in these zones cannot acquire an environmental license as things stand, the very definition of the boundaries of a Páramo is often considered controversial and opens up legal loopholes for concession holders. Informal miners are also active in Páramo areas. Mining activity in these ecologically sensitive areas threatens the water supply of entire regions – not only by contaminating water bodies, but by affecting the ecosystem itself, which is in active water exchange with the atmosphere. The Andean high forests, typical of Colombia, also store a lot of water, but unlike the Páramos, they are not under absolute protection. However, even forests under conservation may be exempted from their protective function with the approval of the Ministry of Environment, as long as this serves a strategic mining project (Colombia Solidarity Campaign. 148).

Before a mining company can obtain an environmental license, it must inform the population about the environmental consequences in a "socialization meeting." This is purely informational in nature and not comparable to a PC. Among local populations, there is much mistrust of government environmental controls, as it is assumed that the environmental authorities are acting in the interests of the mining companies. For this reason, NGOs in Colombia also carry out inspections together with the local population (Godfrid et al. 50-5). Such cooperation helps to provide local actors with alternative sources of information as well as technical knowledge.

Beyond the distrust in the rigor of state controls and the information presented by the company, there is also a polarization of fundamentally different normative understandings of nature that shape SRN. Indigenous communities, for example, perceive nature not only as an object, but as an independent subject. Other EMG or smallholder communities also have world views that differ from the SRN of the prevailing extractivist model. Mining therefore not only changes the physical shape of a territory, but also reconfigures the identity relations associated with it (Ulloa 439-40).

De jure, these alternative SRN are recognized by the Colombian state through the legal protection of EMG territories. This was also underpinned by the jurisprudence in some emblematic cases. As in the case of the Río Atrato, which was recognized as a legal entity by the Constitutional Court in 2016 in response to a constitutional complaint, gaining worldwide notoriety. The court required the responsible state actors, who were appointed "guardians" of the river – next to local EMG authorities, to protect it as well as restore it (Del Castillo and Sulé Ortega). The river in the department of Chocó plays a crucial role as both a biological and spiritual-cultural livelihood for local indigenous and Afrocolombian communities. Nonetheless, mining titles continue to exist for gold mining in the river basin and traditional informal, as well as illegal, small-scale mining is already taking place there (ibid.). An effective implementation of this landmark judgment is thus still pending (Ciesielski et al. 113-4).

It becomes clear that although a plurality of SRN is legally recognized, this recognition is not articulated in changed environmental practices. Gloria Amparo Rodríguez, legal scholar and judge for the Special Jurisdiction for Peace,

comments this discrepancy between formal institutionalization and practice:

> "Why do we say that the Río Atrato has rights when we don't have the means to enforce those rights?" [19]

Mining companies

Companies must submit an application to the National Mining Agency (ANM) for the exploration of a new mining project, after which they are granted a concession following an assessment of their technical and financial capabilities. If a company is issued a concession, it is allowed to geologically test a zone. For the exploration phase, environmental licenses only need to be obtained if there will be an environmental impact due to the construction of infrastructure or if the exploration work will take place in nature reserves. In practice though, such licenses are often not obtained and exploration is carried out illegally or informally. Although the exploration phase is limited to twelve years according to the concession agreement, it can be further extended upon application.

The applying company must have an EIA prepared in order to obtain a license. In Colombia, EIAs must not only take environmental issues into account, but also cultural aspects (Amparo Rodríguez and Muñoz Ávila 118). In addition to an EIA, an Environmental Management Plan must also be prepared. The company must establish its own control mechanisms within this framework (Contraloría 9). Some large projects also impose additional sustainability standards on themselves, such as the Towards Sustainable Mining Initiative, in which some mining companies operating in Colombia are active (Fitzpatrick et al.).

Central state actors

The environmental license for the mining phase of an industrial mine is issued by the National Environmental Licensing Authority (ANLA); for smaller projects, the Regional Autonomous Corporations (CAR) of each department are directly responsible. The ANLA reviews the application for the granting of the environmental license in the course of the aforementioned citizen participation. This is more elaborate for EMG and involves further information sessions and training. If the application meets the requirements, the environmental license is granted (Contraloría 19). Rejection does not usually occur, as Julio Fierro, former consultant for the Ministry of Environment, explains:

> "[T]he studies are submitted to a government institution and in that government institution there are a few people […] who have to evaluate that information. And what do they have to say? 'Yes' that everything is very good and that the project is feasible. If they say 'no,' well then they probably won't work in that agency any longer.»

Overall, mining companies have a lot of leeway in the licensing process. No strict selection is made. Rather, ANM and ANLA cooperate openly with the companies, while they only have to go through purely formal bureaucratic hurdles. Thus, despite the complex institutional framework, the environmental licensing process does not really function as an effective control mechanism to determine the environmental impact of a project.

Local state actors

In Colombia the departments are responsible for environmental controls. The executing actor is the respective CAR (see Rodríguez Becerra and Espinoza 113). However, they are severely restricted by private property rights, which in practice means that unannounced inspections cannot be carried out. The CARs are formally autonomous and have a board of directors consisting of representatives from the private sector, academia, civil society, representatives of the EMG, the Ministry of Environment, and the national and regional governments. The board is chaired by the governor of the department (Uribe 24). CARs vary in strength as environmental authorities, and some lack staff or technical equipment. In some cases, they are supplemented by regional environmental inspectors from ANLA.

In environmental protection, the CARs are the

primary executive bodies. Their autonomous position provides them with certain powers to act, because national and regional interests often conflict with mining and environmental protection. In the case of mining concessions in regionally protected areas, for example, the CAR is allowed to object to the ANM or even stop projects. The CARs can take advantage of the principle of subsidiarity to deny licenses to disagreeable projects (Rodríguez Becerra and Espinoza 113). This in turn leads to tensions with national regulators.

CARs, through their autonomy, develop into a real counterweight to the interests of the mining industry – a function that ANM and ANLA do not occupy through their practical 'complicity'. Nevertheless, this autonomy is ultimately limited by the powers of the central government, which can override the decisions of local environmental protection agencies for the purpose of 'public benefit'.

Conclusion

In the political-participatory dimension there is a gap between the extensive participatory institutions on the one hand and a precarious practice of political participation on the other. Formally, there are numerous participatory mechanisms and channels of communication, but their application is hampered by several factors. Following formal institutional channels becomes a resistance practice itself, as central state actors attempt to undermine existing rules. Since central state actors have little presence in large parts of the country, ANSA function in these zones as a form of substitute for the state, defending their own economic interests, but sometimes also those of other powerful economic actors. Through violent practices, they create "gray zones" in which effective participation is made impossible.

In the politico-economic dimension, it can be observed that mining has hardly any positive economic impact on its surroundings. Rather, there are dangers from local Dutch diseases or local resource curses. Mandatory, company-led social programs as well as a state-coordinated distribution of resource rents to subnational administrations have so far proven unsuitable to counteract these effects.

In the ecological dimension both civil society actors and affected communities are demanding recognition of pluralistic natural conditions. On the one hand, they succeed in doing so in the form of groundbreaking case law, which has so far had little effect in practice, however. On the other hand, companies and the state use the internal contradictions of the different SRN of a territory in conflict with the local population to assert their own interests, thus enhancing conflictual constellations.

3. Socio-Environmental Conflicts, Institutions and Conflict Management: Analytical Results

It can be said, institutions, both formal and informal, have a significant impact on social actors and in this context the origin as well as the intensity of socio-environmental conflicts in Peru and Colombia. They can either mitigate conflicts by enabling conflict management through moderating the interests of actors, or they can exacerbate them if they provide actors with incentives to escalate conflicts and lack alternative options for action to assert their interests.

In the political-participatory dimension, it is clear that participatory institutions can channel conflicts and reduce conflict intensity by providing communication channels and binding co-determination mechanisms. On the other hand, the lack of such conflict management tools leads to the exclusion of certain actors, who subsequently can only articulate themselves through protest.

In Peru, the latter scenario is particularly evident. Due to the de facto exclusion from formal decision-making processes through the absence of participatory mechanisms local populations have hardly any possibilities to express their interests in the context of a mining project. Therefore, they resort to protest practices, often characterized by civil disobedience or direct use of violence. This way, they can at least force informal participation. State actors usually respond initially with repressive practices, but ultimately often 'reward' the behavior of local protesting actors by setting up round tables. Such an instrument of communication between the conflict parties remains in Peru only as a last

resort for conflict management.

Colombia is different: Based on the 1991 constitution, there is a whole range of participatory institutions. Their implementation is enforced at the national level by the courts. At the local level, this is expressed on the one hand in the fact that the implementation of mining projects could be decided democratically by means of PR, and on the other hand in the fact that courts can be involved in mining conflicts by means of constitutional complaints as mediating, conflict-defusing actors. This participatory constellation in Colombia, which at times has earned international recognition (see Dietz "Demokratie") and whose future currently remains uncertain due to the end of the PR in the mining sector, is, however, clouded by the presence of ANSA. They create «grey zones of state violence" (Jenss) that in many cases prevent local actors from taking critical positions toward mining.

The politico-economic dimension shows a similar pattern: within an extractivist economy, access to natural resource rents is a crucial element for economic and social success (see Peters). This creates patronage relationships and dependencies.

This is particularly evident in Peruvian mining regions: On the one hand, mining companies themselves create dependency relationships through the extensive funding of local social, infrastructure, and development projects – a practice that is encouraged in Peru through state tax incentives (Constructions for Taxes) or regulations establishing social funds. On the other hand, the distribution formula of the MC, which transfers state resource rents directly to local state actors, creates very direct domestic dependencies. Both the distribution of natural resource rents by mining companies in the form of social funds and those by state actors generate a bargaining chip. Conflict-escalating behavior is institutionally rewarded and actors – local populations, but also the central state and companies – can obtain better conditions for themselves through increased resistance or repressive practices.

In Colombia, on the other hand, mining companies do not play a central role in local development apart from CSR programs (although there has been a recent trend reversal toward greater private involvement). State resource rents here are distributed through a coordinated system of funds and only a small portion is directly available to local state actors. As a result, formal institutions reduce incentives for protest practices, but at the same time for local state actors to support extractive projects. In contrast to Peru, however, Colombia has concrete situations of competition between informal miners and companies that result in conflict due to the absence of formal distribution institutions. The presence of ANSA, their economic involvement and their partisanship in the specific cases further drive the escalation of such conflicts.

The ecological dimension shows the importance of a possible politicization of SRN. Based on the purely physical characteristics of mining alone, an industrial mine inevitably means a strong intervention in the environment and an inevitable shift in the SRN of an entire region. Although state environmental protection actors regulate compliance with limits and attempt to control risks, the interests of local populations are largely excluded in the process, as environmental concerns are reduced to technical discourse and thus depoliticized.

In Peru, this exclusion is clearly manifested through formal institutions and practices, while in Colombia, at least formal institutions – including, for example, the constitution, but also individual exemplary court rulings – recognize alternative SRN. However, this formal recognition has not yet been reflected in the practices of state actors. Nonetheless, it offers possible points of connection for legal claims by local actors and thus for formalized resistance practices such as legal suits. Still, the lack of trust of the local populations in the state environmental protection authorities and in their effective regulation of environmental impacts by mining means that resistance through protest remains the only means for the former to prevent serious environmental damage and thus the impairment of local ways of life.

Conclusion

Aptly put: The intensity of the conflicts in a resource-based economy can be significantly reduced by institutions if they provide means of conflict management, as was empirically elaborated in this paper. However, the immense socio-environmental and socio-economic footprint of mining activity, as well as the power dynamics associated with it at local, national and global levels, generally remain. Mining should be understood as a burning glass of tensions around SRN. Social-environmental conflicts are of special importance within the institution-conflict-complex, because nature, due to its dialectical relation to society, is not an object of conflict like any other. Formal, but also informal institutions can potentially succeed in democratically containing such conflicts, because "despite the very material character of environmental struggles around the world, it is often concepts and constructions of community and nature that propel or suppress conflict" (Robbins 208).

Endnotes

[1] Newer developments are to be neglected here as they occurred after this study was carried out (2019-2021). However, they offer interesting inputs for future studies.

[2] One can thus apply to research what Schneckener (12) postulates for politics: "In one way or another, resource and commodity policy is subject to a process of securitization. That is to say: security policy references and considerations – irrespective of relevant social, economic, and ecological aspects – are given a higher priority that becomes a guiding factor for political action." (own translation)

[3] Sexton (642) argues that "although the literature broadly suggests that 'institutions matter' for resolving this type of resource curse, there has been limited examination of how this may work in detail."

[4] Interview with Marle Livaque (anti-mining protest leader) – October 7, 2021, Celendín.

[5] Interview with Raquel Neyra and Rosa Alvarado (anti-mining activists) – April 15, 2019, Lima.

[6] Interview with Carlos Adrianzen (former advisor to the Ministry of Finance) – June 22, 2020, phone call

[7] See interview with Luis Chávez (anti-mining activist) – October 10, 2021, Celendín

[8] For example, Xstrata's Espinar mine was long considered a best practice model. There, the local population was supposed to participate in the profits of the project with a share of 3 percent. The local population took advantage of the situation and demanded a profit share of 30 percent during a blockade of the mine in 2012 – a demand that in the end wasn't met by the company (Ghezzi and Gallardo 94).

[9] Interview with Juan Rozas (clerk at the municipality of Velille) – July 3, 2019, phone call.

[10] At the height of the mining boom in the 2000s, the sector used five percent of the national freshwater (ibid.).

[11] Interview with Milton Sánchez – October 9, 2021, Bambamarca

[12] Indigenous people, Afrocolombians, Rrom, Raizales

[13] Accordingly, between 1993 and 2006 alone, the Constitutional Court intervened in 18 cases in which infrastructure projects had been carried out without necessary PC (ABColombia 15).

[14] Interview with Laura Galvis – August, 16 2019, Bogotá

[15] The extent to which this can take place can be seen in the example of the mayor of Ibagué, Tolima, Andrés Hurtado, who staged himself as a clear opponent of mining in the 2019 municipal elections, although he belongs to the pro-mining Conservative Party and had defended the nearby Colosa project in the past.

[16] Although the major paramilitary organizations, most notably the AUC, demobilized in 2006, there are still many remaining combat units with a national presence.

[17] There is concrete evidence of such activities by the U.S. mining company Drummond at the El Cesar coal mine (Moor and Van de Sandt).

[18] Interview with Julio Fierro – August 18, 2020, video call

[19] Interview with Glora Amparo Rodríguez – August 12, 2019, Bogotá

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