

Piura Votes: A Dangerous Precedent

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September 16, 2008

One year ago today, a local vote was held concerning possible mining activity in three highland districts in northwestern Peru. The referendum drew thousands of peasant farmers, many of whom traveled for the best part of a day by horse, truck or on foot to mark their ballot “yes” or “no.”

“We are here to say ‘no’ to this mining project,” said one young woman from the El Carmen de la Frontera district, close to the northern border with Ecuador. “And we would like the government to respect the decisions that we are making here.”

“We are defending our water and land for our children and grandchildren,” she stated, speaking to a film crew from Guarango Cine y Video.

This week, people in the districts of Ayabaca, Pacaipampa and El Carmen de la Frontera are commemorating last year’s impressive results: about 60% of the electorate participated and 94.5% said “no.”

But one year later, the government of President Alan Garcia still refuses to recognize the results.

“There is no reason that this project shouldn’t go through,” said Garcia to members of the Zijin Mining Consortium during his trip to China in March.

Zijin is the major shareholder in Rio Blanco Copper S.A. (formerly Minera Majaz S.A.). UK-based Monterrico Metals also maintains an interest in the project that is hoped to reach production by 2011. It could be the start of a large scale mining district reaching across the Ecuadorian border.

Garcia’s statement, however, not only ignores last year’s decision but also dismisses reports from several national institutions that criticize the Ministry of Energy and Mines for not ensuring that legal process was followed in establishing the project, also saying that it endorsed the environmental evaluation when, had due diligence been exercised, it should not have been approved.

In the lead up to the vote, the Ombudsman’s Office reported that the project was illegal. They cited the company’s lack of the two-thirds approval from assemblies of the two *campesino* communities on whose land the copper and molybdenum mineral exploration activities would take place, as required by Peruvian law.

In early 2008, the Supervisory Body for Private Investments in Energy and Mines (OSINERGMIN) sanctioned the company for not meeting its environmental commitments to the Ministry of Energy and Mines.

But despite social and environmental red flags, the government has insisted “on radical neoliberal and centralizing policies inevitably [leading] to political polarization and the deepening of social conflicts,” comments Rafael Hoetmer from the Democracy and Global Transformation Program in Lima and one of about two dozen international observers who attended the Piura vote last year.

Stalemate between government and communities

Dialogue broke down between the government and communities after it had just begun. In December 2007, Prime Minister Jorge del Castillo walked out from one of the first meetings with the *Front for Sustainable Development on the Northern Border of Peru* (FDSFNP) because they wanted the referendum results to be on the agenda.

But the government had already signaled that productive discussions would be difficult. It tried to boycott the referendum and have it declared illegal. It had also signed a stability agreement with the company and included the Rio Blanco Project in a proposed bill to congress designating it and nineteen other mining projects as national priorities. While the bill failed to pass, the conflict continued.

After Castillo walked out, the Front - which represents communities, social organizations and municipalities of Piura as well as potentially affected areas of the neighbouring department of Cajamarca - decided to reaffirm their decision opposing mining and favouring an agricultural-based economy.

In what they called “The March of Sacrifice,” community members walked for six days from the municipality of Ayabaca to the capital of Piura.

“We have been very clear,” Hoetmer wrote, quoting Magdiel Carrión, President of the Provincial Federation of Farmer Communities of Ayabaca (FEPROCCA), “We do not want mining in our communities. It contaminates the water, creates conflicts, and doesn’t even bring us sustainable development.”

“As communities we have our own development model based on farming, ecotourism and our social organization. We have the same rights as the people of Lima and all other Peruvians. Both Peruvian and international law recognises the democratic right of communities to decide their own future.”

The company and criminalization

As part of a broader effort to repress the mining opposition, government and company supporters have criminalized the struggle in Piura.

According to an August report published by the Peruvian Observatory of Mining Conflicts, around 300 people involved in mining conflicts in Piura are currently facing charges. In the most notable case, thirty-five people involved in the promotion or organization of last year’s referendum face allegations of various crimes, including terrorism. According to the Environmental Defender Law Centre (EDLC), the charges have been brought by a “shadowy organization” called the *Front of Unity for the Campesino Community of Segunda y Cajas*.

"Let's make no mistake what's going on here," comments Lewis Gordon lawyer and director of EDLC, "it's a politically motivated effort by those who are unhappy about the activities of the leaders and others trying to stop the mine or the mining activities."

Peruvian critics allege that the Front, whose name refers to one of two peasant farmer communities whose land pertains to the Rio Blanco project, is receiving money from the company and is made up of known company supporters.

The accusations it made were presented as a set of newspaper clippings, which Gordon calls "vague" and "very troubling to the extent that they allege criminal acts, but don't indicate that the 35 participated or are in anyway connected to those acts other than the fact that those people were part of the anti-mining opposition itself."

A recent analysis carried out by a group of US and UK lawyers was presented to the Prosecutor responsible for the case and looked at a range of possible charges, including terrorism, based on the facts as they understand them. It concluded that the 35 could not be prosecuted under US or UK criminal law and that prosecuting the individuals based on the current facts would violate international human rights law. Peru has ratified a number of agreements, including the American Convention on Human Rights.

"The real threat of these efforts and the impact they potentially have is to deter people from exercising their rights and to deter a debate on matters of extreme public interest, where everyone should be able to express their views and let the battle of ideas and participation decide the issue, instead of just trying to stop one group from participating in that debate."

Decreeing collective rights away

A broad array of new legislation passed from January to June 2008 also threatening a more inclusive process pertaining to development in Peru. President Garcia issued over one hundred decrees during this period for the purpose of implementing the new Free Trade Agreement with the US. "At least forty decrees concern issues related to peasant and native communities and natural resources," reports the UK-based Peru Support Group (PSG).

In part these imply "that the 'prior agreement' of the landowner regarding how property will be used - for instance, for mining - is no longer necessary," says the bulletin from PSG. "Companies...could develop activities by simply gaining approval of the Ministry for Energy and Mines (MINEM)."

"Peasant communities, or other owners, would therefore no longer decide the fate of their lands."

In August, indigenous groups led a twelve-day strike in the Peruvian Northern Amazon in protest of these laws. Ulises Garcia observes that their demands "are effectively in defense of the right to consultation," noting a relationship to the struggle taking place in Piura.

Garcia is the son of Godofredo Garcia Baca, who was assassinated shortly before the first local vote over mining took place in Tambogrande in 2002. Tambogrande is an agro-export area in the lowlands of Piura. He continues to support ecological networks that assisted in the more recent vote in the eastern highlands.

The Amazonian protests concluded when Peru's Parliament repealed two laws that were, according to Pulsar News Service, seen to be "opening the door for privatization of ancestral territories." Garcia calls it "a victory for this struggle."

A peaceful and democratic solution

The conflict in Piura emerged in 2004 and had already led to the deaths of two area residents when the local vote took place. When the decision to call a local vote was taken, community members hoped that a democratic expression of local opinion could provide a peaceful solution.

But at the moment, Garcia says that the situation in Piura has deteriorated. "Both sides are desperate. There is no development and no peace."

"The communities in particular," he says, "are in urgent need of legal support." In addition to the multitude of charges they are facing, communities have also sued the company for usurpation of their lands. But this case is moving along very slowly.

Tension is also rising in other parts of the region, as companies start to reassert their interest in gold mining in places like Tambogrande, where the 2002 vote resulted in 98% rejection of mining, with the participation of 75% of the electorate.

In fact, the Ombudsman's Office reported in July that mining has contributed to a rising number of socio-environmental conflicts, which have doubled since last year. About sixty mining-related conflicts now exist across Peru.

On a more hopeful note, Garcia adds that groups have been strengthened by the results of the vote and are "demanding respect for their decision in a peaceful manner." Over the past year, they have also been working on their own processes of participatory development planning.

But, he assesses, they pose a great risk to the Peruvian government and its model of development, possibly beyond its own borders. He says that "recognition of the results," in reference to similar votes that have taken place in Argentina and Guatemala, "would lead to the possibility of more votes. Not just in Peru, but in all of Latin America."