

## **Democracy and development at a crossroads in Northern Peru**

### **The Right to Say No?**

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Before 8am on Sunday September 16<sup>th</sup>, hundreds of *campesinos*, many kept warm by heavy wool ponchos, were already lined up in front of the municipal stadium in Sapalache. In some cases they had traveled for more than a day to reach the highland capital of El Carmen de la Frontera District in the remote Eastern Andes of Northwestern Peru, very close to the border with Ecuador.

Arriving on horse, by foot, or cheek to cheek in a shared truck with neighbours, they had come to participate in a voluntary referendum. Voters were asked to answer whether or not they agree with the development of mining activities in their district.

That day over 17,000 thousands voters cast their ballot, here, as well as in the nearby districts of Pacaipampa and Ayabaca. Participation across the three areas ranged from 50 to 70% of the electorate. An average of 94.4% voted in opposition to any mining activity in the area.

### **A Crucial Juncture**

This referendum marks a crucial juncture in a mining conflict which began four years ago with the arrival of Minera Majaz S.A. and the exploration phase of its Rio Blanco copper and molybdenum mining project. Majaz is a wholly owned subsidiary of Monterrico Metals, which sold the majority of its shares to China's Zijin-Tongling consortium earlier this year. The project hopes to become one of the top two copper producers in Peru, which would make it one of the biggest on the continent.

Beyond this project, on October 6<sup>th</sup>, 2006 a company representative stated during an investor meeting in London, England that they anticipate development of a much larger mining district that may include parts of Ecuador. This broader initiative has critics especially concerned about potential impacts of mineral extraction on the rich biodiversity and regional water supply, with implications for the headwaters of the Amazon River to the east and the dry tropical coast of Piura to the west.

For the communities most directly affected, their livelihood depends on the land. Small scale agricultural activities including some livestock and fair trade coffee production are amongst local activities. Furthermore, *campesino* communities, which are legally recognized self-governing entities in Peru, maintain distinct forms of political, economic and cultural organization and enjoy a great deal of autonomy given their remote location and lack of local state presence, at least until recently.

### **Social Contamination**

While the referendum on September 16<sup>th</sup> was peaceful and orderly by all accounts, the conflict over mining has caused great upheaval in the lives of these communities leading to greater police presence and violence that has resulted in the deaths of two *campesinos*, as well as numerous legal processes. People identify the social division and loss of tranquility with company efforts to gain support for its project.

While Majaz decided to take no official part in referendum, a few weeks prior the company announced it would establish a privately managed fund of \$80 million dollars for local development. Community leaders quickly rejected the offer saying that “their health is priceless” and that this was an attempt to “buy their consent.” A report issued by the Peru Support Group in March 2007 also questions what benefit large influxes of money can have for local development in a situation within which local authorities and organizations are undermined or bypassed depending upon their stance with regard to mining, and at a time when the conflict has become polarized.

The national government’s vociferous defense of the project and efforts to derail the vote also generated great tension in advance of the referendum. While in August government representatives signed a stability agreement with the company ensuring favourable conditions for its operation, it openly maligned the democratic exercise challenging the legality of the process and ultimately trying to undermine the results.

### **Community Rights and National Priorities**

The chasm between the rights of communities and centralist national priorities persists despite clear results and a transparent process. The government has since passed a new law making Rio Blanco and 19 other mining projects a national priority. This is not the first time it’s made such a declaration. In 2003, as a result of the project’s proximity to the Ecuadorian border and constitutional restrictions around extractive activities in the frontier zone a presidential decree was issued by then-President Alejandro Toledo giving it similar priority status.

Neither is this the first time that these communities have said no. While the national government holds jurisdiction over subsoil resources, *campesino* communities hold rights to the land affected by this project. Extractive operations require two thirds approval from their community assemblies in order to allow activity. This was denied in 2003 and 2004 by the two communities, Segunda y Cajas and Yanta, respectively. While the National Ombudsperson’s Office has challenged the legality of Majaz’s mining operation as a result, the government appears to be ignoring its reports.

The Peru Support Group report states that this is an emblematic case with regard to mining conflicts in Peru, particularly the relative weakness of peasant rights. They say that “unless managed in a way... that is determined above all else, to prove that the democratic process works as much for ordinary, poor and indigenous people as it does for a foreign owned mining company, the Rio Blanco project could elicit further violence and/or the deepening of authoritarian political practices.” The current response to the referendum is tending in the authoritarian direction.

However, at least one referendum supporter familiar with these processes is not surprised by the reaction. It’s consistent with Peru’s dedication to mining expansion for the last 15 years with strong backing from international financial institutions and foreign governments such as the UK, US, Canada and China. It’s also consistent with what’s taken place in other countries where such referenda have occurred.

### **Tambogrande**

This referendum follows directly in the footsteps of a precedent setting process which took place just down the valley in the District of Tambogrande, Region of Piura. Tambogrande’s results in June 2002 were very similar: 94% of 75% of the electorate who voted said no to mining. Their referendum also took place mid-point in a conflict marred by great social division and violence; in 2001, well-respected

community leader Godofredo Garcia Baca was assassinated. Neither did their results bring about an immediate resolution. Following two and a half years of further struggle however, the government ultimately asked the mining company, Canadian-based Manhattan Minerals, to leave.

Ulises Garcia is the son of Godofredo Garcia Baca and Director of the Dry Tropics Organization of Piura. He says that Tambogrande's example has helped communities to lose their fear about going to the polls and points to other recent examples, including Esquel, Argentina in 2003 and Sipakapa, Guatemala in 2005. "In each of these cases," he says, "the government has tried to boycott the referendum and in each case the attitude of the population responded back, with peaceful processes and strong participation." He believes that this is leading to "a new more democratic era in Latin America" and anticipates that other referenda will soon be organized in Peru.

A number of regional and national networks in Peru favouring democracy, decentralization, and integrated development proposals based upon an intimate understanding of local and regional ecology are actively supporting such processes.

### **Making Space for Alternatives**

Since 2002 however, intimidation and repressive legislation against local participation and supportive organizations has also ramped up. In 2006, the current government of President Alan Garcia passed a new law to strengthen state monitoring of non-governmental organizations and to bring them in line with national development priorities. Several Peruvian reporters linked this law to the proliferation of mining conflicts in particular. Human Rights Watch criticized the legislation and Peru's Constitutional Tribunal deemed key articles unconstitutional in early September.

The Peru Support Group report notes that the message is clear and the impacts are serious. In a case such as Rio Blanco, communities lack the resources to launch legal actions in defense of their own rights. At this time "if proceedings were assumed by third parties in Peru [they] will be open to the criticism of trying to deepen social conflict and stand in the way of national development." This also transcends Peru's borders, "this pressure (coupled, in some instances, with pressure from their own governments) has led certain international NGOs to cease financing legal defense work on mining issues."

So, do the people of El Carmen de la Frontera have the right to say no to mining in their communities? Do they have a right to self-determination and should the range of existing alternatives and proposals for local and regional development in Piura be given a chance? Despite what might be on paper, it will depend on a sustained struggle to pry open democratic spaces. It will also depend on a broader struggle to confront such intimidation and threats to cut off already scarce support. In particular, it will depend upon international efforts to pry open the current discussion about mining which talks about how mining might be better in cases where the answer is yes. But what happens when the answer is no?