

Extracted from:

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The Oruro-Inti Raymi case (Bolivia)

Oruro is a region located in Bolivia's high plateau and presents an economy based on four main sectors: services and commerce, mining, manufacture and agriculture with social indicators that are remarkably low (61.81% is in poverty and 46.3% in extreme poverty). This region hosts the Inti Raymi gold mine, with two sites (Kori Kollo and Kori Chaca). Kori Kollo, the initial mine site, is located in the Andes plains of Bolivia 200 kilometers (125 miles) southeast of La Paz and 45 kilometers (28 miles) northwest of Oruro. The mine is 3,710 meters (12,120 feet) above sea level. Kori chaca, the second site, is located 5 kilometers (3.1 miles) west of Oruro. The area of Inti Raymi's direct influence includes the Cercado, Saucarí and Dalence provinces in the Department of Oruro.

After almost 20 years of operation, EMIRSA decided to close down its Kori Kollo site. Facing that reality the rural communities in the mine surrounding areas started to raise their concerns about the environmental damages that the company would have produced and demanded the government's intervention to ensure compensation. The environmental audit to Kori Kollo was decided after the Bolivian Government received in 2003 complaints from population located in the lower watershed of the Desaguadero river and in the neighbouring areas of the Uru-Uru and Poopó lakes. Those complaints led to a process of consultation to communities carried on by the State and with the acceptance of the company. Complaints hinged around the negative environmental impacts that the Inti Raymi mine would have provoked and the toxic contamination by mining residues it would have left after closing its Kori Kollo mining concession. After all that the initial call for the EA was produced in October 2004 and the process supposed to be concluded by December 2004; to date the EA has not still been initiated.

The conflict presents two confronted positions: On one hand the company (EMIRSA) argues that its operation was developed within a framework of environmental protection, that is, being compliant with environmental standards as well as taking steps towards reducing the risks of environmental damage: "the closed circuit in which Kori Kollo operates avoids any risk of environmental contamination of any place beyond the territory that is currently under its ownership". On the other hand, the local communities argue that there are signs of strong environmental damage in the ecological landscape and the natural and economic resources not just of the area that the company owns, but of all communities downstream the Desaguadero river.

To support their arguments, each party uses a disparate array of instruments for setting up the terms in which the environmental audit should be done. They also apply singular measures of lobby and negotiation with the State – the regulatory entity who will administer the assessment process and is

¹ Poverty incidence at the highest line is 72.8%.

entitled to enforce the implementation of corrective measures, if any. In their struggle the parties in conflict do not act alone. EMIRSA counts on its External Community Relations team and the group of external advisers (lawyers, consulting companies and experts) that it hires for the particular purposes linked to the AA. Local communities are assisted by a group of NGOs who support them in different ways (providing information, advice and financial support) and also acting directly by lobbying and advocating inside and outside the country.

The dispute, then, is underpinned by three issues: i) The geographical scope in which the environmental damage would or could be observed and evaluated; ii) The nature of the knowledge used to recognize the incidence of environmental damage, its scale and scope; iii) Who the parties think would be a more suitable evaluator.

On November 14th, the negotiation process was interrupted by IR requiring a modification of the terms of reference in regard to the scope of the audit. Having been accepted IR's requirement, the new terms of reference launched in February 2005 excluded the inclusion and participation of remote communities and only considered those closer to the mine. In August 2005 the second call for the EA concluded, but it was legally contested by the excluded communities. In that contestation, CEPA (a local NGO working in Oruro and at that time leading the Fobomade network² in the region) accompanied the communities' actions. Given the controversy around the environmental audit scope, the successive Bolivian governments left aside the issue – 'just leaving time to pass' – and aiming to produce a process of *reconcertacion* (a new consensus) between the parties in conflict. This did not happen and finally the problem was left to be solved by the new government.

When the MAS got to power, it took time to learn about the conflict, but finally gave green light for the EA. The signing of the new contract was made in November 2006 in a private event and without participation of communities remote from the Kori Kollo site. CEPA argues that the government acted under pressure from the communities located closer to the mine, which in turn would have been influenced by EMIRSA through contracts, job offers and community projects implemented directly by its External and Community Relations department and the Inti Raymi Foundation. It also argues that public servants would have been corrupted by IR and based on that tried to stop the process lobbying some Senate members, but it realized the senators were not informed. Additionally CEPA presented a legal administrative recourse, which would have influenced the decision of the new Vice Minister of The Environment who opened up space for dialogue and finally produced a modified contract. The new contract would keep EMIRSA aside from a direct financial relation with the evaluator (funds would pass through the government), the evaluation would have a greater scope, confidentiality clauses would be suppressed, and new communities would be added to the assessment.

Along the way in which the Inti Raymi conflict evolved, the nature of the knowledge used to support each party's argument has received particular emphasis. So far, EMIRSA has relied on multiple 'technical' studies that would give account of its environmental performance in the region. Regarding its Kori-Kollo site, EMIRSA has its environmental licence (actualized at 2002), a baseline environmental audit, a plan of closure and rehabilitation, a report on the accumulation of residues of

² Fobomade is the *Foro Boliviano sobre Medio Ambiente y el Desarrollo*, a network of 20 organizations whose agenda includes research, lobby, campaigning, advocacy and the promotion of sustainable projects in divers areas related with natural resources.

great volume, a report on management and control of dangerous substances, and a community and external relations social performance audit for its Kori-Kollo and Kori-Chaca sites. All these reports present a series of indicators formulated on a combination of quantitative and qualitative data coming from monitoring reports from each one of the company areas and have been used for obtaining the government's permission to carry on with their mining activities. In addition, EMIRSA has financial and accounting audits which would tell about its economic transparency towards its shareholders, but also towards the Bolivian state in what concerns to its fiscal obligations. Both type of assessments have allowed IR to obtain several awards within the country mining and manufacture industries (e.g. the 2005 National Prize to Companies Social Responsibility awarded by the National Association of Enterprises) and also to internationally show that 'beyond the necessity of responding to applicable laws, permits, or legal requirements, EMIRSA complies with Newmont's corporative protocols of environmental and social responsibility.

The company thinks that all these achievements have been unknown to the general public and that the company's low profile did not help to produce a positive image beyond the communities and other actors with whom have had direct relationships. According to that IR decided in 1995 to open a new area named External and Community Relations which would be charged of developing strong links with all IR stakeholders. Since then IR started to use intensive media means to publicise its mining activities and actions for the benefit of communities and Oruro's population.

Contesting EMIRSA's strategies, means and actions, the organizations and communities in conflict judge that 'the apparent increased support' that the company would have is due to co-option of local leaders, the media and public servants by means of projects, donations, contracts and the like. They also argue that the evidence of environmental damage is undeniable and that, despite their constraints to provide 'scientific' evidence, as long as the protest is massive and continuous it would reach its objectives. Such a reasoning took the form of thousands of letters where the communities (individually or in groups) stated their complaints accusing animal diseases and higher mortality, soils dryness and higher salinity, desertification, lower levels of production and so on; all that put in simple and popular language.

Finally, with regard to the selection process of a suitable evaluator, the Kori-Kollo environmental audit is a sample of the high level of mistrust and suspicion that involves the relationships between communities and companies and between communities and the state. Such a suspicion is product of several factors that affect rural population: i) A historical record of public institutions being used to favour the powerful and the influential; ii) Its lack of understanding of legal terms, technical jargon and complex language found in environmental legislations, studies, reports, evaluations and terms of references for divers purposes; iii) Its perception of the state weaknesses revealed in corruption, lack of independent institutions (either from the government or economic powers) and a strong dominance of the central and formal state over regional, local and community forms of government.