Canon minero and conflicts in Peru

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1.- Introduction

In recent years, world market prices for minerals and oil have increased considerably. Investment in extractive industries has also grown (UNCTAD, 2007, pp. 89-90). These trends have enlarged the role of the extractive sector in many developing economies and intensified academic and policy interest in the notion of the "resource curse"

An increasing number of governments that possess natural resource wealth have begun to accept what I term the "new natural resources policy agenda" (NNRPA) to deal with the perceived problems of the "resource curse". Decentralisation, popular participation and public-private partnership, complemented with the Extractive Industries Transparency Initiative (EITI), collectively constitute this "new natural resources policy agenda" (NNRPA) to deal with the resource course. I argue that the implementation of the NNRPA generates the conditions for a new historical form of the resource curse with two original and interrelated features: a) the deep involvement of new political actors - sub-national governments, private mining companies and civil society; and b) the emergence of the sub-national level as the crucial space to understand the resource curse.

The Peruvian case is a paradigmatic example of this new historical form of the resource curse. In the context of Peru's weak central state, and weaker local governments, the implementation of the NNRPA has partially relocated the resource curse to sub-national levels. Local governments, mining companies and a variety of local groups are locked into complex relationships that are difficult to negotiate, resulting in conflicts and poor quality public investment[1]. Mining bonanza makes these problems more acute. Like its predecessors, this curse is not inescapable, but solutions require new and more context-specific policies.

2.- Mining revenue-sharing mechanism: A key factor to understand political dynamics in Peruvian mining regions

In 1976, after the discovery of important oil fields and pressure from regional movements, the central government decided to give 10 per cent of the value of oil production to the producing region. This type of transfer was baptised as "oil canon". In 1992, the government created the "canon minero" that allocated 20 per cent of the income tax paid by mining companies to the territory in which the profits are generated. In 2004, some changes in the regulation created a concentration of revenue transfers at the locality and province where natural resources are extracted. Members of the Peruvian parliament elected in the mining regions lobbied for the two policy changes. Mining companies backed the move in a bid to demonstrate the benefits

[1] By poor quality of public investment I mean short-term planning, lack of coordination between different levels, non-integration on national planning and non-alignment to economic diversification.

that mining can bring to local communities and to calm the growing social unrest associated with mining activities.

Table 1.- Canon minero distribution

Canon minero distribution (since December 2004)	
Regional Government + 5% for public universities of the region.	25 %
District municipality where the resource is extracted	10%
Municipalities of the province where the resource is extracted.	25%
Municipalities of the department where the resource is extracted	40%

Source: (Grupo Propuesta Ciudadana, 2007)

When these new allocation rules were planned, transfers amounted to 451 millions of *Nuevos Soles* ($USD 125 million). The subsequent rise in mineral prices has increased transfers by twelve fold in three years, making effective revenue allocation difficult.

These criteria for revenue distribution create inequality between regions. In 2007, more than 67 per cent of the total "canon transfer" was concentrated in just 6 out of 25 regions, accounting for a mere 16 per cent of the country's population (Ancash, Tacna, Cusco, Cajamarca, Moquegua and Pasco). More shockingly, due to massive increases in the "canon minero's" monetary value, these six regions, along with their local governments, received more than 52 per cent of the total revenue transferred by the central government to the local level for investment during this period. While the country on average allocated approximately *nuevos soles* 426 ($USD 142) per capita on decentralised public investment, mining regions received this figure several times over.

Despite this theoretically advantageous situation, the majority of the population in these mining regions seems to be discontent. Two problems stand out: an increase in conflict and inefficient public investment. Are these problems real? Is there any connection between canon minero transfers and these problems?

To answer these questions I analysed data at departmental level and conducted field research in five Peruvian mining regions (Ancash, Cajamarca, Cusco, Moquegua and Pasco). The research confirms the existence of a link between the mining bonanza – and consequent increase in canon minero transfers – and the proliferation of conflicts. The research also uncovered relevant information about serious deficiencies in the way local governments allocate public resources. In this brief note I focus exclusively on the conflict side, aiming to explain why mining regions in receipt of important fiscal transfers suffer from more conflicts.

3.- Do transfers fuel conflicts?

Conflicts between mining companies operating in Peru and local communities have been widely documented and analysed. However, most of these analyses examine cases prior to the steady increase in "canon minero" transfers (Cooperacción, 2006; Pascó-Font, Diez Hurtado, Damonte, & Fort, 2001; Revesz & Diez, 2006). To fill this gap, I assess the effect of financial transfers on the incidence of conflict at departmental/regional level, based on ombudsperson's reports of social conflicts[2] (Defensoría del Pueblo, 2008). I have designed a "conflict index" by counting the number of conflicts occurred in each department and giving active conflicts a coefficient of 3 and dormant conflicts a coefficient of 1. This index has been calculated monthly and aggregated to an annual figure for the period 2005-2007. To put the incidence of conflict in relation to population, I have calculated a *per capita* index, dividing the "annual conflict index" (ACI) by the population of each department.

I took this per capita annual conflict index (ACI) as the dependent variable and tested the influence of a collection of possible independent variables: a) the percentage of the population under the poverty line; b) annual canon minero transfers per capita*;* c) other financial transfers from central government to local governments; and d) variation in the territory (in hectares) that mining companies have obtained under concession, as a proxy for expansion of mining activities. To avoid extreme values driving the result, I applied the $\log_{10}(1+x)$ function to annual transfers and ACI variables. This simple regression model shows that poverty and canon minero transfers per capita account for more than 66 per cent of the per capita annual conflict index. The other variables are clearly not significant.

To take into consideration the dramatic effect of the transfers over the last three years, I have undertaken a year-by-year complementary analysis that reveals how explanation of conflicts *per capita* (dependent variable) by means of "canon minero" transfers and poverty also evolves during this period:

i) In 2005, poverty is the driving factor and "canon minero" transfers is insignificant.

ii) In 2006, "canon minero" transfers variable increases its importance.

iii) In 2007, "canon minero" transfers *per capita* is the most important factor.

These findings confirm previous studies on the Peruvian situation, which link mining to conflict (Bury, 2002; Revesz & Diez, 2006; Tanaka et al., 2007). However, this analysis goes further, establishing that there is a growing alignment of conflict with "canon minero" transfers and, simultaneously, a relative reduction in the weight of poverty as an explanation for the incidence of conflicts.

Thus, conflicts in Peru appear to be increasingly aligned with monetary transfers related to mining activities. The next section clarifies the nature of this alignment and the causal mechanisms behind it. I base my conclusions largely on an analysis of all the reported conflicts in three of the mining regions (Ancash, Moquegua and Pasco) by means of personal encounters with the main actors involved in them.

[2] They define conflict as an event with at least one of the following features: a) threat to the integrity of people's life or health; b) damage to private or public property; c) obstruction to freedom of movement; d) impediment of the exercise of public authority; and e) obstruction of public services delivery (Defensoría del Pueblo, 2008).

4.- Changing conflicts in a time of plenty

Analysis of conflict around mining in Peru has to date focused on a handful of emblematic cases. Tambogrande, Cajamarca and Majaz consistently appear in this geography of conflict (Bebbington, 2007; Bury, 2002, 2007; Echave de et al., 2008; Lingan, 2008; Paredes, 2008). These conflicts share two key features: i) the local population and the mining companies are the main actors; and ii) a significant part of the local population challenges the existence of the mining operation or its expansion.

Despite the real importance of these cases, I argue that the mining bonanza has fuelled alternative types of conflict. Thus, analytical effort to understand mining conflicts should open its perspective to include conflicts beyond the above-mentioned emblematic cases. I put forward a typology of conflicts which explains both their increase and their alignment to canon minero transfers (table 2). The classification includes two groups and several subgroups.

Table 2: Typology of conflicts in Peruvian mining regions

Conflict Type	Subtype
a) Between local population/communities and mining companies	i) Attempts to stop the construction of new mining operations, or the expansion of currently operating ones
	ii) Communal strategy for the preparation of a negotiation process with the company
b) Over the control and use of mining revenue.	i) Between local population and local authorities.
	ii) Between different levels of government
	iii) Over the control of territory
	iv) Labour conflict

a) Conflicts between local populations/communities and mining companies

Local populations and mining companies become involved in two different kinds of conflict. First, there are cases in which local populations fight against the setting up of new mining operations or the expansion of currently operating mines. Second, local populations might use contentious tactics to prepare a negotiation process with mining companies operating in their territory. Although these two types of conflict have always coexisted, the mining bonanza has shifted their relative significance due to the proliferation of tactical conflicts.

The majority of the conflicts involving local communities and small towns around currently operating mines fall within the 'tactical" type of conflicts. They tend to mimic the first subtype: the more they appear similar, the greater the advantage in negotiation, because companies will be more willing to make concessions to stop the dispute. The analysis of these conflicts shows how groups in different contexts have creatively applied 'emblematic' lessons to advance their own cause. Four motives trigger these conflicts:

i) In the context of a mining bonanza, companies use profits to expand their operations. Thus, they need to negotiate with local communities to obtain land and water. The local communities in turn see the process as an opportunity to realign themselves in relation to the company: from subordination to active actors.

ii) Company profits provide an incentive for the population to claim the fulfilment of previous promises and agreements which they feel have been repeatedly dishonoured.

iii) People's sense of grievance regarding previous land transfer agreements also activates conflicts.

iv) Different communities demand their share of unprecedented profits on the basis that they have never benefited from wealth that they think belongs to them.

These four causes of conflict intermingle with other longstanding grievances. According to local narratives, the arrogant behaviour of managers, miners and other mining actors are not the least important.

The connections between triggering causes, the voiced demands and the real outcomes of negotiation are complex and ambiguous. The local population frames its claims using different discourses: ecology, ethnicity and social justice are the most common. However, real negotiations usually focus on employment opportunities, economic compensation, promotion of small local business and the implementation of social projects. How does the adjustment from far-reaching discourse to pragmatic negotiation occur? Three factors might explain the transition: i) the local population has both types of objective in mind but in some of these localities daily survival is the real burning issue; ii) the logic of the negotiation requires putting forward clear and achievable demands; and iii) the temporary renunciation of broader objectives leaves the door open for further claims.

Finally, there is the question of why communities choose conflict as a strategy. The short answer is that they perceive conflict as the only way to promote negotiation on an equal footing with the companies. Three factors nourish this perception: i) the asymmetry of power between the actors; ii) the widespread public suspicion of collusion between the Peruvian government and the mining companies that disqualifies the state as arbitrator; and iii) the lack of incentives for mining companies to engage in protracted and troublesome negotiations (if they are not interested in land or water).

Although the involvement of CONACAMI and other national and international NGOs in these disputes would strengthen the position of the communities, local people prefer to negotiate directly with the companies without any third-party participation; communities seek flexibility and fear dependence on other actors' agendas.

Conflicts in this subgroup have increased in the last few years because mining companies' profits prompt them. As canon minero transfers depend on company profits, this partly explains the correlation between conflicts and transfers.

b) Conflicts over the control and use of mining revenues

Conflicts over the control and use of mining revenues are directly related to canon minero transfers. They have increased dramatically in the last two years. An analysis of the mining regions shows that it is possible to distinguish four different subtypes of conflict:

i) Conflicts between the local population and local authorities regarding the inability of local institutions to invest canon minero transfers efficiently. Lack of administrative capacity in local and regional governments drives these conflicts, which are common in Ancash and Pasco.

ii) Conflicts between different levels of government. On the one hand, municipalities challenge regional governments in Ancash, Moquegua y Pasco over their criteria for the allocation of resources at district level. On the other hand, regional governments in the same regions defy the national government's attempts to modify the rules for the distribution of canon minero and schemes such as the Fondoempleo, which benefit mining regions directly.

iii) Conflicts over the control of territory. Regions and municipalities fight to include under their jurisdiction territories with mining potential and water resources.

iv) Finally, there are new labour conflicts. In the Conchucos Valley (Ancash) and in the province of Mariscal Nieto (Moquegua) the majority of the population works as unskilled labour for the municipalities. Due to the overwhelming flow of transfers, these workers earn more than teachers, health workers, police officers and other public servants, which consequently generates malcontent and mobilisation.

5.- Conclusions

Business associations and some scholars alike argue that mining is a tremendous opportunity for local communities to develop (ICMM, 2007; Wise & Shtylla, 2007). Apparently, the mining bonanza would be the best scenario for the realisation of their claim. However, the mining bonanza has uncovered some structural limitations of the Peruvian mining regime in its attempt to transform mineral wealth into peoples' well-being.

The analysis of the recent revival of the mining industry in Peru reveals a new form of resource curse characterised by two features: i) the involvement of new actors – mining companies, sub-national governments and a variety of local groups; and ii) the emergence of the local level as the crucial political arena in which these stakeholders interact. The most notorious symptom of this new form of resource curse is the growing incidence of conflict in mining regions. This perverse dynamic occurs in the context of the implementation of a new political agenda characterised by decentralisation, greater collaboration between public agencies and private companies, and formal schemes for citizen participation in public affairs.

I propose a conflict typology to help understand the plurality of local dynamics behind the increase in conflicts.

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