

# **Extractive Industries And Conflicts In Peru:**

## **An Agenda For Action**

by

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## **Introduction**



The inequality gap could be improved to some extent by addressing lingering inefficiencies of the decentralization process that prevent new extractive revenues from turning into better living conditions for the local population. Peru has been





enlarging soccer stadiums do pass the demanding SNIP requirements, while other more pressing ones seem to get trapped in the system. This leads us to believe that while the need to improve local capacities for identifying good investment projects and for getting them through the system and ultimately executing them is unquestionable, there seems to also be a large component of pol



also review the mechanisms used for consulting the population about investment decisions in each of the four cases. This would provide a clear idea about the decision making process that goes into favoring one investment project in lieu of another. Also, UNDP could contribute to the development of pilot accountability projects in selected regions and local governments to exercise more representation of the views of the local population in the design of investment projects. Models of participatory budget discussions being applied in other countries could be tested in this pilot project, such as those used in Fortaleza, Brazil and in Bangalore, India. These international models of budgetary accountability could be presented to the government during a Seminar before the launching of the pilot project.

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grievances, they ask to talk to government representatives directly. The initial contact the community has with the Federal government is during participatory events (*Eventos Informativos*)

Participatory workshops are usually organized around the EIA, before or during its elaboration, and once it is concluded. The EIA is the ultimate document that guarantees the project will be environmentally and socially sound. But the process of elaborating it EIA has been much criticized, particularly because communities feel i

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Peru has taken an excellent first step in producing a Consulta

**\* Weak relations between Federal and Local governments:** *Lack of communication*

background on early warning and prevention of conflicts to effectively attend the local disputes. Also, it would be important to ensure that the work of these government units complements, not contradicts, the outstanding work being carried out by the Office of the Ombudsman. The apparently now defunct *Unidad de Analisis y Prevencion de Conflictos* of the PCM produced conflict reports that were very similar in scope to those published regularly by the Ombudsman Office, and did not seem to add much more clarity to the issues. A national conflict prevention and management policy could help to create the necessary synergies between government offices.

A positive initiative by the PCM was the two year capacity building program on conflict management aimed at government officials at the three government levels known as PrevCon<sup>xv</sup>. The PrevCon produced an excellent first approach at a mapping of conflicts and actors. It has also provided theoretical analyses for developing conflict prevention and resolution policies. The studies done by the PrevCon should be more vastly disseminated among government offices, Universities, and other organizations and experts. The PrevCon ends on December, 2010 and a second, more practical phase of the project might be useful to test the program's findings as a first step towards addressing the identified problems.

Unfortunately, a government representative interviewed in Bogotá, April 2009, confirmed that the work was not the extent of the PrevCon and requested that the findings be disseminated to other government offices.

developments, as a result of demands from local communities during decades of conflicts in the Rio Corrientes, in the Northern Amazon. This section will show some of the inadequacies of the legal framework in Peru.

**\* Consultation Law:** *The lack of a consultation Law designed with the consent of all stakeholders exacerbates conflicts.* Peru's Congress passed a Law on May, 2010 that includes the requirement of consultation with communities about development projects that affect them. The Law had been produced with the consensus of indigenous communities and civil society organizations in a participatory process led by the Office of the Ombudsman. But it was revised by the government in June and returned to Congress. It has yet to be approved. Indigenous organizations have warned that if the government revisions are added to the consultation law it would fall short of their needs and of meeting international standards, opening the door for further conflict. It is important for the consultation law to be approved under popular consensus to avoid massive opposition to it later.

The Consultation Law was the result of Dialogue Tables formed to bring opposed parties together after the deadly events of Bagua in 2009 (BBC Mundo, 2010)<sup>xvi</sup>. Its content was agreed upon by consensus during that process. For that

tackling these activities. UNDP could provide an invaluable contribution to this end through human and financial resources.

\* **Voluntary Funds:** *Companies contribute large amounts to voluntary funds supposedly aimed at development projects, but it has been difficult to assess if they are effective.* Producing companies contribute to a special voluntary fund created under



minimal. Civil society organizations have proved to be key in training local communities for negotiations with companies and in giving them legal tools to frame their demands, although sometimes they may indirectly contribute to the radicalization of conflicts. Finally, communities are the main pawn in the intricate game of natural resource developments because their actions define the direction and intensity of conflicts.

\* **The Government:** *Popular belief is that the government is on the side of the company and not its citizens.* When a conflict breaks in relation to a mining or a hydrocarbons project, local communities almost *inva* b

*standards.* It would be wrong to refer to all extractive industries in the same way. Larger mining or oil companies tend to have more elaborate environmental and social standards and better trained personnel to apply them than their smaller counterparts. This distinction was made evident by the case of the 33 miners that were trapped in a mine in Chile on Oct, 2010, due to safety issues<sup>xix</sup>.

A mining project is preceded by a long exploration period before actual production starts. It is during this exploration period –of sometimes seven or eight years – when the relationship between the local community and the company is established. Normally a small –junior – company carries out the exploration activity, and then sells off its stake to a larger one, which is responsible for the decades long production phase.

Junior companies do not always have the financial strength of the large ones to adopt costly and elaborate corporate social responsibility rules during the initial exploration period. Furthermore, as explained above, the nature of the exploration work means that the time horizon of junior companies in the area where they operate is much shorter than that of the large ones in charge of production. So juniors tend to devote fewer resources to environmental and social issues because they do not expect to spend long periods of time in the area (VASQUEZ, 2011).

Also, companies from developing countries where the notion of corporate social responsibility may not be as well developed as elsewhere, are sometimes less keen on investing large resources on developing sound environmental and social policies that are tailor made to address the particular issues of the areas where they operate. Instead of developing long term sustainable engagements with the local community, these companies many times chose to engage in paternalistic relations with those affected by the natural resource extraction. Oil company officials interviewed for this report generally commented about the difficulties of convincing old management cadres within their companies, about the rewards of investing in good corporate s o E o

information gathered during these early government communications efforts would have served to produce an early diagnostic of the characteristics of the community.

The government should develop the appropriate economic and human resource tools to be able to engage in sound monitoring of company compliance with the law and with the conflict and risk mitigation and prevention policies they should be required to design early on. UNDP could support these monitoring efforts

better health services. To say that communities do not want development is not entirely accurate. However, their view of development may be different from that of people living in Lima. Knowing from the start what a particular community expects from an extractive development is fundamental to be able to create and gear social development projects to their needs and expectations using natural resource funds.

There are a few cases where communities have been opposed to a particular mining or oil project in their territories from the start. But ensuring that their opposition is known and

## **D) Incomplete Policies**

**\* An unclear development model:** *Government plans for investing extractive revenues are not clear. People feel the ultimate goal of the government is to attract investments, more than to invest in their region for their benefit.* What the population perceives is that the main goal of the country's extractive industry policies is the attraction of investments for the benefit of Lima. The general perception is that mining and hydrocarbons investments are an end in themselves rather than a tool for the improvement of the living standards of the population or the creation of direct or indirect employment. There is an urgent need to better communicate Peru's economic growth model at the local level and have a more active outreach to explain the country's development policies and overall benefit of extractive industry. The government could support a national debate to discuss these issues in a participatory and inclusive manner. At the end of the debate a participatory

territorial planning led to conflicts. The study of actual cases would allow for a better understanding of the dynamics that result in territorial disputes.

**\* Lack of a strong commitment to conflict prevention and management: at the top level:** *There is no strategy for treating violent conflicts. Once they explode, they are usually they*

also needs some action independently of the existence of conflicts. Then there are a number of other issues that have a more direct impact on local conflicts, such as the capacity of governments to act as mediations, or the role of environmental impact assessments, and how the population perceives these. This paper tries to address most of these issues, but they are complex. We need to understand the limitations of capacity building actions. If the Government is determined to support investment policies regardless of their social cost, capacity building efforts will not help and the mechanisms set up for their implementation soon appear to the population as bogus. The commitment of the government to act and political support are essential. It is clear that action is also needed to force junior companies to improve their environmental and social safeguards. Here also capacity building is limited unless the Government takes serious action, like in Chile now after the mining incident. This is why we suggest the support of real national debates on some of these issues in parallel to some capacity building. Finally it is important to stress that despite the increase of conflicts there are successful stories in Peru. The Camisea project has done some good work in many areas, the Peruvian Office of the Ombudsman seems to enjoy a level of legitimacy that few other public institutions have in Latin America. These positive experiences need to be publicized, and analyzed for expanding and possibly repeating them.

### **Section 3**

#### **Recommendations**

These are some recommendations for a UNDP supported action to prevent and mitigate conflicts related to extractive industries in Peru. These are based on the diagnostic developed above. They do not try to address all aspects of the conflicts but focus on the issues where capacity building intervention and policy advice could have, in our view, the most effective medium term impact.

#### **a) Support an open public debate on the role of Mining and Hydrocarbons in the economic development model of Peru**

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for discussion at the moment, which reinforces the suspicions about its proper use. The debate could be organized in neutral ground, like universities, research centers and with the support of the media.

## **b) Adopt National Conflict Prevention Policies**

Contributing to the development of a national conflict prevention policy would be important. The Government has started to develop capacity building programs on conflict management and prevention, but it needs to be less theoretical and more grounded in the practical realities of Peru. The conflict prevention capacity building efforts should particularly reach out to local governments and communities affected directly and indirectly by extractive industries projects.

In order to provide more material for a grounded capacity building on conflict prevention and management, the UNDP could support a series of studies that could provide initial inputs. For example, a study of four emblematic extractive industry conflicts in order to understand the mechanisms in place them and the policy decisions adopted to address.

One or two of the case studies should be examples of positive resolutions: positive elements that prevented the outburst of conflicts. A good example of a positive case study could be the *Las Bambas* mining project in the department of Apurimac, which in the course of this consulting work came out as a rare example of relative efficiency in relation to citizen participation, company community relations scheme and consultation practices. Several stakeholders contact



Following the experience of the Camisea Ombudsman Office, the government should consider setting an Ombudsman for each large extractive industry project. This Ombudsman could work hand in hand with the national Office of the Ombudsman in a collaborative effort at gathering information on conflicts. But it should have more liberty in mediating in specific conflicts related to the particular project it is supposed to monitor. The national Office of the Ombudsman was created to monitor that government actions do not negatively affect citizens, but it is not meant to be a mediator in conflicts. Rather, the national Ombudsman takes that role exceptionally when the parties in the conflict demand its presence for solving a dispute. The project specific Ombudsman however, would be especially active in mediating conflicts.

**d) Assess Effectiveness of PrevCon (Programa de Apoyo para una Cultura de Paz y el Fortalecimiento de Capacidades Nacionales para la Prevencion y el Manejo Constructivo de Conflictos)**

An assessment of the success of the PrevCon is needed to understand if it has fulfilled its goals. This assessment could help design a second, more practical phase of the PrevCon that could expand on the work done so far by putting in practice some of the lessons learned in the first phase. The central government does not have at the moment much credibility on local conflict reso— su oQ

## **f) Mapping of Conflicts and Actors**

UNDP could support an in depth mapping of the conflicts that should include detailed information about the nature of the conflicts, the conflict resolution and prevention actions; effectiveness of these actions; the various stakeholders responsibilities and involvement; economic assessment of affected population; structure of the regional and local government; and regional and local political alliances, among other issues. The conflict mapping would be an essential first step for developing national conflict prevention and resolution policies and for targeting these to each particular regional scenario. The initial conflict mapping done by the PrevCon could be used as a first step for this work.

## **g) Assessment of Public Investment Mechanisms**

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associations. The review should assess the financial and business reasons that may hinder adoption of such standards by Junior companies in particular.

**i) Pilot Cases**



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## Endnotes

<sup>i</sup> Peru is one of the world's top producers of gold, silver and copper, and its mineral exports represent some 62% of total export revenues.

<sup>ii</sup> Law 27783: Ley de Bases de la Descentralización. Passed in 2002.

<sup>iii</sup> Peru's Constitution Article 66.

<sup>iv</sup> Law 26505: Ley de la Inversion privada en el desarrollo de las actividades economicas en las tierras del territorio nacional y de las comunidades campesina y nativas. Passed in 1997 (Modified by Law 26570).

<sup>v</sup> Supreme Decree D.S. No 017 96 AG, published on Oct. 19, 1996, which implements Article 7 of Law 26505. S.D. No 017 96 AG was modified by D.S. No 015 2003 AG, published on May 07, 2003.

<sup>vi</sup> International Labor Organization (ILO) Indigenous and Tribal Peoples in Independent Countries Convention, Articles 6,7, and 17, which was ratified by Peru in 1993 by Leg

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**Annex I**  
**Matrix of Programs and Policies**

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**ANNEX II - People Contacted****Name****Organization****Civil Society**

