



Mining conflicts in Peru: Condition critical

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Cover image: Member of an irrigation water user committee from a small Andean town inspects a stream running past a gold mine. Concerns about the supply and quality of water coming from this mountain have precipitated numerous conflicts in the area. *Jessica Erickson / Oxfam America*

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Introduction

Since 2006, Peru has seen an impressive annual economic growth rate of more than 6 percent. Mining has been the main driver of this impressive growth. Consider that:

- Mining exports surpassed \$17 billion in 2007, amounting to 62 percent of the country's total exports.
- Over the past five years, copper production has doubled and gold production is up 30 percent.
- In addition to dozens of existing mines, 31 exploration and expansion projects are currently under way.¹
- Fourteen member companies of the International Council on Mining and Metals—the association of the world's largest mining companies—currently operate in Peru. This is the highest concentration of large mining companies in any country. Peru also boasts 100 junior companies, which focus primarily on exploration.

This dramatic increase in mining has been accompanied by a rise in conflict and violence around large-scale mining operations in Peru's remote and overwhelmingly poor Andean highlands. Local communities have sought to block mining projects that they fear will contaminate local land and water sources. They express frustration that, despite tremendous profits realized by mining companies operating in their midst, the lives of local people have not improved. Forty percent of all Peruvians live in poverty; in the Andes, poverty rates exceed 70 percent. The Peruvian government's public defender's office, Defensoria del Pueblo, recently counted more than 70 active conflicts around mining operations spread across the country.²

The Peruvian government, under current President Alan Garcia, fears that local protests could potentially disrupt foreign investment in mining. In response, the government has cracked down on social protests and criminalized activities defined as "anti-mining." Charges to date against members of community groups and civil society organizations have included some of dubious legal merit. To make matters worse, some mining companies have exacerbated social tensions by using private security forces—some of which have been accused of violating human rights.

Peru now faces a crisis. At stake is the long-term viability of the mining sector as it is today.³ The Peruvian government, the mining industry, international donors, and civil society must take immediate action to help the country break the current cycle of conflict and ensure that mining helps reduce poverty and contributes to Peru's development.

It's worth noting that during the current global financial crisis, metal prices have fallen significantly, which may slow new and expansion projects in Peru. Even so, mining will continue to dominate the country's economy for the foreseeable future, particularly given the growing presence of Chinese state-owned companies that are less affected by problems in the global credit market.

Members of the International Council on Mining and Metals with Peru operations

Anglo American

Barrick

BHP Billiton

Freeport McMoRan

Gold Fields

Mitsubishi Materials

Newmont

Nippon Mining and Metals

Rio Tinto

Sumitomo Metal Mining

Teck

Vale

Xstrata

Background: Free market reforms lead to spike in mining activity—and protests

In the 1990s, with World Bank and International Monetary Fund assistance, Peru privatized and deregulated its traditionally state-owned mining sector. Transnational mining companies, attracted by Peru's rich mineral endowment, quickly began to invest. The largest investment—and what is still Peru's largest gold mine—was the Yanacocha Mine in Cajamarca. US-based Newmont Mining Corporation operates the mine. Peruvian company Buenaventura and the International Finance Corporation (IFC), the private sector arm of the World Bank, are also partners.

Troubles have plagued the Yanacocha project since it began operations in 1993. Local *campesino* organizations have staged protests against the project for a variety of reasons, including concerns that the company compensated them unfairly for land taken by the mine and that the mine is contaminating local streams, which are used for irrigation and watering livestock. In 2000, a truck traveling from the mine spilled more than 650 pounds of liquid mercury on a road that passed through several communities. Nearly 1,000 villagers contracted mercury poisoning as a result. In 2001–2, communities protested violently over the spill and the company's perceived slow response and inadequate compensation.

Two years later, in 2004, communities protested again, this time over the mine's plans to expand its operations onto Cerro Quilish, a mountain considered by many to be a key local water source. The protests, which turned violent and lasted several days, forced the company to scale back operations and ultimately to withdraw from Cerro Quilish. The company later issued an apology, saying that it had not fully understood the extent of community opposition to the planned expansion.

Protests up and down Peru's spine

While the Yanacocha project continues to be an epicenter of conflict, anti-mining protests have flared up and down the country's north-south Andean spine.

- **At the Rio Blanco project in northern Peru**, which is now owned by the Chinese company Zijin Metals, communities have protested the potential effects of the huge proposed copper mine on their production of organic coffee and fruit. In 2004 and 2005, local protests against the project led to violent clashes with police, resulting in two deaths. In September 2007, local governments and community members organized a referendum in which they rejected the project. Most recently, in January 2009, the National Human Rights Coordinator, a coalition of Peruvian human rights groups, released photographs from a 2005 protest that suggested that police and security forces had tortured protestors. The government said it was investigating the case.
- **In October 2008, at Rio Tinto's massive La Granja copper project in Lamabayeque Province**, community members concerned about the potential pollution of local water sources protested until the company was forced to suspend construction. To its credit, Rio Tinto has called for independent investigations into the circumstances around the recent protests.
- **In November 2008, in the southern department of Tacna**, the Peruvian government declared martial law to quell violent protests against the government's decision to revise the *canon minero*, the law that governs the distribution of mining revenues. Under the reforms, Tacna would receive a reduced share of mining revenues. The clashes between police and protestors resulted in three deaths.⁴ At the same time, similar protests occurred in the neighboring department of Moquegua, where three police officers were briefly taken hostage. These followed protests in June 2008 in which 20,000 protestors blocked roads in Moquegua and took 48 police officers hostage.⁵
- **In August 2008 in Peru's Amazon region**, indigenous people protested against government decrees that would have eased requirements for the sale of native land for oil and gas extraction. After 11 days of protests involving an estimated 12,000 indigenous people who occupied oil and electricity plants in the Amazon, the Peruvian Congress repealed the decrees, handing President Garcia a major setback. Although not directly related to minerals mining, these protests are indicative of the tensions that surround resource extraction operations.

Roots of the conflicts

The conflicts in Peru's mining sector have a number of root causes.

- **Local communities experience few benefits from mining revenues.**

The recent conflicts surrounding mining reflect longstanding historical grievances on the part of Peru's campesino communities, which have always felt excluded from the benefits of the country's natural resource wealth. Peru, like much of the rest of Latin America, is a tremendously unequal society. Vast differences in wealth and standards of living exist between the urban coastal elites, who are primarily centered in the capital, Lima, and the indigenous and campesino populations that tend to live near mining operations. The country's mining boom may be exacerbating these inequalities – despite laws requiring that half of mining revenues be returned to mining areas. In practice, local communities see very little of this benefit.

Here's why. Large-scale resource extraction generates relatively few jobs. Thus, most mining benefits must trickle down to communities through government programs that redistribute revenues. In Peru, this redistribution process has proven highly problematic. In the past, the central government failed to transfer mining revenues to mining areas because of bureaucratic inertia or because it distrusted local authorities. In recent years, the central government has transferred more of the revenues, but local governments – like governments at all levels in Peru – have little capacity to invest the funds productively. In turn, local communities feel frustrated over the lack of improvement in their daily lives despite, in some cases, significant mining revenues.

In a recent report, the US Senate's Committee on Foreign Relations noted:

... Local Peruvian governments do not have the technical capacity to use [resource revenues] effectively ... This is creating a degree of social conflict and an increasing sense of frustration among the Peruvian people who have not seen ground-level benefits of this economic windfall in the form of services, health, education, or infrastructure to improve their everyday lives.⁶

In fact, continuing political risk related to stubborn and widespread poverty in rural and highland areas is one reason Moody's Investors Service decided to deny the country an investment-grade credit rating.⁷

- **The Peruvian government lacks the capacity and political will to regulate the industry, manage local conflicts, and redress grievances.**

Communities do not trust the government to address their concerns and protect them from pollution and other harms that mining can cause. The resulting tensions can boil over into violence, as communities believe they lack other options for making their voices heard. As The Economist recently noted:

The problem is that Peru's political parties are failing to channel the demands, conflicts, and frustrations that rapid economic growth is throwing up. The worry is that as the economy slows along with the world's, blocking roads and throwing stones will become an even more integral part of the Peruvian way of life.⁸

Peru's regulatory infrastructure remains weak and under-resourced, with nothing approaching the capacity that is needed to effectively regulate such a large industry. Civil society organizations hoped that the creation of a new environmental ministry, at the behest of international donors like the World Bank, would help address these weaknesses. Unfortunately, under political pressure, the Peruvian government continued to have the Ministry of Energy and Mines regulate the mining industry. This arrangement sets up a direct conflict of interest: the mining ministry has responsibility for both promoting mining investment and enforcing social and environmental regulations.

The Garcia government has also been criticized for lacking an effective strategy for addressing mining conflicts and their underlying causes.⁹ The government's move to criminalize anti-mining protests and demonize environmentalists and indigenous peoples' organizations as the new "communists" has only served to increase tensions.¹⁰

- **Mining companies have made serious mistakes in their relationships with local communities.** In the early stages of Peru's mining boom, mistakes were partially attributed to the inexperience of some mining companies operating in a post-conflict and traditional society like Peru. Some companies employed personnel who held dismissive or even racist views toward local campesino communities. Companies also tried to operate in areas that were clearly nonviable. The Tambogrande case, in which a Canadian mining company sought unsuccessfully to build a mine directly under a town of 16,000 people, is perhaps the most famous example. After several years of sometimes-violent protest, the company was forced to withdraw in 2003, having lost \$61 million on the project.

Some mining companies, including Newmont, Rio Tinto, and Anglo American, have worked to improve their practices and build better relationships with local communities. Even so, companies may also be repeating past mistakes. Despite its negative experience with Cerro Quilish, Newmont is seeking to expand its Yanacocha operations into municipalities that have formally declared their lands off-limits to mining. Newmont has gone to court to get these ordinances overturned—the same strategy they used for Cerro Quilish that produced disastrous results.

Breaking the cycle of conflict

To break the cycle of violence and conflict in Peru's mining sector, the Peruvian government, mining companies, international donors, and civil society must take immediate steps. Oxfam America recommends the following actions for stakeholders.

The Peruvian government

1. **Strengthen governmental capacity.** The Peruvian government, with the support of international donors, must increase its capacity to regulate the industry to ensure that communities' rights are respected and that the environment is protected. The government should allow an independent auditor to assess the resources and personnel that mining regulatory bodies need to be effective. It should also strengthen the Defensoria del Pueblo to ensure it handles mining-related complaints in a timely and transparent manner. The Defensoria should monitor the implementation of agreements between companies and communities and publish information when agreements are not fulfilled.
2. **Allow the Ministry of the Environment to regulate mining.** Exempting mining from the responsibilities of the newly created Ministry of the Environment was a crude political move that undermines the ministry's credibility. The Ministry of Energy and Mines should not continue to be both "judge and jury" for the industry. Social and environmental regulations must be enforced for the sector to regain confidence. To this end, the government should strengthen the independence of the Ministry of the Environment and ensure that it can operate without undue political influence.
3. **Do not criminalize mining protests.** Recent decrees that have criminalized protests against mining projects should be repealed immediately. In a democratic society, citizens have the right to voice their opinions on development decisions. Nonviolent opposition to government-backed mining projects should be allowed as part of the democratic process.
4. **Recognize the right of free, prior, and informed consent.** Local communities have the right to grant or withhold their consent for mining projects. This right is well established for indigenous peoples within international law. The Peruvian government and mining companies should respect this right. Doing so will help companies avoid attempting to operate in areas where opposition is widespread.
5. **Establish designated mining zones.** Not all parts of the country are suitable for mining, even if they contain economically viable minerals deposits. The government should designate areas where mining may be acceptable and areas where, for social, environmental, or other reasons, it clearly is not. The zoning of the country will help companies avoid areas where conflict is likely to arise.

Mining companies

1. **Respect the right of free, prior, and informed consent.** Companies must operate only in areas where they can obtain the consent of potentially affected populations. Attempting to force operations into areas where communities are opposed is a recipe for disaster. Companies should respect the right of consent and view local communities as partners in the project development process. As partners, local communities should be given adequate and independent information about the potential costs and benefits of a project, as well as sufficient time to decide if they support a proposed project. Respecting community consent also means that companies should not try to overturn community ordinances, declarations, and other expressions of community views on a potential project.
2. **Fully disclose information about project costs and benefits.** At a minimum, all mining companies operating in Peru should actively participate in the country's Extractive Industries Transparency Initiative (EITI) process, a global initiative designed to promote disclosure of revenue payments by oil, gas, and mining companies. Peru has made limited progress since the government signed onto the EITI in 2006. In addition, companies should do the following:
 - Fully disclose how much they are paying the Peruvian government in royalties, taxes, and other payments, as well as revealing the contracts on which those payments are based. This can help deflect community anger and frustration away from companies and toward the government, which is ultimately responsible for ensuring local economic development.
 - Allow communities access to environmental monitoring records and other information that will enable them to better understand the exact nature of the environmental and social impacts that a project is generating.
 - Disclose plans for mine closure, including contingencies for maintaining community benefits if a mine must close as a result of a drop in metal prices.
3. **Facilitate community access to independent advisers and experts.** Given limited government capacity and will to protect local interests, communities are often left to fend for themselves vis-à-vis multinational mining companies. To overcome this tremendous power imbalance, communities must have access to independent experts who can advise them on their rights and help them understand technical social and environmental impact documents. Companies should establish trust funds, administered completely independently of the company, that communities can use to hire their own experts and consultants to advise them in their decision-making process.
4. **Ensure that appropriate personnel are in place.** In a number of situations, the attitudes of company employees have exacerbated the tensions between companies and local communities. Companies should screen employees to ensure that they hire only those who are fully committed to building positive relationships with communities. This

is particularly important for personnel who deal directly with communities on a regular basis. Companies must also ensure that their employees and contractors have no past history of human rights abuse, particularly in the security arena. This is especially important in the exploration phase, which is usually a company's first contact with a local community.

5. **Condemn all intimidation and threats against civil society organizations.** Mining companies should publicly condemn any intimidation, threats, or other forms of harassment against civil society organizations that seek to nonviolently help protect the rights of local communities and the environment. Companies should also publicly distance themselves from media outlets that level unsubstantiated allegations against civil society organizations and individuals.

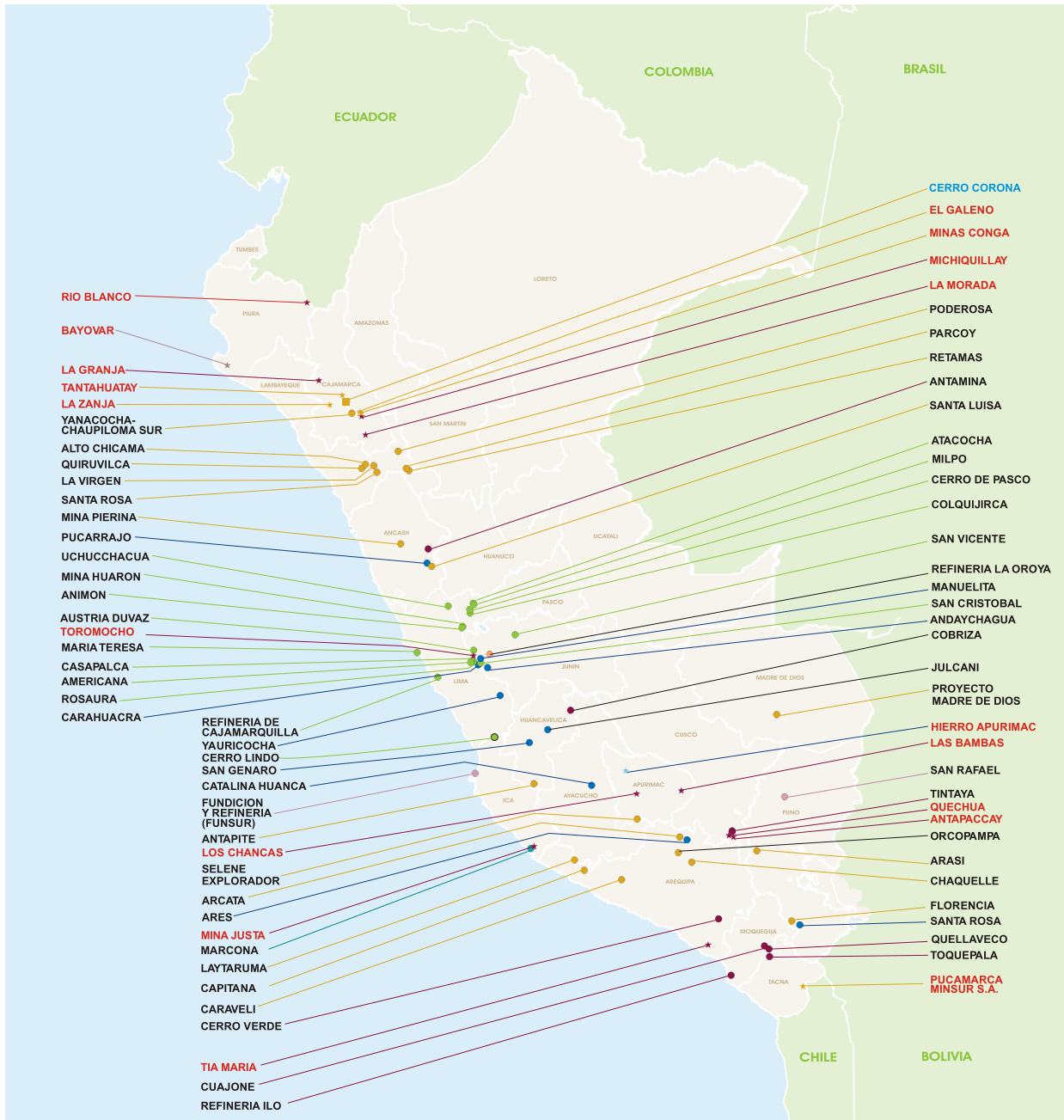
International donors

1. **Strengthen institutions.** All of the governmental institutions involved in Peru's mining sector (environmental, judicial, and technical) suffer from significant weaknesses. Donors should support government efforts to hire and train adequate staff to ensure compliance with social and environmental regulations and to hold violators accountable. They should also support government efforts to strengthen its capacity to manage and resolve mining-related conflicts.
2. **Insist on transparency.** International donors should require full disclosure of mining revenues to the Peruvian government and to those institutions, such as the IFC and private banks, that invest in mining projects.
3. **Support civil society.** Industry and government officials often attack Peruvian organizations working to hold mining companies accountable for compliance with human rights and environmental standards. In some cases, civil society organizations have faced surveillance, threats, and intimidation. The international community should support efforts to strengthen these organizations and ensure that they have the skills and resources to operate effectively.
4. **Support diversification.** Donors should help the Peruvian government diversify its economy in order to reduce the country's dependence on resource extraction. Donors need to invest in agriculture, manufacturing, and other sectors that can create greater opportunities for employment and increasing incomes. Trade agreements should contain provisions that support diversification.

Civil society

1. **Build the capacity for dialogue.** Civil society organizations should work with communities to strengthen their capacity to participate effectively in dialogue with companies and government agencies. Clearly articulating community concerns and interests, and building consensus around them, is important for ensuring that they are addressed. A successful community dialogue process at the Tintaya Mine in southern Peru, where community members received training in dialogue skills, demonstrated the effectiveness of building capacity in this area.
2. **Increase technical competencies.** Local nongovernmental organizations (NGOs) should develop technical expertise on mining and environmental and social impact issues. This would enable them to better interpret technical information that mining companies produce – and advocate more effectively for mining-related reforms and regulations. Increased technical competence could also enable NGOs to better counterbalance the mining industry vis-à-vis the Peruvian government.
3. **Educate the public.** Public opinion in Peru’s urban coastal areas is often unsympathetic to the concerns of communities affected by mining. This may help enable the government and industry to take hard-line positions toward conflicts in mining communities. Civil society could do more to educate the broader Peruvian public about the costs and benefits of mining and the need for urgent action to help the country break out of the current cycle of conflict.

Peru: Major mining projects



Source: Peru Ministry of Energy and Mines

Notes

1. "Peruvian mining: A shiny panorama," Business News Americas, September 2008.
2. "58 Reporte de conflictos sociales" (Lima, Peru: Defensoria del Pueblo, December 2008).
3. "Revolt in the Andes," Economist, Sept. 20, 2007.
4. Associated Press, "State of emergency declared in Peru province," Nov. 5, 2008. Accessed at cnn.com.
5. "Peruvian mining: A shiny panorama," Business News Americas, September 2008. 6. US Senate Committee on Foreign Relations, "The petroleum and poverty paradox: Assessing US and international community efforts to fight the resource curse," Sept. 9, 2008, 66.
6. "Peruvian mining: A shiny panorama," Business News Americas, September 2008.
7. "To the barricades," Economist, Dec. 6, 2008.
8. "Peruvian mining: A shiny panorama," Business News Americas, September 2008. 10. Alan García Pérez, "El síndrome del perro del hortelano" (author's translation), El Comercio (Lima, Peru), Oct. 28, 2007.

Oxfam America's extractive industries campaign—the Right to Know, Right to Decide campaign—aims to arm local citizens with the information they need to weigh the costs versus the benefits of oil, gas, and mining developments, and to decide whether to provide consent for such projects to move forward. If they are consulted in advance, local people can decide whether they want companies to begin or expand operations on their land. And if they know how much companies are paying their government for their natural resources, they can call for a fair share of the proceeds to go to community needs like education, health care, and jobs.

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