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## Social Conflict and Debate in Peru on Canon Minero

*by Guest*

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Throughout 2008, distribution of the "canon minero" (mining canon), through which local and regional governments share in the revenue the Peruvian government receives from mineral exploitation, has been the cause of extensive social conflicts and the topic of widespread debate. Under provisions of the canon, established in 2001 during the transition government of President Valentin Paniagua (2000-2001), 50% of the "third-category" (corporate) income tax paid by mining companies is transferred by the central government to the mining regions. Regions without mining activity receive no canon funds.

In 2007, the Peruvian government took in US\$2.78 billion in tax revenue from the mining companies. That year, 80% of the canon minero went to just seven of the 25 departments in the country, underscoring the inequality in regional resource distribution. A factor that increases this inequality is the Ley del Canon's requirement that the contribution to each region be proportional to the amount of land removed to extract the minerals rather than to production.

This provision was at the root of the social conflict that erupted in mid-2008 between two groups in the neighboring departments of Moquegua and Tacna, in southern Peru. Regions in conflict In Moquegua, the US-based Southern Copper Corp. (SCC), formerly Southern Peru Copper Corp. (SPCC), operates the Cuajone copper mine. And, in Tacna, the SCC extracts copper from the Toquepala mine.

Cuajone has more copper and can extract the same amount of product as Toquepala with less land removal. This affects what each department receives from the canon. In March 2008, the Ministry of Energy and Mines (MEM) announced that Tacna would receive 711 million nuevos soles (US\$237 million) from the canon for 2008, while Moquegua, although it produced more copper, would receive 244 million nuevos soles (US\$81 million), about one-third of Tacna's take.

The people of Moquegua's complaint to the central government about what they considered an unjust distribution of the canon was not long in coming, and, on June 10, an indefinite strike was called. The Moquegua protest included kidnapping 60 police and blocking the Carretera Panamericana Sur (Southern Pan-American Highway), leading to food and fuel shortages in the southern part of the country. About 100 people were injured during the protests. After 10 days, the people of Moquegua obtained a commitment from the central government to transfer 442 million nuevos soles (US\$147 million) to the department.

The funds would be used for development projects in 14 districts in the altoandina zones, the poorest in the department, that do not benefit from the canon minero. The "Moqueguazo," as the

protest in June was called, also resulted in a commitment by the executive to review the distribution of the canon and to propose a regulation requiring large mining companies that extract resources in two or more departments, such as the SCC in Moquegua and Tacna, to maintain separate accounting for each mine. At the end of September, the executive sent Congress Bill 2713 aimed at resolving the issue of separate accounts for the distribution of the canon.

The people of the Moquegua region returned to the streets the following month and began a new open-ended strike, this time to pressure legislators to approve the bill. The mobilizations were met by security forces and the confrontations left more than 80 wounded, between police and civilians. Meanwhile, Tacna also called a 24-hour work stoppage at the end of October to demand that the legislature not change the rules governing canon distributions. On Oct. 30, Congress approved the bill, which modified Article 5 of the Ley de Canon.

Under the new law, when a mining company has various concessions in operation in different locations, "the canon minero will be distributed in proportion to the value of the sale of the extracted minerals or equivalent coming from each concession, based on sworn statements supported by separate accounts that the mining company will provide to the Ministry of Economy and the Ministry of Energy and Mines."

### *Change in formula*

Under this modification, the canon will now be allocated based on the sale value of the extracted minerals and not on the amount of land removed for its extraction. With this change, canon-resources distribution would favor the Moquegua region, which stands to see its income increase by 227 million nuevos soles (US\$76 million) in 2009, according to projections by the organization Mejorando la Inversion Municipal (MIM). Tacna authorities opposed the change and proposed that the canon calculation be based 50% on land removed and 50% on the amount of mineral sold.

This time it was Tacna's turn to defend "its" canon; the police responded aggressively against the demonstrators, and one person was killed. "The country is on notice, we will not turn over one sol of the canon that legitimately belongs to us. We are going to fight, we are going to continue struggling, we are not going to let down our guard. President [Alan] Garcia must obey the [old] regulation," said then Tacna regional president Hugo Ordonez, who added that with the new rule his department would lose 350 million nuevos soles (US\$116 million) this year.

On Nov. 25, the modification went into effect with the enactment of Law 29281, which also established that, when "the area of one operating mining concession encompasses neighboring districts, the distribution will be divided equally." In 2008, under the former system, Tacna obtained 75% of the canon and Moquegua 25%. Moquegua regional president Jaime Rodriguez Villanueva expressed agreement with the regulation, saying, "My people have adjusted their aspirations."

Meanwhile, Ordonez, his counterpart from Tacna, completely rejected the new law and said that he was going to file a complaint in the Tribunal Constitucional (TC). The quid of the matter: equitable distribution. For many, the new regulation solves the immediate crisis but not the underlying issue: the lack of an equitable-distribution formula for resources that belong to all Peruvians.

"They have still not looked at the structural aspect of equitable distribution throughout the country regarding benefits from resources that nature put in some regions and not others," wrote geologist Aurelio Ochoa in the Lima daily La Republica. "What would be fair would be to distribute the remaining 50% of the revenue from mining among the regions that don't receive money from the canon."

### *A deeper structural problem*

"No matter how good the modifications to the canon law, they are only part of a greater problem at the root of the demands for a more just distribution of monetary resources: fiscal decentralization and tax reform," said Vigila Peru, a citizen-watchdog system on decentralization produced by the nongovernmental organization (NGO) Grupo Propuesta Ciudadana.

For decentralization expert Carlos Monge, to broaden the tax base and achieve a more equitable income distribution from the exploitation of natural resources, what is needed is a debate on the windfall-profits tax on mining, that is, the profits obtained thanks to the sharp increase in global mineral prices, especially after 2005.

In the electoral campaign, the governing Alianza Popular Revolucionaria Americana (APRA) promised a windfall-profits tax but dropped the idea after the election. Thus, mining companies only make a voluntary contribution, which in 2007 was US\$178 million (518 million nuevos soles) on profits on US\$5.52 billion.

A Propuesta Ciudadana report at the beginning of the year indicated that the mining companies received 10 billion nuevos soles (US\$3.33 billion) in extraordinary earnings in 2006 and 12 billion nuevos soles (US\$4 billion) in 2007. Propuesta Ciudadana said that the state failed to receive between 3.3 billion nuevos soles (US\$1.1 billion) and 7.7 billion nuevos soles (US\$2.566 billion) by not charging a windfall-profits tax of between 10% and 30% on these earnings. Monge suggests a possible tax rate of 50%. The Peruvian government could give that additional income "as compensation to the regions that have no canon money," Monge told La Republic.

This year regional and local governments will be paid some 4.436 billion nuevos soles (US\$1.479 billion) through the canon minero, 4.5% more than in 2007, President Garcia said in July. Although an average 40% reduction in the price of metals such as copper, lead, zinc, and silver in the last four months means less earnings for the businesses in the sector, the canon is expected to be 5.057 billion nuevos soles (US\$1,686 billion) next year.

The canon minero will really begin to be affected by the drop in mineral prices in 2010, say specialists, who predict a reduction of 30% to 40% compared with 2007. Economist Humberto Campodonico wrote in his column in La Republica, "The regions that have natural resources need to share with those that don't a part of the earnings that those resources generate, to promote a supportive and dignified Peru."

Campodonico said that the underlying problem is not technical (like the new regulation) but rather political. "It has to do with the viability of a development strategy that can integrate the country,

including carrying out an effective tax reform and passing a windfall-profits tax on mining and petroleum production, and its solution must be found through an effective dialogue with all actors."

-- End --