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Peru's Government Lacks Policy to Prevent or Respond to Conflicts

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Faced with its first significant socioenvironmental conflict, Peruvian President Ollanta Humala's administration responded with a heavy hand, making it clear that it has no adequate policy to resolve conflicts and that environmental protection will not be among its priorities.

On Nov. 24, residents of Cajamarca in the northern highlands began an indefinite strike to protest against the Conga mining project, claiming that it endangers water systems and basins vital for storing water and conserving ecosystems.

The mining company Yanacocha (Notisur, Aug. 6, 1992), owned by US-based Newmont Mining Corporation (51.35%), Peru's Buenaventura (43.65%), and the World Bank's International Finance Corporation (IFC) (5%), wants to develop—with a US$4.8 billion investment—the Conga mining project in Celendín and Cajamarca provinces in an area of river headwaters and water sources.

Yanacocha intends to carry out open-pit mining and extract gold found beneath El Perol and Mala lakes, which would be drained to extract the mineral. Two other lakes—Azul and Chica—would also disappear to be used for tailings deposits. The firm's environmental impact study (EIS) says that three lakes would be replaced by reservoirs and one would increase its water-storage capacity.

The mining project's EIS recognizes not only that it will alter the quantity and quality of the bodies of water found in streams and lakes but also that wetlands will be lost, and it indicates that the loss will be compensated with the construction of new wetlands. It also says that these will help reduce the environmental cost of the tailings deposits. "The water first, the mine later," is the company's slogan for developing this project.

"Where in the world is destroying a lake to build a reservoir a responsible practice?...Let's not kid ourselves, a natural lake can never be replaced....They cannot play God," Milton Sánchez, secretary of the Plataforma Institucional de Celendín, an umbrella group of 22 local civic organizations, told the daily La Primera.

The Conga project's EIS was prepared by the consulting firm Knight Piésold and presented to the Ministerio de Energía y Minas (MEM) in February 2010, which approved it in record time eight months later. EIS approvals usually take two years.

The strike called by the Coordinadora de Frentes de Defensa de la Región Cajamarca had the support of regional president Gregorio Santos, and it was carried out peacefully. Initially, the strike had been called for 24 hours but local authorities and residents of Huasmin, Sorochuco, Haualgayoc, and Celendín—the towns closest to Conga—met and decided to make the work stoppage indefinite.

"The government needs to convene a high-level dialogue commission in Cajamarca, and President Ollanta Humala needs to come to this region to resolve the conflict caused by questions regarding the Conga project," Jorge Vásquez, district mayor of La Encañada, told the press.

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Days before the strike began, President Humala had spoken out in favor of the Conga project. "The Conga project is important for Peru, because it is going to allow a great transformation to take place….We reject extreme positions: water or gold. We lay out a sensible position: water and gold," said Humala from the Palacio de Gobierno on Nov. 16. Nevertheless, Humala said that the intention was to ensure responsible mining.

The next day, Humala announced the creation of an entity to provide oversight, control, and auditing of environmental-impact studies. The president said that this agency would be under the authority of the Presidencia del Consejo de Ministros (PCM) and that it will comprise the Oficina de Estudios de Impacto Ambiental of the MEM, the Autoridad Nacional del Agua (ANA) of the Ministerio de Agricultura, and the Oganismo de Evaluación y Fiscalización Ambiental (OEFA) of the Ministerio del Ambiente (MINAM).

**Government affirms extractive model**

The day the indefinite strike in Cajamarca began, the press leaked a MINAM report that Environment Minister Ricardo Giesecke had presented to Cabinet chief Salomón Lerner Ghitis with serious observations about the Conga project's EIS.

The MINAM report says that Yanacocha's mining project "will significantly and irreversibly transform the basin headwaters, destroying various ecosystems, and fragment the rest in such a way that environmental processes, functions, interactions, and services will be irreversibly affected." The report continues, "The project site's vulnerability as a watershed requires a detailed hydrologic and hydrogeologic analysis."

In an interview with the daily La República, Giesecke said that his office had not done a complete review of the EIS—some 16,000 pages—but had focused on rereading the study—in two weeks— to enrich it, see what can be improved, and take into account the company's recommendations. "That in no way means that another study must be done or that it is necessary to stop or to begin from zero. That was never the intention in doing this rereading of the EIS. We do not have a binding opinion, nor was that ever the idea or the spirit because we would be undermining the rule of law," said the minister. He recognized that the competent authority is the MEM.

On Nov. 28, vice minister of environmental management José De Echave announced his resignation, saying that the government has no "adequate strategy to confront social conflicts." He also said that he disagrees with Humala's plan to create an agency within the PCM to oversee environmental auditing and environmental impact studies. "It's going to be a type of parallel environmental authority. And I believe that this is not the most suitable way. The tendency should have been to strengthen the Ministerio del Ambiente," De Echave told La Primera.

And, referring to MINAM's study of the EIS, De Echave said, "That report identified that there were serious problems and that it was necessary for an international expert to look at it carefully. It identified problems in the economic valuation and said that it was not a problem of volume of lakes and reservoirs but of how that system of lakes produces wetlands and other environmental services, which has not been taken into account."

On Nov. 29, Yanacocha announced it was suspending operations of the Conga project. In a communiqué, it said that the reason for its decision was the "requirement of the national government and to restore social tranquility and peace in Cajamarca."
Regional president Gregorio Santos and Frente de Defensa de Cajamarca president Idelso Hernández said that the strike, far from ending—which the government seemed to expect—would continue until the government declared the Conga project unviable. "The response that we demand is not from Yanacocha but from the government, that it declare the Conga project unviable," said Santos at a press conference.

Meanwhile, a delegation of five ministers—headed by Prime Minister Lerner, along with Interior Minister Óscar Valdés Dancuart and Luis Alberto Otárola Peñaranda, his vice minister for internal order, and others—traveled to Cajamarca to set up a dialogue with regional authorities and Cajamarca leaders. On Dec. 4, after more than nine hours of negotiations, they had reached agreement on four points: that the Defensoría del Pueblo would oversee withdrawal of the Conga project machinery; that the EIS would be reviewed with the participation of top-level national and international experts; that a discussion would begin regarding the Plan Regional de Desarrollo de Cajamarca; and that the strike would be lifted.

However, the dialogue fell apart when Cajamarca representatives asked to consult the nearby population. The request was denied; the government demanded that they sign immediately or the deal was off, which is what happened. The government interpreted this as intransigence by Cajamarca leaders, and, in a brief televised statement that night, President Humala said that he was declaring a 60-day state of emergency in the provinces of Cajamarca, Celendín, Hualgayoc, and Contumazá. The president also authorized the armed forces to intervene in support of the national police during the state of emergency.

"Government representatives must consider that the need to consult, far from manifesting intransigence, is the way social leaders normally act, especially with a mobilized population, to avoid being accused of betraying the people and having the agreements rejected simply because they were not informed ahead of time," said the nongovernmental organizations (NGO) Instituto de Defensa Legal (IDL) in a statement released on Dec. 5.

IDL also stressed that, during his campaign, President Humala pledged to begin a new way of solving social conflicts, protecting the rights of everyone and not just those of one side. A promise that he needed to keep especially in this case, since his own representatives warned him of the irregularities and deficiencies in the report on the Conga-project EIS.

On Dec. 6, Humala called for unity in the country and, after indicating that the principle of authority needed to be strengthened, said that Peru is a united republic whose resources "belong to everyone."

Humala's words brought to mind many of former President Alan García's messages during the protest by Amazonian communities in 2009, which carried out a strike demanding that the government rescind some legislative decrees promoting investment in their territories. The confrontation ended with the unfortunate events in Bagua on June 5 of that year that cost the lives of 33 people, including indigenous and police (NotiSur, July 24, 2009). At the time, García said, "It is necessary to understand that when there are resources such as petroleum, gas, wood, fish, and others that can provide work to many people, such resources do not belong to a group because that would mean that more than half of the Peruvian territory belongs to a few thousand people."

Julia Cuadros, director of the NGO CooperAcción, said in a recent presentation at the IX Informe de Conflictos Mineros en el Perú, hosted by three NGOs linked to environmental issues—Fedepaz,
GIRUFIDES, and CooperAcción—that the Conga issue has become emblematic for the Humala administration. She said the administration must be very careful in granting concessions on lands where extractive activities such as mining will be carried out. It would require strengthening environmental authority and the law on redefining land use. "We need a strong authority and a government that prevents conflicts and does not make them worse. We must have the ability and the will to prevent conflicts and not use the same strategies of the previous government," she said.

The conflict in Cajamarca evidently triggered the resignation of Prime Minister Lerner. In a letter to President Humala dated Dec. 10, Lerner said, "Our direct mandate has been dialogue and the seeking of consensus that avoids confrontation among Peruvians and that reaffirms our democratic life and vocation."

The press reported that, during the Cajamarca negotiations, Lerner was willing to give the regional leaders the time they requested to consult the people. Lerner learned from Valdés that Humala had decided to end the dialogue and declare a state of emergency, which undermined his authority. Many had seen Lerner as the "conciliator," the one who guaranteed government stability and promoted dialogue to resolve conflicts.

Humala accepted Lerner's resignation and replaced him with Valdés, a retired lieutenant colonel. He named Otárola defense minister. The new Cabinet, sworn in on Dec. 11, is a technical rather than a political team with very few progressives, causing talk of the government's turn to the right.

Nevertheless, in his first statements as prime minister, Valdés announced that the government would support and convene an international expert evaluation of the Conga project and, following its conclusions, would decide whether the program would go forward. "This is a technical and absolutely neutral response that will avoid continued debate based on speculations or disagreements among state and private agencies and the Andean highlands communities," he said.

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