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Inter-American Dialogue's Latin American Energy Advisor

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Q and A: Will Conflict Over Energy Sector Development Increase?

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Last month, Peru's Congress unanimously approved a landmark law that requires companies to consult with indigenous communities before beginning infrastructure, energy and mining projects on their territories, which is intended to help mitigate social conflicts that have threatened to derail billions of dollars in investment. Meanwhile, hundreds of indigenous people are leading a 526-kilometer march in Bolivia as a show of opposition to the construction of a highway being built through indigenous territory. As indigenous communities in the Andes become increasingly vocal in opposition to development plans, are their protests having a significant effect? Does their increasing clout threaten to derail plans to develop the energy sector in these countries? What compromises should the governments and indigenous leaders make? What are the chances that violent conflict will erupt in the coming months?

A: Shawn Arquíñe, project coordinator at The Democracy Center in Cochabamba, Bolivia:

"While the codification of consultation rights is an important achievement for Peruvian indigenous communities, what the indigenous march in Bolivia underscores is that these laws are often not sufficient in ensuring that the consultative process is actually carried out. Consequently, these types of social conflicts will persist until governments conform to the letter and spirit of national legislation. The 1,500 Bolivians who have mobilized in their march to La Paz are not doing so out of some rigid, archaic opposition to development, but rather to a particular kind of development—one that has historically ignored their cultural values and territorial claims. In an attempt to gain traction with the government for negotiation (President Morales infamously stated 'we are going to build this road whether you like it or not'), these indigenous groups pushed the debate into the public sphere by participating in a historic march. This strategy is proving effective since Morales is concerned with preserving the image he's worked hard to cultivate both domestically and internationally as a defender of indigenous rights and protector of Mother Earth. Even if the proliferation of these laws slows the expansion of the energy sector in the region, it still remains unlikely that a consultative process that is non-binding and does not confer veto power to local communities will seriously jeopardize investments. What may hopefully result are more balanced measures that take into account the local impacts of these development schemes."

A: Maxwell A. Cameron, professor of political science at the University of British Columbia:

"By passing a law requiring consultations before the state approves development projects on indigenous lands, as well as by increasing the royalties paid by mining companies, the government of President Ollanta Humala may have done more for social inclusion in the first few weeks in office than the García government did in the past five years. This is especially welcome in a country with hundreds of conflicts centered on extraction and its environmental impacts, some of which have ended with tragic violence. A study by the Andean Democracy Research Network (one of the authors of which was Rafael Roncagliolo, who is now foreign minister in the Humala government) found that although Peru was a pioneer in legal reforms to encourage direct democracy, it lagged in the effective use and implementation of these mechanisms. By making consultations mandatory, the new law will not end conflicts, and may even increase them, but it will provide a framework for regulation and conflict resolution. Companies seeking to invest in Peru will not be able to ignore local communities, but nor will they be blindsided by protests that seem to come out of nowhere. Many companies are prepared to negotiate with local communities, but it is not up to them to create the necessary mechanisms. That is the role—until now sadly abdicated—of the state. After years of negligence, often justified by the faith that economic growth alone will resolve all social problems, Peru's state is perilously weak. The new legislation is a step in the right direction but it will be only that unless accompanied by reforms in public administration."

A: César Gutiérrez, director of utilitiesperu.com and former president of Petroperu:

"An overwhelming current of international opinion with its local counterparts has led the Peruvian Congress, in the fifth initiative launched by Ollanta Humala, to adopt the Consultation Law, under which investment projects will have to confer with the communities whose territory could be affected. The need for consultation is unquestionable after a number of ongoing conflicts resulted from excess and inappropriate community engagement on the part of companies in the extractive industries. The conflicts have gone to the extreme in the southeastern region, specifically in the Puno region, ensuring that no major project gets realized. The problem is that now the organized groups in the conflict areas have much greater dominance than the state among the population and there is an initial series of difficult conditions for companies that promote entrepreneurship, hydrocarbons, mining and hydroelectric projects. The positioning of the government to obtain permission—although the law doesn't allow the groups to veto projects—will have to be powerful and respond with a strategy that does not currently exist. The consequence is that a moratorium will be unavoidable in many projects involving investments of hundreds of millions of dollars, which can only be reversed to the extent that the state has a policy and action plan, which still must be formulated. Opportunities will be for those who pose a solution to the government."

A: Roger Tissot, member of the Energy Advisor board and independent energy economist:

"One of the most interesting political developments in Latin America in the last decade has been the 'awakening' of indigenous people, seeking their own development path. Not surprisingly, indigenous claims have often been ignored by business and political elites. Populist leaders tried

to co-opt indigenous issue as part of their 'capture all' social agendas. However, populism in Latin America is also often associated with 'developmentalism.' While populist administrations would be quick to denounce bad practices from international oil companies (IOCs)—often referring to actions that occurred many years ago, as in the case of Texaco in Ecuador—they would find it difficult to accept a much more conservationist policy. However, indigenous people tend to strongly oppose oil activities regardless if these are carried out by IOCs or national oil companies. The most creative initiative trying to balance both goals has been ITT in Ecuador, where the government is seeking financial support from the international community to not develop the project, located in the environmentally sensitive Yasuní National Park. It still uncertain if the initiative will succeed; the government is counting on the outcome of the United Nations General Assembly meeting on Sept. 23. Problems with oil activities in the Amazon abound, but these can be summarised by the following points (borrowed from an excellent article in the Petroleum Economist by James Wagner and Murray Jones): Challenging logistics, lack of government presence, weak consultation process, managing social changes, indigenous people seeking voluntary and the legacy of the past. These issues are likely to become more pressing as activity increases in Peru and other Andean countries. However, they are unlikely to result in drastic changes since indigenous are still a minority vis-a-vis the rest of the population. Second, populist or pro-business regimes alike share the same desire to increase revenues by exploiting their oil potential. The key issue is if these projects will be done in a manner that takes into account the complex socio-environmental issues existing in the Amazon, or by using brute force and repression."

The Energy Advisor welcomes responses to this Q&A. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org with comments.