

“Conga Va o Va”

Executive Summary

In 2012, more than one hundred socio-environmental conflicts in Peru resulted in dozens of deaths and hundreds of injured people. In July 2012 alone, the Peruvian National Police killed five unarmed protesters and injured dozens more during mobilizations by local communities who opposed large-scale development projects like the proposed Conga gold mine project in the Cajamarca region of Peru. This report addresses the Conga conflict and evaluates allegations that the mine will impose severe detrimental human rights, environmental, and social impacts on the local population.

Economic Development Vs. Human Rights and the Environment

Peru’s national government and the gold mining companies maintain that the Conga project will bring wealth to the region. Residents greet such claims with skepticism, since Cajamarca remains one of the poorest regions in Peru even after twenty years of hosting the largest gold mine in Latin America – the Yanacocha mine, owned by the same joint-venture that plans to run Conga. Yanacocha is the third largest gold mine in the world, and Conga would be three times its size.

Peru is the sixth largest gold producer in the world, and 31% of that gold comes from Cajamarca. Despite this bounty, local community leaders hold that gold mining has failed to improve their economy and well-being. Rather than economic prosperity, the communities affected by Yanacocha – primarily subsistence farmers – have experienced environmental contamination, violence between contractors and residents, human rights violations, and a lack of transparency and appropriate consultation. Gold mining in the region has generated conflict, not prosperity.

Effect of Conga on Water, Land, Agriculture, and Culture

Residents of affected communities and international experts believe Conga will generate even more negative impacts. Their main concern is water. A popular anti-mining slogan in Cajamarca is “*agua si, oro no*” (“yes to water, no to gold”). Many predict that the mine will drastically reduce already depleted water supplies needed for agricultural and domestic use while further degrading available water quality. To construct Conga, Minera Yanacocha plans to drain several lakes and adjoining wetlands, use the empty pits for mine waste, and replace the lost water with rain-fed reservoirs. The company claims this plan will not affect water availability or quality. However, independent experts assert that the lakes form part of a complex hydrological system, and that draining and filling them with cyanide-laced mine waste will have far-reaching negative environmental and socio-economic effects. Similarly, the Peruvian Ministry of the Environment has questioned the company’s claims regarding Conga’s water impacts. Beyond the environmental risks, surrounding communities consider the lakes slated for destruction as sacred.

Implications of corruption have tainted approval of the Conga Environmental Impact Assessment (EIA). The official who approved it had previously worked for the mining company and attempted to hide this

conflict of interest by having his secretary sign the approval order. Beyond these and many other procedural irregularities, an array of international environmental and engineering experts have found the Conga EIA's analysis of environmental impacts inadequate, particularly with respect to hydrological impacts. Their reports indicate that Conga will likely result in irreparable damage to the water and land with severe impacts for livelihoods and agriculture in the region.

The majority of rural Cajamaricans rely on agriculture and livestock farming for their livelihoods, making land use critical to economic survival and cultural integrity, yet environmental contamination from Yanacocha and the mining companies' aggressive land acquisition tactics have already reduced the supply of farmland in Cajamarca. A number of interviewees indicated that environmental contamination and water shortages caused by Conga would substantially reduce the ability of these communities to continue farming and threaten their cultural integrity and unique connection to the land. Destruction of the lakes, damage to agricultural activities, and displacement of families caused by the mine will fundamentally alter these communities' way of life.

Lack of Meaningful Consultation

Many communities that will be affected by Conga have had no meaningful opportunity to express concerns about how this project will affect the issues listed above; that is, they have not been consulted in accordance with domestic and international law standards. Although a public hearing was held as a precondition of approval of the Conga EIA, we received reports that many affected communities were either not represented or blocked from attending, and that the hearing provided neither sufficient information nor an adequate opportunity to be heard. The inadequacy of the consultation process seems to be supported by a 2012 poll conducted by Peru's leading polling institution, in which 78% of Cajamarca residents opposed Conga.

Opponents likewise criticize the government for its failure to initiate dialogue until the conflict had escalated and characterize these late efforts at dialogue as under-inclusive, non-transparent, and dismissive of community concerns. Attempts at dialogue have been marred by government antagonism and refusal to allow community leaders to participate on equal terms. Community leaders also mistrust company efforts to increase community support by temporarily suspending mine construction. Several witnesses provided photographic evidence that the company has not removed any machinery from the mine site and reported that it continues to drain wetlands in preparation for construction of the mine pits. The affected communities argue that the failure to consult them properly, as well as these insufficient efforts at reconciliation, demonstrate a lack of respect towards them by both the State and the company. The resulting mistrust of the State and the company has intensified the continued conflict and reduced possibilities for resolution.

Social Protest and Excessive Use of Force

The security situation surrounding the Conga conflict also raises serious human rights concerns. The mining companies have several contracts with the Peruvian National Police to provide armed security for Conga and Yanacocha, and they also maintain a private security force, all of whom have questionable human rights records. The National Police has repeatedly used excessive and lethal force against unarmed Conga protesters and has mistreated detainees arrested for protest activities. Similarly, the mining companies' security forces have been implicated in a series of human rights abuses almost since the

inception of the Yanacocha mine, typically in the course of peaceful protest. Peru's international legal obligations require it to investigate human rights violations committed by the National Police and ensure that no further violations occur.

In addition to this pattern of violence, Peru has adopted questionable legal measures to criminalize legitimate social protest activities, target Conga opposition leaders, and suspend their rights to freedom of expression and assembly. This includes the filing of ostensibly frivolous criminal charges against Conga protest leaders and the likely unjustified imposition of multiple states of emergency upon Cajamarca, which collectively have had a chilling effect on human rights defender activities.

The Role of Switzerland, the United States, and Peru in Solving the Conga Conflict

In this report, the International Human Rights Clinic at Santa Clara School of Law and the Society for Threatened Peoples Switzerland argue that a resolution to the Conga conflict requires leadership by Peruvian, Swiss, and U.S. governments and extractive industries in taking measures to ensure that the obligation to respect, protect, and guarantee human rights and a safe environment does not take a back seat to the development of mineral wealth.

Peru, the United States, and Switzerland play a decisive role in the Conga conflict. As is the case with other similar projects, Peru provides the gold, the U.S. mining company Newmont Mining Corporation extracts the gold, and Switzerland receives the vast majority of that gold for refinement and sale. Given their financial stakes in the project, each of these countries has a responsibility to help resolve the conflict generated by Conga.

Gold is at the center of Switzerland's involvement in Peru. Switzerland is Peru's third largest trading partner, and the number one destination for Peru's gold exports. More than half of the gold extracted in Peru is shipped to Switzerland for refinement. Switzerland's four main refineries together hold 50% of the world's gold refining capacity. Of these four, the Valcambi refinery, which is majority-owned by Newmont, refines the gold extracted in Yanacocha. Given the importance of the Swiss market for Peru's gold mining industry, the Swiss government has an important stake and role to play in the Conga conflict.

Switzerland has already taken steps to become a world leader on good practices in the gold industry, but to solidify these efforts, the Swiss government should exert its influence to call upon Peru and Newmont to address the concerns of affected communities, respect human rights, and protect the environment. Similarly, the United States has an obligation to ensure that its corporations, including Newmont, do not become complicit in human rights abuses in their activities abroad.

In sum, the states and companies that profit from Peru's gold mining industry have a joint responsibility to work with Peru to resolve the conflicts that arise when, as in Conga, large-scale development projects clash with environmental concerns and human rights obligations.