

May 24 2017

Business and Truth Telling: The Bittersweet Case of the Colombian Peace Process

dhananit

By Maria Hoyos*

Last month, in a tiny village of central Colombia called Cajamarca, a local referendum was conducted to ask its citizens if they wanted the gold mining project of La Colosa – granted to the South African company Anglo Gold Ashanti – to be held in their territory. [Over 98% of the citizens voted against the project, claiming their right to water, health and environment.](#) As national media reported: “Water won over gold in Cajamarca”.

However, days after the results, the Minister of Mines came out to the public saying that a [mining license for exploration has already been given to Anglo Gold](#), and he argued that this kind of popular decisions could not act retroactively. Although the future of the project is still uncertain, [\[1\]](#) the position of the Colombian government opens some questions for the path that the country will follow towards business and human rights, especially in the post-conflict context.

On one hand, beyond the fact that this decision holds a huge precedent to strengthen environmental rights, it is also an example of [how collective action can oppose big business](#). However, it can determine what will happen in the future with conflicts between communities and extractive industries. In order to tackle poverty and inequality in the countryside – both seen as root causes of the armed conflict – the peace agreement has one chapter on rural development based on the empowerment of peasant farmers and the concept of “territorial peace”. If local participation, such as the one led by the people in Cajamarca, is not taken into account, this may weaken the rural transformations needed to achieve peace in the long-term and will delegitimize the entire process.

On the other hand, it opens some questions on the role that big companies will play in the processes of truth telling. During the negotiations, the discussions around the responsibilities of the private sector and their part in human rights violations were a key issue. As a result, the third chapter of the first peace agreement [\[2\]](#) included that the Special Jurisdiction of Peace – which contains the institutions and the scope of the transitional justice process – could be applied to all whom, directly or indirectly, participated in the armed conflict.

Although this was seen as one of the biggest advances in the peace process, the writing slightly changed in the second agreement. It now limits its participation only if the demobilized combatants name them as active and determinant financers of an armed group, leaving aside all those who acted or benefited indirectly. The Congress reaffirmed this position in the debates around the Special Jurisdiction of Peace. During the sessions, the common belief that companies were extorted rather than beneficiaries of conflict gained support.

This new framework has an important link with what just happened in Cajamarca. Anglo Gold has other mining titles around the country, most of them in places where the conflict was very high. This has led to the hypothesis that, although there is not proof that this company gave direct economic support to armed groups, it did [gain some benefits](#) from what was occurring in those areas. [It acquired mining titles in places where guerrillas and paramilitaries were displacing and dispossessing thousands of people from their territories.](#)

A good example of this is what happened in the Alto Andágueda Resguardo in Chocó – a protected indigenous territory of the Embera Katío community, a zone highly affected by human rights violations. According to an [ABColumbia report](#), by the year 2013, 62% of the community’s territory was subject to mining titles, the majority of them given to a joint venture agreement between Anglo Gold Ashanti and Glencore Colombia SAS.

In 2014, a ruling from the Tribunal of Land Restitution, an institution created under the Law of Victims – a transitional justice law that regulates the process of land restitution for victims of the armed conflict – questioned the timing and the context where the mining titles were requested. Most of them, including Anglo Gold’s, were granted when the indigenous community was in the midst of enormous human rights violations. By proving the vulnerabilities experienced by the Embera Katío community at the time when the titles were given, the Tribunal ordered the National Mining Agency to suspend the mining concessions already granted and to nullify other applications.

This case reveals how the Colombian state seems to have a contradictory position regarding how to manage the relationship between the private sector and the armed conflict. On one hand, it seems to be willing to place the reparation of victims in the centre, giving them back what they had lost. On the other hand, it seems that it is not willing to uncover the role played by big companies in the 50 years of war, especially after the changes introduced in the second peace accord.

The outcome from the popular consultation in Cajamarca, therefore, is not only a dispute between different ways of understanding what development should be like in rural areas, a debate in which the government seems to support mining projects that could [bring other human rights violations in the future](#). It is also a statement about the past and the kind of truth that will be told during this transition. If the way in which Anglo Gold and other companies gained their properties and titles stays unknown, the narrative around what happened during the conflict and how this dynamics changed the reality of thousands of people and their territories will remain incomplete and affect the truth-telling process. If this occurs with other companies, the non-repetition of violent acts will be hard to sustain, as they may perceive that they will never have to face any kind of justice for the acts they have committed.

Works Cited

ABColumbia (October 2015) "Fuelling conflict in Colombia: The impact of gold mining in Colombia" [online] http://www.abcolombia.org.uk/downloads/ABC-Choco_mining_report_V7_Screen.pdf

BBC News (28 March 2017) "Colombia minister in battle over Cajamarca mining ban" [online] <http://www.bbc.com/news/world-latin-america-39425592>

CETIM (11 November 2014) "Mining and Human Rights Violations in Colombia: The Case of Anglo Gold Ashanti vs the Afri-descendant Community of La Toma (Cauca)" [online] <http://www.cetim.ch/mining-and-human-rights-violations-in-colombia-the-case-of-anglo-gold-ashanti-vy-the-afri-descendant-community-of-la-toma-cauca/>

Cooke, Lacy (31 March 2017) "Colombian town turns down \$35B gold mine – prefers a clean environment" [online] <http://inhabitat.com/colombian-town-turns-down-35b-gold-mine-prefers-a-clean-environment/>

IKV Pax Christi (May 2009) "Report on the AGA mining project in Cajamarca" [online] <https://www.paxforpeace.nl/publications/all-publications/report-on-the-aga-mining-project-in-cajamarca>

Specht, Doug (18 April 2017) "Cajamarca's rejection of mining in Colombia was also a victory for social media and social mapping" [online] <http://blogs.lse.ac.uk/latamcaribbean/2017/04/18/cajamarcas-rejection-of-mining-in-colombia-was-also-a-victory-for-social-media-and-social-mapping/>

[1] AGA announced that it will paused their activities in Tolima for now.

[2] This agreement was voted against on through a referendum in October of last year: <https://www.theguardian.com/world/2016/oct/02/colombia-referendum-rejects-peace-deal-with-farc>

**Maria Hoyos is a MSc Human Rights alumni (2015-2016) and a former Blog Team Member. She is now working as a researcher in the Unit of Land Restitution for victims of forced displacement and dispossession of land in Colombia. To see one of her previous posts follow this link <http://blogs.lse.ac.uk/humanrights/2016/03/10/dismantling-labels-colombias-long-term-challenge-towards-peace/>*

She can be reached at mariahoyos4@gmail.com.

This entry was posted in [Business](#), [Environment](#), [War](#) and tagged [Business](#), [Business and Human Rights](#), [Environment](#), [war](#). Bookmark the [permalink](#).