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Informal gold miners, security and development in Colombia: Charting the way forward

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ABSTRACT

The argument here is twofold. First, mining formalization should not be viewed as an isolated process, but rather as part of a complex package involving the synergistic achievement of strong legislative, judicial and security institutions through an inclusive environment. Second, its persistent failure in Colombia is due to a combination of a weak State, powerful insurgent and criminal organizations, as well as government policies that generally have not taken into account the interests of artisanal miners. The focus here will be upon informal gold miners. Canadian corporations and their relation to artisanal miners will be emphasized, given Canada's dominant role in the country's extractive sector.

1. Introduction

The road to formalizing the mining industry in developing countries has been generally marked by potholes and dead-ends during the last three decades. Colombia, where the mining and oil industries have played a dominant role in the economy, is emblematic of this struggle. Formalization of the mining sector is a highly desirable goal for government, business and local mining communities provided that it is negotiated through an inclusive process that addresses the key interests of all concerned. In practice, those ideal conditions are difficult to achieve. Carefully constructed short and medium-term policies can help fill the gap between informal mining and formalization in the realms of conflict resolution, regulation, education, certification of production, and inclusionary decision making. Further, mining formalization should not be viewed as an isolated process, but rather as part of a complex package involving the synergistic achievement of strong legislative, judicial and security institutions through an inclusive environment. Its persistent failure in Colombia is due to a combination of a weak State, powerful insurgent and criminal organizations that benefit from illicit industry, as well as government policies that generally have not taken into account the interests of informal miners. The focus here will be upon informal gold miners.

We will begin by defining formalization, and will then conceptualize it through a tripartite arrangement between the State, mining corporations and local communities. This will be followed by an historical analysis of mining in Colombia since the gold rush of the mid-1800s, and a discussion of the persistent features of political fragmentation, violence and a weak State that frame informal mining in the country. The focus will then shift to the scenario of mining in the 21st century and the current panorama of mining informalization.

2. Different worlds

When we consider the plight of formalizing artisanal miners in Colombia, and in the Global South more generally, one question that comes to mind is whether or not the experience of the developed nations can serve as a helpful context from which to guide developing countries today. The short answer is no, based on the experience of mining-intensive British Columbia, Canada, where I reside. The formalization of mines in British Columbia began shortly after the California Gold Rush of 1848–49, the world's largest such phenomenon (Government of British Columbia, no date:1). Disillusioned with depleting prospects in California, miners streamed directly northward into colonial Canada. While relatively small amounts of gold were first discovered in BC in 1852 in the Queen Charlotte Islands (Government of Canada, 1945, 1; Taylor, 1978, 1; Lamb, 1900, 543), it was not until the discovery of significant amounts of placer gold in the Fraser River and Cariboo regions of BC's interior during 1857–1860 that California miners migrated northward (Government of Canada, 1945, 2; Cranstone, 2002, 9; Government of Quebec, 1864, 7; Brown and Ash, 2009, 16). More broadly, the colonial government in Canada had accumulated considerable experience regulating the fur trade across the country, and subsequently turned its attention to formalizing mining in the wake of a gold boom initiated by the California rush (Laforce, Lapointe and Lebuis, 2009, 56).

Two things are striking right from the start. First, the State in

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colonial Canada acted almost immediately to regulate the growing mining industry in BC. In 1857, when James Douglas was Lt Governor of the Queen Charlotte Islands, in relation to the relatively small amount of gold on the islands, he proclaimed “that all persons who shall take from any lands within the district any gold metal or ore contained gold or who shall dig for and disturb the soil in search of gold metal or ore *without having been duly authorized in that behalf by her Majesty's Colonial Government will be prosecuted both criminally and civilly as the law allows”* (Taylor, 1978, 18). The Crown Colony of British Colombia was created in 1858 largely in order to regulate mining during the relatively large gold rush in the interior of the province . A month after BC was formed, James Douglas, now governor of this larger region, issued the first proclamations of the Gold Fields Act, which became fully developed in 1859. The act established a ‘Gold Commission’ in charge of regulating gold mining. It also included provisions regarding mine registration, water rights, and governance structures, and so on (Government of British Colombia, 1859).

Secondly, the miners welcomed the regulations and security structures that accompanied the formalization process. Miners arrived to BC in private armed parties prior to the provision of government security services (Brown and Ash, 2009, 16). As the BC government noted in its historical portrait of the gold regulation procedures and its aftermath, “There was general agreement among the pioneers that lawlessness played little part in the mining community” (Government of British Columbia, no date:6). The Gold Commissioner's job was to engage in conflict resolution and mediation as means of mitigating against violence. Given the consensus between the miners and the government, that objective was largely successful.

The Canadian experience with the formalization of gold mining occurred within a much different context than the one faced by developing countries today. The State was strong and intent on regulation, and miners consented to, and gained from, the formalization process. The State achieved a Hobbesian monopoly of force, but rarely had to use it against the backdrop of social hegemony underpinned by wages and political rights that were perceived as fair. Since this was an incipient phase of the industry with individual or small groups of miners, the State and local miners could not be pressured by powerful corporations. As we shall see, the current situation in Colombia is strikingly different than the portrait above on every count.

3. What is formalization?

Formalization of mining entails the creation of government legislation with regard to registering, regulating and monitoring the industry. It also involves the government's capacity to enforce such legislation, as well as clear legal arrangements regarding ownership of resources and land (Siegel and Viega, 2009, 52). The achievement of formalization should be viewed as protracted progress toward a clearly defined goal (Gobierno de Colombia, 2014, 29; Gobierno de Colombia, 2014, 29; Eshevarria, 2014, 9). *Artisanal* or *traditional* mining is performed with basic tools rather than machines. It is subsistence mining. There are estimated to be about 16 million artisanal gold miners worldwide, producing between 380 and 450 tons or gold annually (Oseas and Veiga, 2015, 244). Informal mining is a broader term that refers to the general conditions of production. It includes the lack of legal title, but also involves the absence or low level of mechanization, the reliance on family members or a small number of workers, relatively small quantities of minerals produced, and involves small, hand-dug tunnels rather than open pit mines or major excavation projects (Uran, 2013; Guiza and Aristizabal, 2013, 34). *Small, medium and large scale* mining involves increasing degrees of both mechanization and mineral product (Tubb, 2015, 725).

4. Conceptualizing formalization: *The state*

The emphasis throughout this section will be upon interest-based political economy, from the perspective of key actors including the State, businesses, and mining communities. Each of these stakeholders perceives a unique array of costs and benefits associated with the formalization of mining. First, it can benefit government in a number of ways. It can provide the State with significant levels of funding through taxation of the industry, capturing vital income for developmental projects. Formalization can also foster stability and security by denying funding that might otherwise serve to fuel illicit armed groups and insurgents. It can help promote community welfare and labor stability through regulation of the mining industry that results in livable wages, safe working conditions and sound environmental standards. That kind of stability can be vital for attracting foreign investment.

The State's capacity to formalize miners depends on an array of competent and efficient government agencies, as well as streamlined coordination between them (Siwale and Siwale, 2017; Zeng, 2015, 30–9; and Shen and Gunson, 2006). First and foremost, the State must have the political will to properly formalize artisanal miners. Further, beyond any directives to formalize emanating from the executive and legislative arms of the government, the agency that oversees mining needs to be formidable in a number of senses. It needs to be able to properly implement formalization laws throughout the country, often in peripheral regions where the government may not have had a strong historical presence. It must make miners aware of new laws and explain their various aspects and nuances. It also needs to provide assistance to informal miners who may have problems with literacy and who may lack access to on-line applications for formalization.

The process can be costly for artisanal miners. The application process for formalization usually involves the provision by artisanal miners of technical land survey data and information regarding compliance with environmental standards. Further, certified training in safety, environmental and mining programs are standard in formalization regimes. Thus, for the process to succeed, the government must provide grants or credits to miners to cover the costs of the application process, or underwrite the funding required for the country's banks to do so.

Once miners are formalized, the government's mining agency requires the capacity to inspect mining sites for compliance to regulations, and to embark on the initial phase of enforcing them where necessary. It must also establish a clear national registry of mines to guard against overlapping mining concessions. A strong and efficient judicial system is required to resolve conflict peacefully between miners, corporations and the State (LeBillion, 2011, 9). Finally, a robust security structure is necessary to enforce regulations and to prevent the incursion of illicit armed actors into the industry.

There are two prominent impediments to State formalization of the mining industry that will be briefly introduced here and then developed throughout the piece. First, the Colombian government lacks the capacity to formalize mining, due to an historical trajectory of a notoriously weak State. In Colombia's case the situation has been exacerbated by neoliberal policies that have diminished an already feeble government capacity. The Debt Crisis of the 1980s meant vast economic and political restructuring for developing countries, especially in Africa and Latin America, that lasted into the 1990s (Harvey, 2017). The result was a TNC-friendly environment through low taxes, limited regulation, curtailed State ownership of economic enterprises, and devalued currencies that made labor and overhead costs cheap. This era also ushered in drastic cuts in State expenditures, especially regarding social welfare programs and regulatory agencies. The crucial point is that the development of State structures in much of the Global South, still at an incipient stage compared to developed countries, was suspended and then reversed as a result of neoliberal restructuring (Elbra, 2014, 218). More specifically, this era reduced the capacity of the State to formalize miners in developing countries such as Colombia. As we shall see, the combination of anemic State capacity and questionable political will represent a key obstacle to mining formalization in Colombia.

A second formidable impediment to formalization is the booming