
LESSONS IN ADVOCACY WORK FOR

Public Policies

For Small-Scale Mining

Peru Case

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Introduction

This is about systemizing the experience of Peru into advocacy work in public policies of the distinct levels of government, i.e. the central government, regional and local, proceeding from diverse civil society actors, named producers, organizations of producers in small scale mining, nongovernmental bodies, international co-operation, amongst others.

The public policies advocacy, by nature, has been developing since long ago, in the beginning without much coordination, disconnected, and in isolated efforts. Little by little it has been reaching important union levels, although it still isn't completely centralized as the extent of the work requires, existing even in current diverse strategies.

For our present work to be effective, we have to present the facts while maintaining a concise form of the confluent visions, as the coincidences were given, their effects on reality and the lessons learned in this process.

It is essential to point out that in this introductory part, the way to determine the scope, that the public policies are expressed in legal provisions on different levels, in government plans, in the budget and in the concrete actions that develop governmental authorities of the mining sector and regional sectors; the impact refers to how it has developed influence strategies from civil society, the formation, planning and development, to achieve better results and work participation, citizen vigilance and monitoring the action of the state.

1. The producers

While it is true that artisanal mining in Peru is long standing, it's in the last 20 years that it has experienced an extraordinary growth driven by various objective factors:

- a. Economic crisis; the recession of the 1990s onward, together with the strong deterioration of agricultural working conditions, massive lay-offs in the capitals.
- b. The internal war that caused the movement of displaced people.
- c. The increase in the price of metals, especially the price of gold.
- d. The existence of displaced workers from large-scale mining with mining knowledge that could adapt technologies and procedures to the necessities of small-scale production in difficult conditions.
- e. Liberation of the gold market
- f. The existence of mineral resources, which is to say, the presence of gold in diverse forms and deposits in the country's three regions.

2. The 1992 Legislation

Ds. 014-1992 General mining law: general formalization outline

The General Mining Law was passed in 1992, is in force today, and doesn't consider any conceivable aspect in relation to artisanal and small scale mining, disregarding the existence of this sector so that all of the established norms are in relation to the large and medium scale mining. With these conditions, the entire process of formalization has to fulfil the same requirements and conditions as large-scale mining.

3. Formation of the first artisanal mining companies

In the 90s the first artisanal mining companies formed in the mid-south, fulfilling the requirements of the general mining regime: Sotrami, Aurelsa and La Victoria. This is a result of the international cooperation intervention through training courses and advancing their own producers, who went forging their leadership each time with greater perspective.

In Puno they formed the Ananea Co-operative, La Rinconada and Cerro Lunar, that is going to build a serious force for organizing their work.

In Madre de Dios they are already developing the production for small-producing miners, which leads the forces to formalize in this work zone.

4. The Organizations

Similarly they are going to forge the organizational representatives of these producers. The federation of the miners of Madre de Dios, the regional co-operative of Puno and the Association of producers of the mid-south, Amasuc.

These organizations although they don't represent all artisanal miners because they already have a strong growth, are building the most committed and represented sectors to look for a way out and solutions for artisanal mining producers.

5. Restoration of democracy and decentralization laws

In 2001 democracy was restored, we first entered transitional government and later in the government democratic election, giving a strong boost in decentralization, the formation of regions, the implementing of strategic and participatory planning and participatory budgeting in local and regional spaces, generating a favourable framework for civil participation.

At this time the debate is extensive and includes constitutional issues, penal institutions, civil rights, producer rights, amongst other debate topics.

From 1990 to 2000 the rules of the country's economical game had been modified, they had privatized almost all of the public companies and governed the rules of economic liberalism, extremely flexible labour laws that reduced the cost of labour, favouring the conditions of private investment on all of the extractive activities of raw materials.

6. Coordination of artisanal mining regional leaders

In that contextual framework of some regional artisanal mining leaders, and with the support of international cooperation, (particularly that of Project Gama, the Swiss Cooperation, OIT and various local NGOs) take the initiative to coordinate with regional leaders in order to draw up a legal proposal for the formalization of artisanal and small scale mining, which forms part of the general mining law.

The regional leaders of Madre de Dios, Puno and the mid-south organized themselves and worked in diverse workshops; first gathering the particular problems of each region and the demands of each zone, later in the form of a legal proposal to be passed in Parliament.

The CONAMA was formed (The National Committee of Artisanal Miners), as representatives in this initiative.

The first work scenario in this case was Parliament, in particular the Mining Commission, where the first step was to convince parliament members to endorse their legislative initiative. A second step, achieved earlier, was to lay the foundations of each article proposed before the Commission. The mining leaders played a fundamental role in the whole process, as it was an apprenticeship school for the formation of laws, on how to

raise demands and how to finally have them written in a legal context, where the original proposal isn't always commissioned.

The second scenario that the leaders advocate is the scope of the Ministry of Energy and Mines, with political authorities and technical experts, creating spaces to reflect and analyze together on every initiative, comparing the desirable and the possible.

There were other scenarios that also had to be met. While they didn't have direct responsibility for the device approval, they were – and continue to be – influential sectors: the Mining Society, the School of Mining Engineers, the university, individuals, specialized journalism, in which the miners attend all of these debate scenarios to lay foundations for their proposal.

7. Law 27651 Approval Process

After achieving approval in the Energy and Mining Commission, (a project that concerns the fundamental aspects to facilitate the formalization of artisanal and small-scale miners) it covered the advocacy work in the Parliament Plenary session so that the Commission's report will be approved. The greatest obstacle that arose for the government was to neither abandon the law's deadline and respect it – instead of making partial observations – nor pass it. As it had been approved in the plenary session unanimously, the Congress President signed the passing and converted it into the Law 27651.

In this mechanism the most important aspects are:

- a. Recognizing that this sector exists that provides income for thousands of families throughout the country.
- b. Clearly setting up the manner in which they can formalize artisanal and small scale mining
- c. Establishing a clear outline – for such a concession, height of production or contract for exploitation – for the requirements to be qualified as a small-scale or artisanal miner
- d. The state undertakes training through a National Plan of development and the training of the miners are put in order
- e. Adjusting the procedures and the cost of procedures for the environmental permits without reducing the quality of environmental commitments
- f. Establishing responsibilities over mining safety and hygiene
- g. Tax benefits
- h. The payment of penalties and fines for infractions in agreement with the stratum of artisanal mining
- i. Artisanal and small scale mining auditing is transferred to the regional governments.
- j. Even the law goes through a transitional clause, the second (of a total of 6 transitional provisions) where the preferential right of the miner to be free to carry out a petition.

8. Regulation Debate

DS 013 – 2002. MEM.

The debate and subsequent promulgation of the regulation expressed the sectors that are opposed to this law, which in the regulation try to further limit the action of the artisanal miners, putting in force the law's restrictions:

- The first petition that had to be made under the general regime; paying the same fee as the large mines.
- Limiting the exploitative contracts
- The boundaries of ownership granting should follow "surrounding provinces"
- Despite these and other restrictions, the law and its regulation construct a real possibility to formalize under the condition that the producer has the willpower to formalize and expresses a firm commitment

9. Formation of AMASUC

After two regional meetings (one at the end of 2001 and the second in July 2002) forming AMASUC as a representative body of artisanal mining producers in the mid-south and in the second selecting a board of directors, confirming its work plan and inscribing it in Public Registries so that it can have legal framework.

10. Formalization Strategy for the mid-south:

Starting with these agreements and the passed devices, we define a formalization strategy that allows the producers to legalize themselves, improve their environmental performance and establish profitable long-term economic activity, for which we work with these four central ideas:

- a. Strengthen the organizations; this includes improving their democratic and participatory performance, strengthening internal leadership, being conducive of a permanent attitude of proposition, where the producer is the key player.
- b. Form productive organizations; there is no other way to formalize if not with a productive organization, which could be a company, a production co-operative, a mining society, etc. But it must be a democratic, productive, transparent, profitable and efficient organization. The formed companies should work as a business, all in one purse and not remaining an "umbrella company".
- c. Legalize; which implicates knowing the law and its regulation, applies to the requirements and fulfils them in agreement with the system. To look for new solutions to particular situations that present themselves in order to achieve legalization.
- d. Use of cleaner and more efficient technologies; to surpass mercury technology and work at another scale, through cyanidation, with technical assistance and the most environmental care, inspected by the State. Evidently this change also entails better efficiency in its operation and raises another dimension in the development of the company.

These four central ideas are of simultaneous implementation, linked to each other, applied in the aspect of training, projects, views of each base, and local concertation boards, etc, looking to permanently have a demonstrative effect.

Legalization is within an entirety of actions that the producer has to adopt in order to secure solid foundations for its company.

This strategy has allowed us to count more than 40 artisanal mining companies in the mid-south zone, formalized, many of them being deed-holders, and in the process of expansion and application of clean technologies, socially and environmentally responsible.

Certainly the evolution of the price of gold favours the situation, allowing a cushion for errors and correcting them, but the most important is that the producer has a willing attitude to look for solutions and alternatives and to take on the challenge of creating his/her company from a community basis as a profitable and responsible company.

11. Involving distinct bodies of the Central State

Within the process of applying a comprehensive formalization strategy, it looked to involve the State (especially the Mining Ministry) looking for a direct dialogue at the level of its authorities (minister, vice minister) through their specialized technical agencies. It made an effort so that the experts of these distinct bodies attend the training activities in the mining bases and at the same time achieves the objectives of the experts and public officials by knowing more firsthand the complex reality of artisanal mining.

It also involving other central government bodies: Labour, the tax and industry agencies, etc. in the training carried out from the very foundations.

12. In-depth study on decentralization

The formalization law for artisanal mining has transferred its field in relation to the Regional Government sector, that which allowed us to work with them, in particular with the regional government of Arequipa.

With Arequipa beginning its responsibilities over territorial development and tax investigation, has carried out a project with the planning for training and formalization for artisanal mining together. It has established a drawing board for provincial and local scopes, together with the producers, where they had adopted agreements and commitments within completion deadlines in issues that break open the environmental problem, and cover topics in formalization, technical training, and management, amongst others.

A project exists in the regional governments of Ayacucho and of Apurimac in the same sense, but less advanced, covering everything on the commitment level of these administrations.

13. Areas for mining debate

From the perspective that the artisanal mining producer is an actor and not a mere spectator, we have achieved, through its spokespeople, that artisanal mining participates in diverse forums and spaces like the

Mining Dialogue Group, where authorities, businessmen, NGOs, experts, and institutions attend as in professional schools, universities and consultants.

The Network Bridges , a civil society agency who focuses on business social responsibility, social responsibility of the third sector, and of the small and medium company; direct dialogue with the Ministries, with the president of the council of ministers. Within all of those spaces it has the primary concern of presenting the issues, evaluating the most important causes and over all proposing alternative viable options. Solution perspectives, which include their own producers taking part in the practise, are creating concrete results.

These spaces are extremely important because it allows us to work with allies of the civil society, experts and authorities, where the voice of the producers and their alternatives are heard with seriousness in their approaches, their realism and their commitment.

14. Fair Trade

Since the first interest in Fair Trade, we looked to extend its scope and gather the distinct characteristics of artisanal mining work in the country, listening to the producers, their diverse issues, incorporating the authorities for a joint reflection to search for alternatives in order to bring this added value in the formalization process for small scale mining.

In various consultation events, training and visits to the primary bases, we invited authorities, Central Government officials and those from the regional and local governments to the camps to observe the changes and advances of the primary bases that are involved with Fair Trade, the productive advances in their organization and leadership consolidation as the vision of integral development that the pilot organizations have come to reinforce.

The same Fair Trade contribution that we saw developing with ARM finds ample success in the spaces of mining dialogue and its actors.

The Fair Trade contribution turned into a strategic approach for small scale mining development in the country, it may be founded on the above mentioned principals, values and conditions that gives it viability, development and perspective in the big picture.

We mustn't forget that no more than 7 years ago artisanal mining was a completely marginal and persecuted activity and while it's true that this image still exists, the presence of formalized sectors has already made themselves felt, with an integral development vision and program proposals, that make up an alternative economy, labour, social and environmental that contributes to the development of the country and mining families.

The force of Fair Trade, however, lies in the demonstrative effect of the real and tangible changes fulfilled in the pilot projects. Specifically in their status as successful models of the transition from marginalization to alternate decent incomes, social and environmental responsibilities along with the perspective of contribution to the community and the country.

15. Formation of SONAMIPE

(NATIONAL SOCIETY OF SMALL-SCALE MINERS)

After some agreements were made during the early meetings in February of this year, in which the city of Chala developed the shape and organization of SONAMIPE that centralizes the expressions of artisanal mining at a national level. A Board of Directors was chosen (the same that agreed on a Work Plan) that administrated the resolution of diverse conflicts within artisanal mining, always in direct presence and dialogue as the voice of the producers.

In October of this year the first Training Workshop took place in Lima including the fortalization of SONAMIPE and the drawing up of the National Development Plan for small scale and artisanal mining, whose conclusions are enclosed in Annex 1. It also agreed on a collection of proposals to be made to the central government during the dialogue months with the Council President of the Ministers and the Ministry of Energy and Mines.

In the continuation of dialogue with Mining Ministry authorities, we have reached a regulated proposal of the formalization law for artisanal mining, for the opinion of the governors and foundations of SONAMIPE that applies to Annex 2.

In the same fashion, the Commission of Mines in Parliament has worked out a proposal for modification of the law that contains some favourable aspects. The board of SONAMIPE is also in dialogue with the President of the Commission and have achieved a commitment to approve this project before the end of the year.

16. Lessons Learned

In the public politics scene, multiple and complex relationships are weaved together that demand the assistance of diverse specialties or understand it's dynamic and overall as intended to influence its development.

A fundamental aspect is the position from which it splits, that is to say, to know the value the position of the player or players that intend to alter the situations It is this awareness that has its own real and potential force for development.

However, it is necessary to clarify how the public politics are formed, i.e., the enactment process of legal devices from distinct levels, making decisions in concrete politics, in proposal, in work plans, in activities, etc.

This aspect has to look at the analysis of social correlations and existing politics that must be the most objective and dynamic possible.

In the framework of a society that is constructing its democracy, spaces exist that the citizens may occupy on condition that they have clear objective strategies, are flexible to look for new forms and able to gain alliances of diverse degrees of power.

In the case of artisanal miners (being a very important activity for their families, their community and even for their country) they had an image that devalued their work and their presence in the location, already most of whom were emigrants and on many occasions the mining had created new towns.

Because of this, it emphasize reinforcing the quality of the producer in a process that can turn into – as it was – a complete producer, who creates work sources, speeds up regional micro economies and contributes to the community. However, it was necessary to reinforce the same citizen awareness that it has rights and responsibilities to participate in the economic and political life of its community, which could be even as a mayor candidate or a councillor.

Along the same line, we propel the mining towns to acquire the status of Central Townships that aren't invisible to the state, that the emigrants transport their identification document to the place that they work, where they are now, to be able to reinforce their producer quality and citizenship with a strengthened self-esteem ready to face and overcome the difficulties that they are presented with.

In a production democracy that is precarious and imperfect, confrontation isn't on the agenda, but it takes positions in those spaces that, when they profusely concern themselves with grounds, viability and alternatives yielded the decisions for the workers and was adopted in a natural way. It is also true that one must always have sufficient flexibility to find new forms when the central objectives are being fulfilled.

The dialogue alludes to the ability to listen to all parts and find formulas that consider the diverse interests, knowing each actor there is to hand over in the secondary so that the principle or the primary objective, prevails; but the dialogue isn't exempt from force.

The dialogue as a method is extremely efficient, as we had cultivated the strong elements that sustain an alternative: strategic vision, organization, democratic leadership, programming approach, legislative initiatives, initiatives in action, demonstrative experiences.

The central idea of the action of society's political actors, moreover, having a vision; is to have strengthened its organization, to be open to dialogue, create results, in a collection of actors united by a common vision for common objectives and formulated as if the actors were government, as if in reality they had the responsibility of being government.

Finally, without the encouragement of a closed recipe, we want to point out some elements that we should develop in order to be able to influence the formulation of public policies. In our experience it hasn't developed in an ordered and systematic form without the heat of the demands in order to give answers to the sector and in the joint collaboration with other collectives as much of producers as the institutions.

1. **Diagnostic:** It is fundamental to have a diagnostic of the correlation of social and political forces, including of course the diagnostic of our own forces.

This is a permanent exercise given that the situation is changeable and it is necessary to have the finest operation possible over its evolution.

2. **Organization:** When the purpose is to transform the producers into actors, it is necessary to strengthen the organization into a productive organization, like the representative organization, that has a strategic plan and knows its objectives in order to fine-tune its democratic mechanisms and participation.

The point of the certificate is to construct levels of self esteem and personal affirmation that the actors have. If we don't believe that we are and are doing something positive, our own vision of ourselves will be devalued. If there is no self-esteem, at the first challenge or failure, we will abandon ship.

To avoid the snares of dependency and so that we find autonomous actors that have initiative, it is necessary that the actor himself is able to search and find solutions for the challenges, who knows to appeal to sources of support without losing his/her autonomy by doing so.

3. **Leadership:** They should be conducive to positive leadership, with clear objectives, flexibility, with a great pedagogical ability, with tenacity, vocation to service and a self examining will.

In our experience we have counted on – and count on –extraordinary leadership of these characteristics, which has allowed us to open spaces on all levels and especially to plan alternatives.

4. **Vision:** Knowing that the path to your objectives isn't a straight line. Fundamentally identifying the vision with more precision each time, we look to find new paths in order to reach goals.

It is the basic agreement of a collective and allows the development of the individual and creative initiative. If we are clear on our vision, we can gather distinct experiences and angles to modify the vision and specify it when reality calls.

5. **Program Proposals:** The proposed initiatives have to be articulated depending on the planned purpose and has to be formulated from the state vision, assuming the risks and consequences of the proposals.

An important aspect to take into account is the viability of the proposals and understanding the existing conditions in order to bring them into reality. There is conceptual, legal, infrastructural, budgetary and subjective viability in relation with the people that will carry it out, its degree of knowledge and commitment.

In relation to the State it is necessary to always work the demand of an action or initiative and the commitments that the actor adopts in order to make it reality; we cannot fall into demanding everything from the state and the society in order to not adopt any compromises, and must have joint responsibility, because this attitude is abandoned in favour of a more integral citizen.

6. **Legislative Initiative:** To develop the ability to convert a demand into an alternative, to convert it into a legislative proposal that is translated into a legal device.

This is going to be accompanied by a follow-up that should turn into the passing of the agreement at the state level that will issue it.

7. **Involve Authorities:** Another lesson that we have learned in this process is that from the beginning one must involve the influential actors in order to make a decision.

To incorporate the experts and authorities from the first activities and give space for joint reflection, gather all points of view and to be able to analyze all angles of an initiative.

The context of decentralization, in the same fashion, before dictatorially imposing a provision it is more effective to work in consultations with participation in order to generate a consensus and acquire commitments within determined time periods, that which allows us to adopt measures that will be effective and are going to last.

8. **Democracy and Decentralization:** Undoubtedly the mark of a democracy, still fledgling and in construction, creates a favourable climate for participation and decentralization.
9. **Vessels of Communication:** Finally, we want to point out the importance of being permanently tied to the less organized sectors, to the more precarious, listening to their concerns and putting the mechanisms to the test of existing formalization. If they are useful, they become aware of and decide that they can grant better levels of production, work and development.

The Pilot Projects are an example, a showcase and motivation so that the new organizations incorporate themselves in the formalization and in Fair Trade. But the formalization mechanisms and development should always be within the more disorganized miner's scope, a condition of which takes awareness and is committed to change.