Energy transition, mining expansion and eco-social conflicts in the Amazon

Javier Arellano-Yanguas
María del Pilar Bernal-Gómez
(Coords.)

Deusto
Centro de Ética Aplicada
Centre for Applied Ethics

alboan
ONG · JESUITAS · FUNDAZIOA

RIMISP
Centro Latinoamericano
para el Desarrollo Rural

Apartado 1 - 48080 Bilbao
e-mail: publicaciones@deusto.es

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Acronyms

AATI	Associations of Indigenous Traditional Authorities
AIDESEP	Inter-Ethnic Association for the Development of the Peruvian Jungle
CAH	Council of Aguaruna and Huambisa
CMA	Afrodita Mining Company
AW Special Committee (Comisión Especial AW)	Special Commission for bringing together Indigenous Grassroots Organisations for the Defence of the land in Condorcanqui and Imaza
CORPOAMAZONIA	Regional Autonomous Corporation for the Sustainable Development of Southern Amazonia
DL	Legislative Decree
EMP	Companies
ETDO	State and Public Institutions
ETI	Indigenous Land Entities
FECOHRSA	Federation of Huambisa Communities of the Santiago River
IBC	Institute for the Common Good
IDL	Institute of Legal Defence
INRENA	National Institute of Natural Resources
JAC	Community Action Boards
LOOT	Organic Law on Land Planning

LSO	Social Licence to Operate
OCAAM	Organisation of Aguaruna Communities of the Upper Marañón
ODECINAC	Organisation for the Development of the Indigenous Communities of the Numpatkaim and Upper Comaina
ODECOFROC	Organisation for the Development of the Border Communities of the Cenepa
OIT	International Labour Organisation
OSINERGMIN	Supervisory Body for Investment in Energy and Mining
OZIP	Indigenous Organisation of the Putumayo Area
POT	Land Use Plan
RIMISP	Latin American Centre for Rural Development
SC	Civil Society
SINCHI	Amazonian Institute for Scientific Research
SLAPP	Strategic Litigation against Public Participation

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Introduction

The Amazon is the world's largest tropical forest. More than 10% of known plant and animal species live there. About one-sixth of the planet's freshwater flows through its rivers and streams. The Amazon Forest is also a buffer against climate change: it regulates climate variability and stores around 130 billion tonnes of carbon, almost a decade's worth of global carbon dioxide emissions (Science Panel for the Amazon, 2021).

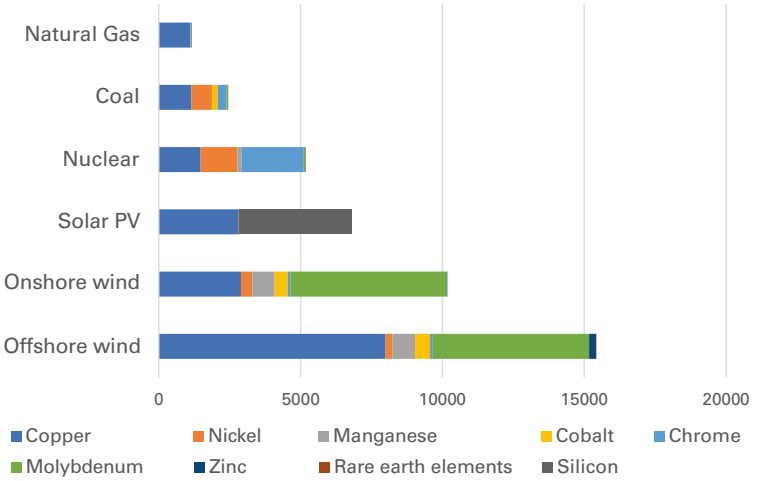
Paradoxically, global efforts to halt climate change may ultimately have a negative impact on the Amazon. Technologies to move towards a decarbonised energy system are very mineral intensive. For example, to limit global warming to below 2°C, more than 3 billion extra tonnes of minerals will be needed by 2050 to increase wind, solar and geothermal power generation and storage capacity. For example, annual demand for lithium and cobalt will increase by 500% compared with 2018 levels (World Bank, 2020).

The amounts of each mineral required will depend on the combination of technologies to be used. A World Bank report analysed the demand for minerals needed for the transition process. Using the double variable of the use of some metals in different technologies and the level of demand, it concluded that aluminium, copper, nickel, molybdenum, chromium, manganese and lead are critical materials because

they play an important role in many key technologies (World Bank, 2020).

For example, a 3MW windmill (average power of those installed in Europe in 2019), requires 335 tonnes of steel, 1200 tonnes of cement, 4.87 tonnes of copper, 3 tonnes of aluminium and smaller quantities of zinc and molybdenum (World Bank, 2020).

The figure below shows the mineral needs for different energy technologies.

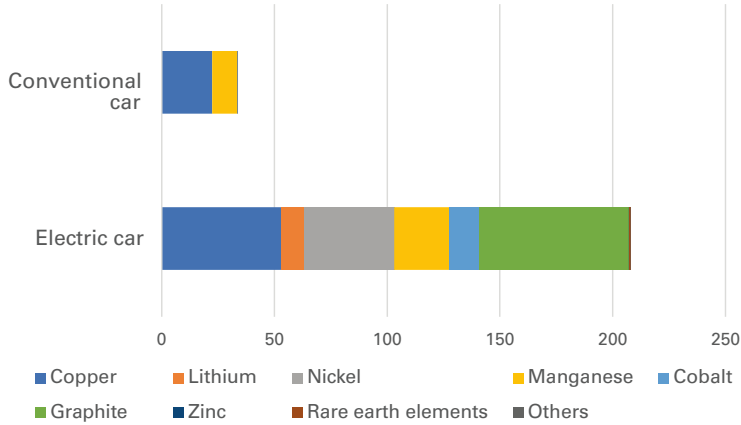


Source: International Energy Agency.

FIGURE 1

Use of minerals by different electricity generation technologies in Kilograms per MW of installed capacity

The energy transition, in addition to changes in the technology of electricity generation, also entails a change in the technologies of the different instruments used to promote electrification. One of the most affected sectors is mobility. Building electric vehicles is both a major challenge and an opportunity to boost economic growth. However, this technological transformation also means that mineral consumption will significantly increase. Figure 2 compares mineral consumption between electric cars and conventional cars. The differences are very noticeable.



Source: International Energy Agency.

FIGURE 2

Minerals (Kg) used in electric cars compared to conventional cars

The examples show how the energy transition involves a substantial increase in mineral exploitation. These minerals often come from countries in the South such as the Democratic Republic of Congo, Zimbabwe, Peru, Brazil, Colombia and Bolivia. As has been studied over the last two decades, when further mineral exploitation occurs in countries with weak institutions, it very often leads to economic, political and social problems (Bebbington *et al.*, 2018; Ross, 1999). These negative impacts are multiplied in ecologically, socially and institutionally vulnerable places such as the Amazon. If not properly governed, the energy transition could exacerbate these problems. Moreover, the pattern of "sacrifice areas" could be replicated: land and social groups could be destroyed for the benefit of a country or, in this case, of humanity as a whole.[1]

Mineral exploitation in the Amazon has a direct and an indirect impact on the ecosystem. On the one hand, mining causes physical changes due to extractive activity itself and to the construction of vari-

[1] First used by Atwood, G. (1975). The strip-mining of western coal. *Scientific American*, 233(6), 23-29.

ous infrastructures necessary to make it viable; mainly roads that facilitate the advance of colonisation and deforestation. On the other hand, mining has a major impact on the forms of organisation, institutions and culture of the Amazonian populations. These changes, in turn, have an effect on the ecosystem. As discussed in the first chapter of this monograph, they often weaken natural systems and undermine their protective mechanisms.

The characteristics of Amazonian populations make them particularly vulnerable to some of the negative effects of mining. Firstly, mining tends to concentrate productive operations on a single sector, increasing economic dependence and drastically reducing the diversity of livelihoods specific to the Amazonian ecological context. Secondly, the dispersion of the population and communication difficulties make it more difficult for information to circulate, for deliberation to take place, for citizens to participate in the transformations that their land will undergo and, consequently, for collective action to occur. This leaves Amazonian populations with few tools for consultation, dialogue and/or negotiation with mining companies and governments. Finally, and partially derived from the previous point, Amazonian social organisations tend to be small and under-resourced, which aggravates their capacity to resist and/or negotiate with other actors and therefore the challenges involved in taking collective action.

The two chapters of this report address some complementary aspects of mineral resource extraction processes in the Amazon or in headwaters that feed the Amazon basin, which affect local indigenous and/or peasant populations. The first part focuses on the impact of mineral extraction on the environment, while the second part deals with the resistance of Amazonian populations to mining projects. In both cases, there is a theoretical review of the subject followed by a case study. In the analysis of the impacts of mining operations, the cases of Compañía Minera Afrodita (Peru) and the Mocoa Project (Colombia) are analysed. Meanwhile, the study of resistance to mining projects is focused on the case of the Mocoa Project.

The choice of these two cases is aligned with relevance criteria and access to information. There is only a small number of major mining operations in the Amazon, especially compared to the Andean region of the continent. In the Peruvian case, the case of Compañía Minera

Afrodita was selected because it is one of the few projects in the Amazonian area and because of its social and political repercussions. In the Colombian case, the Mocoa project is also one of the few legal mining projects being carried out in the Amazon region and, moreover, the most recent.

The collection of information and the use made of it in this report was different for each case. Afrodita's project to build a mine to exploit copper and gold in the Cordillera del Cóndor is more than 20 years old. During this time, there have been a number of studies on the interaction of the company with the environment and its impact. In addition to existing studies, we have benefited from the collaboration of SAIPE, a local non-profit development organisation (NGDO) that has issued a report on the history of Afrodita and has provided us with some contacts. Additionally, Javier Arellano's personal knowledge of the study area and of some of the actors directly involved in the case has facilitated a better understanding of the process based on existing data.

The case of the Mocoa Project has a much shorter history, as it is still ongoing, and therefore there is little literature on it. For this reason, the Colombian Office of the Latin American Centre for Rural Development (known as RIMISP) was used to carry out fieldwork in Mocoa in February 2021 to collect primary information on the mining project and the different positions held by the mining company, different sectors of the population and local authorities. In this process, 22 interviews were conducted with local actors and existing documentary information was compiled. RIMISP also participated in the analysis and drafting of this report through the work of its land-related social conflicts area, especially of researcher María del Pilar Bernal. The text of the report refers to the different sources of information on which the two parts of this report are based.

The first part addresses the indirect social, political, cultural and institutional impacts that the exploration phase of potential mining operations has. This approach serves to shed light on the effects that mining has on the Amazon, beyond its direct impacts on the environment. However, it is also true that the transformations generated by the mere presence of mining companies in the land exacerbate the vulnerability of the ecosystem. The weakening of legal protection measures and of the institutions responsible for enforcing them, the construction of in-

frastructures for access to the areas, and the actions of external actors end up promoting deforestation and contamination of the Amazon rainforest.

The second part focuses on clarifying mechanisms and instruments that help Amazonian populations articulate their resistance to mining operations. The analysis prioritises the situation of indigenous peoples and highlights the importance developing and implementing legal mechanisms. Ensuring that these mechanisms exist does not in itself solve the problems, but it often makes it possible to create spaces where indigenous peoples, and more generally local populations, can discern or at least deliberate about their future according to their life plans and cosmogony.

This research aims to help inform debates on how to prevent the energy transition from aggravating the deteriorating living conditions of Amazonian populations directly affected by mining operations, causing chronic human rights violations and indirectly contributing to large-scale ecological damage.

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Part 1

New mining projects in the Amazon: their impact on populations and their environment

Javier Arellano-Yanguas, María del Pilar Bernal-Gómez and Sergio Caballero

1. **Introduction**

The Amazon has always been seen as a land of promise. From the 16th century onwards, the myth of El Dorado has attracted conquerors and adventurers in search of gold and wealth (Kupchik, 2008). In the second half of the 19th century and the first decades of the 20th century, "rubber fever" gave rise to new forms of control and exploitation of land (Ullan de la Rosa, 2004). After the Second World War, developmentalist models drove new waves of colonisation based on the expansion of the agricultural and livestock areas in the Amazon (Walker, 1987). Throughout history, the jungle and its indigenous peoples have featured only as a wild, exotic setting that colonisers sought to civilise and dominate in order to achieve their goals. These goals were clearly unrelated to the ecosystems and the lives and aspirations of Amazonian peoples.

Since the beginning of the new millennium, the intensification of economic globalisation has led to a growing demand for meat, metals and oil, thus increasing pressure on the Amazon. It was the economic growth of China and the emerging markets that was initially responsi-

ble for this dramatic increase in demand. In the last decade, the need to increase production of critical minerals for the energy transition has accentuated this trend (Sanderson, 2022).

By 2018, the Amazon rainforest had lost 870,000 km^2, equivalent to 14% of its original size. Forty-two percent of this area (366,300 km^2) has been deforested in the last 25 years. Deforestation peaked in 2003, declined in the period through to 2013, and then increased again (Science Panel for the Amazon, 2021b). The scope and pace of deforestation is a global indicator of processes threatening the Amazon and its peoples. Extensive agriculture and cattle farming are the main causes of this deforestation. For example, 80% of deforested areas in Brazil are taken up by pasture (Science Panel for the Amazon, 2021a). But mining also has strong negative impacts on the Amazon.

The Amazon rainforest contains large deposits of copper, tin, nickel, iron, bauxite, manganese and gold. Between 2000 and 2015, mining was responsible for 9% of the total deforestation in Brazil, which reached an area of 11,670 km^2, with negative effects extending up to 70 km beyond the boundaries of concessions (Science Panel for the Amazon, 2021a). There are currently some 45,000 mining concessions either under operation or waiting for approval, of which 21,536 overlap with protected areas and Indigenous lands (Science Panel for the Amazon, 2021a). These concessions cover around 1.28 million square kilometres, which is 18% of the total Amazon and affect more than 30% of Indigenous lands (Quijano Vallejos *et al.*, 2020).

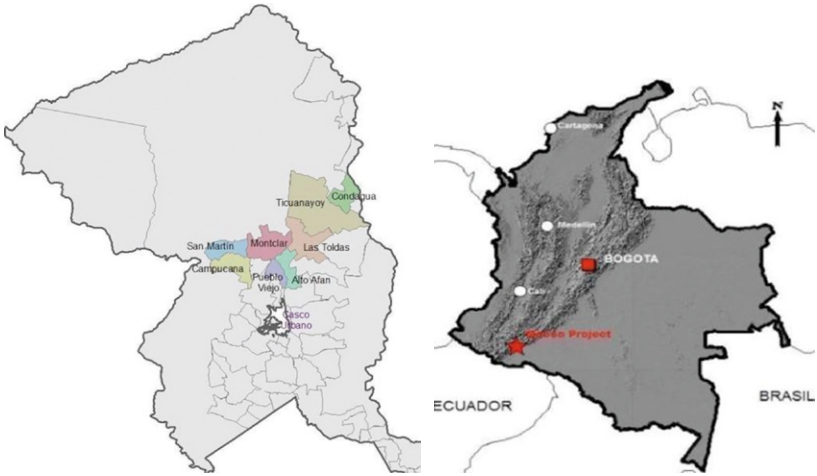
Mining has different types of impacts in the Amazon. The type of mining activity is very important in determining these impacts. While some minerals such as bauxite, copper and iron ore are mined legally by large companies, gold mining is largely informal/illegal. This is alluvial gold, which has traditionally been mined by river-side dwellers using only manual techniques, has attracted external players to the region in recent years due to rising gold prices. Both large-scale and illegal mining have negative impacts on the physical environment. Some of these impacts are direct. For example, they cause pollution, which is difficult to control due to the high levels of rainfall. The construction of new roads to facilitate access for logging companies, and the intensification of agricultural and livestock activities also have indirect physical impacts, all of which lead to an overall weakening of indigenous and local control over land.

In addition to these physical impacts, mining also causes social and political changes which, despite having received less attention, often have longer lasting effects and ultimately affect the environment. This paper focuses on the analysis of these social and political changes. It studies the impact that two mining projects have had on the local Amazon environment. The first project was that carried out by a company called Afrodita in the Cordillera del Cóndor (Condor Mountain Range) in the Peruvian Amazon. This is a copper mine situated at the headwaters of the Cenepa river basin, in Awajun Indigenous territory. The second project is located in Mocoa, capital of the department of Putumayo (Colombia), and is being promoted by Libero Cobre, a Canadian company that plans to build a polymetallic mine.

Source: CooperAcción.

IMAGE 1

Map of the location of mining concessions in the Cordillera del Cóndor (Peru)



Source: Developed by Rismip.

IMAGE 2

Location map of the Mocoa Project (Putumayo, Colombia) and villages affected by the mining concessions

In both cases, the mining project was intended to take place in areas where there was no previous experience of intensive metal mining. In the Peruvian case, operations did not go beyond the exploration phase. Despite indications that there were commercially valuable mineral deposits, and after years of the company's presence in the area, the State revoked the exploration permits (ODECOFROC, 2009). The recurrent conflicts that led to the emblematic Baguazo episode were a politically insurmountable obstacle. In the Colombian example, the company had recently entered the region to plan its exploratory work (Libero Copper, 2022). Both experiences show that the expectations and presence of mining companies bring about profound transformations in society, inter-group relations and institutions, even before any physical changes take place in the environment. These "intangible' transformations have negative effects on local populations and their ability to make decisions about their future. In addition, they often open the door to other physical changes with major ecosystem impact, such as illegal logging and mining. It is essential to consider these kinds of indirect and "second-round" impacts when considering mining in the Amazon.

2. What do we know about the social and political impacts of mining in the Amazon?

There are relatively few studies that have addressed the social and political impacts of medium- and large-scale mining in the Amazon (Cruz *et al.*, 2021; Quiliconi & Rodriguez Vasco, 2021; Ramos-Cortez & MacNeill, 2022). One of the reasons is that the number of such operations is much lower in the Amazon than in other natural regions in Latin America. The analysis has therefore focused primarily on a few mega-mining operations (Cruz *et al.*, 2021; Matlaba *et al.*, 2017; Wasylycia-Leis *et al.*, 2014). In recent years, the impacts of informal and/or illegal gold mining have been further analysed, with a particular focus on the serious environmental impact and its effects on Indigenous populations (Quijano Vallejos *et al.*, 2020; Salazar Cardona *et al.*, 2019).

With regard to medium- and large-scale mining, studies have confirmed that in well-established long-term large operations, such as those in Canaa de Carajás, one of the largest iron ore mines in the world, the population is forced to coexist with the mining industry. In these cases, the level of satisfaction and the risk of conflict is linked to the economic, social and environmental impacts of the operations being undertaken. As companies invest more in offsetting these impacts, populations tacitly renew their social licence to operate (Cruz *et al.*, 2021). This is an implicit negotiation between companies and local communities that is constantly under review, resulting in an unstable balance. In this context, conflicts are recurrent and mark the opening of new negotiation processes to establish new compromises between the interests of the population and those of the companies (Arellano-Yanguas, 2011a).

Other studies have focused on the impacts on the Amazon environment and on Indigenous peoples' right to the self-governance of their traditional land (ODECOFROC, 2009; Quijano Vallejos *et al.*, 2020). While these rights are often recognised in national legislation, they are undermined, if not directly contradicted, by the processes involved in granting mining rights and by the practices of corporations and public authorities (Sawyer & Gomez, 2008).

Given the relative paucity of direct studies of the social and political impacts of large-scale mining in the Amazon, it is interesting to ap-

proach this review from two perspectives. Firstly, by focusing on the impacts that are similar to any other rural area in the vicinity of a mining operation; and secondly, by addressing the aspects that make the Amazon different from other potential locations for mining operations. The analysis will be based on these two approaches.

2.1. *Social and political impacts of mining projects in the rural environment*

What are the social and political impacts involved in a mining operation? The studies that have sought to answer this question with regard to Latin America can be divided according to the operation's stage of development. One group has addressed the impacts of the companies' presence during the early stages: from the time exploration is announced until permits are obtained and mine construction works begin (Castillo Guzmán, 2020; Huber, 2009; Salas Carreño, 2008; Warnaars, 2012). Another group of studies have focused on the impacts of the works once the operations are in full progress and the minerals are extracted (Arellano-Yanguas, 2011a, 2011b, 2019; Bebbington, 2012; Bebbington & Bury, 2013; Triscritti, 2013).

In the first phase the company comes into contact with the local population. This interaction is marked by the expectations generated and by the opaque relationships that become established with different groups of the local population (Salas Carreño, 2008). For several decades, resistance movements and conflicts have been the result of mining companies moving into rural areas. Because of this, companies need to obtain the *Licencia Social para Operar* (Social Licence to Operate, known by its Spanish acronym, LSO). This is a permit given by local populations for companies to work on their land. The LSO can be regulated by states through various participatory and/or prior consultation processes (Prno & Slocombe, 2012). However, in addition to the specific regulations in place, the LSO involves an explicit or tacit permit, which is called into question by the emergence of social conflicts and resistance movements. Therefore, in the early stages of their presence in the area, mining companies focus on avoiding conflict or, alternatively, managing it in a way that minimises its impact on their ability to operate in the area and to attract investors to finance their exploration

costs and, ultimately, the construction of the operation (Franks *et al.*, 2014). These constraints lead companies to exaggerate the potential positive effects of their operations when they present themselves to local populations, thus creating high expectations of well-being while minimising or hiding potential problems. Promises of job opportunities for local populations and the revitalisation of the local economy are the most frequent and successful claims used to promote local support (Bebbington *et al.*, 2008); their commitment to clean technologies and environmental friendliness are used as deterrents to combat critical views (ICMM, 2012).

This strategy of reaching out to populations and obtaining the LSO has obtained varying results depending on the context. In some cases, local opposition has been so strong that it has galvanised resistance movements to mining activity which has led companies to abandon their plans (Kröger, 2021; Martínez Alier, 2015; Walter & Wagner, 2021). Whereas these situations are sometimes found, they are rare (Orihuela *et al.*, 2022). At the other end of the spectrum, in some cases local people are so convinced of the benefits of mining, or so in need of them, that there is no opposition, and companies go ahead with their plans without any major problems. These examples also exist, but they are becoming less frequent. The third and most common situation is one in which different points of view and interests exist within local communities (Arellano-Yanguas, 201 Orihuela *et al.*, 2022). In this divided context, companies seek to break their opposition and strengthen their supporters.

Numerous case studies have shown how mining companies have tried to win the consent of local populations with actions that end up having negative medium- and/or long-term impacts (Arellano-Yanguas, 2011b Arellano-Yanguas & Bernal-Gómez, 2017; Himley, 2013). Firstly, there are numerous examples of co-opting leaders who are perceived as potential opponents. This is often done by offering jobs, service contracts or financial compensation in exchange for a positive attitude towards the company's projects. Secondly, one of the mining companies' goals is to convince local authorities of the benefits of mining. This is done through both legal and illegal practices. The former include the implementation of services and projects that benefit local communities (Arellano-Yanguas & Bernal-Gómez, 2017; Himley, 2013; Perla, 2012). There is often a "substitution" of the roles of

public administrations that creates dependency, but there is nothing illegal about it (Arellano-Yanguas, 2011a). However, there are also practices involving doing favours and making payments to local authorities that could be described as corruption (Bebbington & Bury, 2013; López-Cazar *et al.*, 2021). Thirdly, these companies often use their economic power and the media and social networks to discredit leaders and divide organisations that are critical of their operations. Fourthly, there are initiatives to encourage the inflow of people who are in favour of their mining purposes and to promote the emergence of new organisations that are more receptive to the companies' plans (Castillo Guzmán, 2020). Finally, in some rare but significant cases, companies have resorted to violence to frighten leaders who opposed their plans (Bebbington, 2007). In this way, the highest levels of violence against community leaders in many countries are exerted by the extractive industries. This violence is usually carried out by criminal groups, but in some cases the military and police are involved in the service of the companies either by action or inaction (Imai *et al.*, 2017; Rasch, 2017).

These actions cause divisions within communities, lack of capacity to articulate relations between different local actors, violence, corruption and the erosion of trust in public institutions. These are all elements that make it difficult to generate medium- and long-term consultation processes, shared visions of desirable development and, in many cases, effective governance and control of land. These dynamics, resulting from the initial interactions between companies and local communities, shape the subsequent positioning of companies and their impact on the population. They result in relationships that are marred by mistrust, which is difficult to reverse (Arellano-Yanguas, 2011b, 2019; Bebbington, 2012; Bebbington & Humphreys Bebbington, 2018; Salas Carreño, 2008).

Of course, there are also some examples of good practice. Over the last two decades, major mining companies have addressed these issues and created a discourse of responsible mining, allying with local communities in the search for development. They have also identified a body of policies and good practices to position themselves as good neighbours. However, in day-to-day practice, their relationships are still strewn with problems that are similar to those described in the previous paragraphs.

Companies sometimes adopt a suitable approach to the relationship with local populations in the early stages of operations. The population is expectant but confident that the company's business will benefit them. In such cases, the impact of the first phase is limited to the authorities' need to manage these expectations and the competition of different interests and groups. However, once the operation is up and running, several types of problems may arise in the communities surrounding the operation due to: (i) conflicts caused by a mismatch between expectations and end results; (ii) inequalities between social groups with unequal access to employment and the profits of the mining operation; (iii) co-opting of authorities and distortion of the local political system through support for pro-company candidates in local and regional elections; (iv) increased dependency of the local community on the company; (v) accelerated social change due to mass immigration; (vi) alcohol and drug abuse; and (vii) increased gender inequality, as the mining industry is strongly male-dominated; and (viii) resources being transferred to local governments often goes hand-in-hand with an increase in official corruption and the emergence of criminal groups that seek to profit from these resources (Arce, 2014; Arellano-Yanguas, 201 Haslam & Ary Tanimoune, 2016).

These problems occur when mining operations are already underway and have a similar negative impact on the local population as in the previous phase, particularly in terms of internal divisions, lack of trust in the authorities and erosion of the legitimacy of public institutions.

2.2. *Specific characteristics of the Amazon that affect the impact of mining operations*

What are the characteristics of the Amazon that can aggravate or reduce the social and political impacts of mining operations?

By definition, the Amazon is conditioned by its geographical and environmental conditions. The Amazon River basin and all of its tributaries, up to the foothills of the Andes, were originally covered by more than 7 million km^2 of tropical rainforest, forming a unique ecosystem. This vast territory is home to more than 47 million people across eight countries. About 4.5 per cent of these people, 2.2 million people, are

Indigenous people belonging to more than 410 different groups or nations (Science Panel for the Amazon, 2021a).

Approximately 45 per cent of the Amazonian territory has some form of protection due to its ecological value or because it is occupied by Indigenous peoples who have some form of control over the territory (Regis Florisbelo & Guijt, 2004; Watson *et al.*, 2019). Indigenous groups have different types of recognised rights and control over more than 3,000 territories. Eighty percent of these territories are covered by forest, contributing to the fact that more than 35 percent of all virgin forests in Latin America are occupied by Indigenous peoples. There is therefore a strong link between Indigenous peoples and the conservation of the Amazon forest (Red Amazónica de Información Socioambiental Georreferenciada, 2018; Science Panel for the Amazon, 2021b).

Water is the central element of the Amazonian ecosystem. Rainfall is very high, ranging from 1500 to 3000 mm in various areas. This is the origin of the extensive river network that connects the Amazon region and is also one of the major challenges in managing the environmental impacts of mining. The high levels of precipitation make it difficult to manage tailings and mining waste, often resulting in heavy metal contamination that spreads to watercourses (Pereira Covre *et al.*, 2022). Some local people are concerned about the start of mining work because of the potential risk of contamination. In fact, the discourse on the risk of contamination is the dominant argument found in protests against the implementation of new mining operations (Martinez-Alier, 2021; Mestanza-Ramón *et al.*, 2022; Siqueira-Gay *et al.*, 2020). In the Amazon, the difficulty in gaining access to potential exploitation areas requires greater investment by companies and often close cooperation with the state through the army.

The dispersion of the population is the second element conditioned by Amazonian geography. Most of the Amazonian population is concentrated in a few large cities: Manaus, Belen, Leticia and Iquitos. The remaining population is widely scattered and live in many small towns, settlements and communities. The dispersion of the population has a twofold effect from the point of view of the implementation of mining projects. On the one hand, it makes it difficult for companies to interact with local populations. This is a drawback for companies that want to operate transparently. However, many mining promoters use pop-

ulation dispersion to ignore the opinions of local people or to group them according to their interests in order to carry out consultations to legitimise their claims. On the other hand, from the point of view of the local population, dispersion makes it difficult to communicate, cooperate and organise resistance movements. For example, it is very difficult for the Amazonian population to develop a repertoire of protests that is capable of disrupting the normal functioning of the economy or institutions, which inhibits them from having an influence at national level.

The situation and role of indigenous peoples has received special attention. Mining concessions affect more than 30% of the territory belonging to indigenous peoples (Quijano Vallejos *et al.*, 2020). Many of these villages are therefore directly affected by potential mining operations. How they are affected and how they react is determined by the extent to which their control of the mining concession is legally protected, and by their collective assessment of it. It also depends on the specific legislation in each country. Over the past two decades, there has been an increasing formal recognition of indigenous peoples' rights to land, particularly through the enactment of the International Labour Organization's Convention 169, which has coexisted with lax implementation by governments (Wright & Tomaselli, 2019). The result is that governments' practices to fulfil their legal commitments often end up generating internal disputes and divisions within indigenous groups (Flemmer & Schilling-Vacaflor, 2016; Schilling-Vacaflor & Eichler, 2017). The different criteria for assessing what constitutes control of territory is one of the main reasons for these disputes. While some groups seek some form of economic compensation, others refuse to assign a monetary value to the assets on which their political autonomy, and therefore their survival, depends (Martinez-Alier, 2012).

The presence and role of the state in the Amazon is another important factor in analysing the impact that mining has. After the price boom at the beginning of the century, most governments, regardless of their political affiliation, actively promoted investment in the mining sector to boost the economy and balance both their external and fiscal accounts (Gudynas, 2009). Faced with the additional difficulties that Amazonian conditions specifically pose for mining companies (difficulties related to transport and access to concessions, as well as obstacles for securing the agreement of local populations), governments have be-

come involved and actively helped companies to carry out their projects. Contrary to the idea that the distortions created in mining areas are due to the absence of the state, it has been proven that there is in fact an asymmetrical state presence. Latin American states are present in the Amazon to enable its exploitation (Ramos-Cortez & MacNeill, 2022). Pro-business actions have discredited governments as defenders of peoples' interests, generated and/or exacerbated conflicts, and undermined the legitimacy of public institutions (Schilling-Vacaflor *et al.*, 2018).

In an attempt to assess the extent to which the literature has captured recent experiences of the effect of mining in the Amazon, two cases of mining companies attempting to establish large-scale operations in Peru and Colombia are presented and analysed below. The first concerns the activity of *Compañía Minera Afrodita* (CMA)). CMA wanted to develop an open-pit copper and gold mine in the Cordillera del Cóndor, at the headwaters of the Cenepa River, on the border between Peru and Ecuador. The second case is focused on a company called *Libero Cobre* (LC), which began exploratory work to build a copper mine in the town of Mocoa, in the Department of Putumayo (Colombia) in 2021. The two cases took very different paths. The CMA case is over 20 years old. In 2022, a ruling forced the company to withdraw its projects. The operations of the LC case are at a very early stage. Both cases are interesting in terms of understanding how their presence caused profound changes in the local communities, even before start of the exploitation phase. The two cases are presented below, and an attempt is made to explain what the effects have been.

3. **Compañía Minera Afrodita and indigenous resistance: the high price of victory**

The Cordillera del Condor, on the border between Peru and Ecuador, is part of the territory of the Awajun people. The Cordillera is the headwaters of the Cenepa River, a tributary of the Marañón. The tributaries that flow down from the mountain range contain alluvial gold that has traditionally been mined by the Awajun in the off-peak season. The 2007 census estimated that around 8500 indigenous Awajun people lived in the Cenepa river basin, spread over 42 communities, with a widely scattered pattern of occupation.

Since the 1980s, informal miners from Ecuador have infiltrated Peruvian territory and began mining ore that is processed in Ecuador. In 1981, geological studies of some gold-bearing veins began after an onset of an armed conflict between the two countries. In 1987, Alan Garcia's first government announced the discovery of gold deposits in the Cordillera del Condor. However, due to its status as a border area, the government decided not to approve mining concessions in the Cordillera and to entrust the army with its control (Durand, 2009).

In 1993, following the enactment of the new mining law by Alberto Fujimori's government, mining concessions started to be granted in the Cordillera del Cóndor. In 1995, Metalfin, a company which shortly afterwards changed its name to *Compañía Minera Afrodita* (CMA), announced plans for mining exploration in the area. In 2007, CMA, which to this day appears as the beneficiary from the mining concessions, negotiated the right to purchase 100% of the operations from Dorato Resources Peru (DRP), a subsidiary of Dorato Resources (DR), a Canadian-based mineral exploration company (Durand, 2009; ODECOFROC, 2009).[1] The creation of a subsidiary managed by a Peruvian front was intended to circumvent Peruvian legislation prohibiting foreign companies from exploiting mineral resources in border areas.[2] In addition to the agreement with CMA, in 2006 DRP was awarded new mining concessions in the Cordillera del Condor directly by the Peruvian government. However, reports suggest that exploratory work in the following years was carried out on CMA concessions, albeit with funding provided by Dorato (Garcia & Laura, 2016).

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[1] Dorato Resources (DR) was a Canadian junior mining company engaged in investing in the exploration of potential mineral deposits which, once identified, it could sell to specialised mining companies. For years there was a website (http://www.doratoresources.com) offering company information. Its only assets were the rights to purchase 100 % of CMA. The website also contained information on CMA's exploratory results, including funding for exploration on CMA's concessions. DR in turn was owned by Cardero Resources, a small Canadian mining group which at early 2022 merged with World Copper (https://worldcopperltd.com/). In December 2022 the Cardero Resources website (www.cardero.com) redirected visitors to the World Copper website, which had some of the same people on its board of directors. World Copper's portfolio of operations no longer contains any references to concessions in the Cordillera del Cóndor.

[2] Article 71 of the Peruvian Constitution: "foreigners may not acquire or possess by any title whatsoever, mines, land, forests, watercourses, fuel or energy sources, whether directly or indirectly, within fifty kilometres of the border line".

The roots of the conflict lie in the interests of CMA in exploring the Cordillera del Cóndor. In October 2001, the CMA applied to the National Institute of Natural Resources (INRENA) for permission to explore the upper reaches of the Cenepa River and its tributary the Comaina (see Figure 1). INRENA, considered the request incompatible with the natural conditions of the land (letter 438-2001-INRENA-J-DGANP). This is due to the fact that a large part of the Cordillera del Cóndor has been a *Zona de Reserva Santiago-Comaina* (Santiago-Comaina Reserve Zone) since 1999 under DS 005-99-AG.

In the late 1990s, Awajun indigenous organisations demanded that part of their territory bordering Ecuador be declared a protected natural area in an attempt to halt the advance of mining and oil companies. This request was based on a 1996 report by *Conservación Internacional* (Conservation International), an NGO which identified the area as a priority for the conservation of national biodiversity (Vera, 2020). In addition, the 1998 Peace Agreement between Peru and Ecuador provided for the establishment of ecological protection zones on both sides of the border. It was within this context that the Peruvian government created the Santiago-Comaina Reserve Zone, with a total area of 863,277 hectares in 1999. This was later expanded to 1,642,567 hectares (Durand, 2009).

Reserve areas are a transitional category for the creation of a natural protected area. As part of that process during the early 2000s, the *Instituto para el Bien Común* (Institute for the Common Good), known as the IBC, worked with indigenous communities and local authorities to determine the size of the protected area.[3] The communities were concerned that the areas where they perform their daily activi-

[3] The process was participatory and was a de facto prior consultation. Coordinated by INRENA, it started in June 2002 and ended in December 2004. The authorities and delegates of twenty-one indigenous communities and indigenous organisations from the different river basins were involved: the Organización de Desarrollo de las Comunidades Fronterizas del Cenepa (Organisation for the Development of the Border Communities of the Cenepa (ODECOFROC)) and the Organización de Desarrollo de las Comunidades Indígenas Numpatkaim y Alto Comaina (Organisation for the Development of the Indigenous Communities of the Numpatkaim and Upper Comaina (ODECINAC)), in the Cenepa basin; and the Federación de Comunidades Huambisas del Río Santiago (Federation of Huambisa Communities of the Santiago River (FECOHRSA, of the Wampis people)), in the Santiago basin.

ties would be outside the protected area, and they requested that the sparsely used areas in the headwaters of the rivers be declared a protected area. They saw this as a way to protect the headwaters from the effects of mining (Vera, 2020).

At a meeting held in March 2004 in Huampami, the capital of the Cenepa district, communities and local authorities signed a document summarising the partial agreements reached in the different communities. The boundaries of the protected zone covered an area of about 153,000 hectares and was to be called *Parque Nacional Ichigkat Muja - Cordillera del Cóndor* (Ichigkat Muja - Cordillera del Condor National Park). The agreement was confirmed by the involvement of INRENA, IBC and Conservación Internacional. All that was left was for the agreement to be submitted to the Council of Ministers for the national park to be established (Vera, 2020). When the creation of the *Parque Nacional Ichigkat Muja* was decreed on 10 August 2007, the protected area was surprisingly only 88,477 hectares; almost 65,000 hectares less than the proposed area. There were a number of mining applications in the excluded area, including those submitted by CMA and DR (ODECOFROC, 2009).

It later transpired that in 2005, following the 2004 agreement corroborated by INRENA's technical reports, representatives of CMA and DR met with representatives of the Ministry of Defence, the Joint Command of the Armed Forces, the Ministry of Foreign Affairs, the Ministry of Energy and Mines, and INRENA, and agreed that INRENA should change its technical reports to defend the pertinence of the mining operations in the Cordillera del Cóndor. These agreements were set out in a protocol signed by the parties on 8 November (ODECOFROC, 2009, p. 32).

This outcome caused a great deal of unrest among the indigenous population. This dissatisfaction was exacerbated when, a few months later, in December 2007, Perupetro, the public company that was responsible for the concession of the hydrocarbon areas, signed a contract with Hocol Perú S.A.C. for the exploration and potential exploitation of hydrocarbons in an area of 853,381 ha, which included the territory of the Awajún and Wampis communities that had participated in the process of delimiting the national park (Castillo Fernández, 2020; ODECOFROC, 2009). *The Organización Regional de Pueb-*

los Indígenas de la Amazonía Norte del Perú (Regional Organisation of Indigenous Peoples of the Northern Peruvian Amazon (ORPIAM)), the *Organización de Desarrollo de las Comunidades Fronterizas del Cenepa* (Organisation for the Development of the Cenepa Border Communities (ODECOFROC)), the *Organización de Comunidades Aguarunas del Alto Marañón* (Organisation of Aguaruna Communities of the Upper Marañón (OCAAM)), and the *Consejo Aguaruna y Huambisas* (Council of Aguaruna and Huambisas (CAH)) launched a national and international protest aimed at protecting the Amazon forest and preventing the possible contamination of the Comaina and Cenepa rivers and, consequently, the Marañón-Amazon basin.

The process resulted in a loss of trust in the state authorities and the army and delegitimised them in the eyes of the population. The communities saw that they were subject to the interests of the companies. This also led the communities to mistrust some of their previous allies in the park delimitation process. Thus, Conservación Internacional ceased to be relied on as a conservationist reference point, and INRENA's technical credibility was called into question (ODECOFROC, 2009). The indigenous organisations themselves, which gathered the communities by sub-sectors of the main rivers, were challenged in their capacity for dialogue. The indigenous Awajun and Wampis put in place more comprehensive organisational structures that would be able to confront the state. The *Comisión Especial de Unificación de Organizaciones de bases indígenas por la defensa territorial de Condorcanqui e Imaza* (Special Commission for bringing together Indigenous Grassroots Organisations for the Defence of the land in Condorcanqui and Imaza (known as the AW Special Commission))[4] was formed with the aim of defending indigenous land against hydrocarbon and mining concessions, as well as any proposed law affecting indigenous peoples. The AW Special Commission was created in partnership with the *Asociación Interétnica de Desarrollo de la Selva Peruana* (AIDESEP) (Inter-Ethnic Association for the Development of the Peruvian Jungle), a federation of indigenous organisations with a strong national and international presence (Castillo Fernández, 2020).

[4] This Commission was made up of Andrés Noningo and Juan Nuningo of the Wampis People; Santiago Manuin, Rufino Trigoso, Antuash Chigkim and Julio Quiaco, of the Awajún People.

Legislative Decree (DL) 1015 was issued on 20 May 2008. It facilitated investment by large companies and relaxed conditions for the sale of land on behalf of peasant and indigenous communities. The decree was rejected by AIDESEP and indigenous organisations. In the context of the Awajun and Wampis peoples' process, the Decree triggered a unanimous protest. The AW Special Commission considered that the Decree would be used to take away control of their land. Moreover, the indigenous peoples had not been consulted on its content, as required by ILO Convention 169. After internal consultations, on 7 August, the Assembly of the Chiefs of the native communities decided that the Special AW Commission would become the *Comisión de Lucha de la Provincia de Condorcanqui y de Imaza* (Commission for the Struggle of the Province of Condorcanqui and Imaza) (Castillo Fernández, 2020).[5]

At that point, a process of mobilisation began, which took the form of the so-called "Amazonian blockades" of 2008 and 2009. These protests became public when the Awajun and Wampis took over and blocked two important infrastructures: pumping station No. 6 of the Northern Peruvian Oil Pipeline and the *Fernando Belaunde Terry* road at the Corral Quemado bridge over the Marañón River. The road blockade required a major organisational effort. The Corral Quemado bridge, near the town of Bagua, is outside the indigenous territory and thousands of indigenous people had to mobilise and stay there for weeks. In these protests, the indigenous peoples' national agenda was joined by claims against the CMA and the reduction of the area of the *Ichigkat Muja* National Park (Castillo Fernández, 2020; Durand, 2009).

The August 2008 protest ended when the Congress of the Republic repealed DL 1015. The Awajun and Wampis peoples saw the outcome as a success. However, two developments undermined the impact of the derogation. Between January and February 2009, the government of Alan Garcia, dissatisfied with the actions of Congress, enacted the Forestry and Wildlife Law (Law 29317), which further liberalised the land market and also postponed the implementation of legislation on prior consultation with indigenous peoples (Castillo Fernández, 2020). In addition, on 14 January 2009, the CMA sent six workers to continue

[5] Santiago Manuin was elected chairman of this Struggle Commission.

exploration works. As they passed through the community of Huampami, the community authorities held the mine workers and demanded immediate dialogue with a high-level state commission. As a consequence, the conflict between the population and CMA became widely known nationwide (Durand, 2009; ODECOFROC, 2009).

In April 2009, the second blockade began in the Amazon. As in the previous year, the Awajun took up the national protest agenda and added demands about the CMA's actions, the expansion of the park and the concessions granted to Hocol Perú S.A.C. with no prior consultation. That year, the road closure lasted 53 days. On 5 June, Alan García's government sent in the police and army in a poorly-planned intervention to brutally evict the protesters. The confrontation in the Curva del Diablo, popularly known as the Baguazo, left 33 dead (23 policemen, five indigenous people and five other civilians), 200 wounded (82 by firearms) and one missing person. The events shocked the country, had far-reaching international repercussions and resulted in a total breakdown of trust between indigenous groups and the state (Castillo Fernández, 2020; Cavero, 2011). At the same time, numerous national and international social organisations offered their support to the indigenous movement, which strengthened its position vis-à-vis the state (Arellano-Yanguas, 2015).

Months later, in August 2009, ODECOFROC and an NGO called *Racimos de Ungurahui* jointly presented the UN Committee on the Elimination of Racial Discrimination with a request for urgent action to avoid irreparable damage to the Awajum and Wampis peoples living in the Cenepa district. In parallel, the indigenous peoples gave the CMA an ultimatum to leave the area (Durand, 2009). On 17 February 2010, the Presidency of the Council of Ministers announced that the Supervisory Body for Investment in Energy and Mining (Osinergmin) indefinitely suspended CMA's exploratory activities in the Cordillera del Cóndor, on the basis that there was no evidence that the company had a land use permit. However, CMA continued exploratory work and, in May 2010, signed an agreement with the Peruvian Army whereby it would provide safe access for the company to the mountain range (Servindi, 2012).

From then until 2019, the company combined low-intensity exploration works on the ground, attempts to gain legitimacy with local

communities, and efforts to create new communities more favourable to its interests. Between 2012 and 2018, the Monthly Report on Social Conflicts from the Ombudsman's Office regularly recorded various incidents in the open conflict between CMA and the population. On some occasions, the indigenous people held company workers; on other occasions, they went to CMA's camp in the Cordillera del Cóndor to destroy machinery. The situation over those years was highly ambiguous and irregular. Officially, the company is not allowed to operate in its concessions, but in fact it is on the ground and has the cooperation of the army (Defensoría del Pueblo, 2008-2022).

In 2019, communities close to mining concessions filed two formal complaints. First, the communities that were closest to the concessions showed that CMA had encouraged some indigenous families to create new legally recognised and titled communities. In fact, the Amazon Regional Government had recognised two new communities. Such a move would help CMA obtain the social licence to operate. The existing communities disclosed that CMA had bought the good will of indigenous people and created divisions within the indigenous population (Chigkun Mayan, 2019; Servindi, 2020). The communities also revealed the increase in illegal mining in the area and the company's collusion with this activity (Chigkun Mayan, 2019). These complaints were accompanied by mobilisations that led to the Amazon Regional Government rendering the decree that had recognised these communities null and void. At the same time in March 2022, the indigenous organisations (in collaboration with some NGOs, including the *Instituto de Defensa Legal* (IDL) (Institute of Legal Defence), filed several formal complaints which were successful. As a result, the Amazon Superior Court of Justice declared a series of administrative acts by the Amazon Regional Government in favour of CMA illegal. The ruling brought about the *de facto* termination of CMA's activity in the Cordillera del Cóndor (Ruiz Molleda, 2022).

At least five conclusions can be drawn from the chronological account of the different phases and milestones of the case. Firstly, given the nature and regulation of mining operations, many years can elapse between the granting of mining rights to an area, the subsequent presence of the company holding those rights in the area, and the subsequent exploitation of the deposit. In the case analysed here, 20 years passed from the time CMA entered the lives of the indigenous Awa-

jun people of the Cenepa River until the company's attempts to exploit a potential deposit stopped, at least for the time being. This time has been marked by uncertainty and by a problematic relationship between the communities and the company. Secondly, the presence of CMA has caused various types of conflict between the population and the company itself, as well as with the national and regional governments. Some of these conflicts have resulted in violence and have come at a high human cost. Thirdly, indigenous peoples' mistrust of various state bodies has intensified. Indigenous peoples have seen governments, the army and police, and even supposedly technical agencies such as INRENA, act in the best interest of corporations rather than of the common good and the rights of citizens. Fourthly, divisions within indigenous communities have been encouraged, even in a context where unity between social organisations was important. Finally, the presence of CMA has triggered the arrival of informal miners who have gained a foothold in the land and undermined the territorial integrity of indigenous peoples.

Consequently, after twenty years, there has been no exploitation and little exploration work. However, the presence of CMA has had a serious impact on the population's ability to decide on their own future and, indirectly, on the future of the Amazon rainforest that is under their protection.

4. **The arrival of Libero Cobre in Mocoa (Putumayo): New narratives and traditional practices**

In October 2021, *Libero Cobre* began exploration works through airborne geophysical surveys and soil sampling in the Mocoa area of Colombia. The first diamond drillings to assess the richness and extent of the deposit were carried out in 2022. However, *Libero Cobre* has had a presence in Mocoa since 2019 and has begun to socialise its goals and work with different sectors of the population.

The concession area is located in the rural area of Mocoa, about 10 km from the town centre, at an altitude ranging from 1000 to 1800 metres above sea level (see image 2). The concession covers an area of 11,391.09 ha, located around the villages of Condagua, Ticuanoy, Las Toldas, Pueblo Viejo, Alto Afán, Montclar, San Martín

and Campucana (El Espectador, 2018; Libero Copper, 2022). The company's stated objective is to build an open pit copper and molybdenum mine, although the type of mine best suited to the characteristics of the deposit is not yet known.[6]

Libero Cobre is a company engaged in the geological exploration of copper and its derivatives. The Mocoa Project is its only project in Colombia. The company publicly presents itself as a supporter of energy transition, development, economic revitalisation, and environmental conservation in Mocoa and Putumayo (Libero Cobre, 2022). *Libero Cobre* is a subsidiary of the Canadian company Libero Copper, which specialises in the exploration of copper deposits. Like many of these so-called "junior" Canadian companies, it has specialised in identifying and evaluating potential deposits. If the deposit has commercial value and can be taken to the exploitation stage, these companies sell their rights to much larger companies that have the technology and financial capacity to exploit the deposit. In addition to the Mocoa project, Libero Copper has three other projects in its portfolio in Canada and Argentina (Libero Copper, 2022).

The arrival of this company was not entirely unexpected. Between 1973 and 1977, the United Nations and Ingeominas[7] carried out a series of studies that highlighted that one of the copper porphyry belts running through the Andes extended from Ecuador to the Alto Magdalena in Colombia and emerges in the rural area of Mocoa, the capital of Putumayo (Silva Melo, 2018; UPME, 2006).

There is a record that an exploration licence was granted to the South African company Anglo Gold Ashanti in 2004. In 2008, the Canadian state-owned company B2Gold entered the area through its subsidiary Sociedad Mocoa Ventures, which was awarded five concession contracts in the area between 2006 and 2008 by Uribe's government. These companies were interested in gold deposits. Exploration works were performed between 2012 and 2013. Subsequently, in May 2018, Sociedad Mocoa Ventures sold its 100 percent interest in the "Mocoa Project" to Canadian Libero Copper. Libero Copper also took over the

[6] Interview held with representatives of Libero Copper in Colombia on 23 February 2022.

[7] Current Colombian Geological Survey.

rights to the concession that was still owned by Anglo Gold Ashanti. In summary, in 2018, Libero Copper held all six existing concessions in the area. That is just over 11,000 ha or 7.53% of the surface area of the municipality of Mocoa. However, at the end of 2022, the company revealed that it had asked for more than 1000 km^2 to be registered to its name within the "Mocoa Project". This was a tenfold increase in the area currently under concession (Libero Copper, 2022). The aim was to make the "Mocoa Project" one of the most important mines in Latin America, which would result in Colombia becoming the third largest copper producer in Latin America, after Chile and Peru (Portafolio, 2022). To this end, the company emphasised its interest in maintaining a relationship with the population based on the principles of dialogue and respect that was characteristic of its aim to be "good neighbours" (Libero Cobre, 2022).

The location of the "Mocoa Project" in the Amazon was a controversial issue. Traditionally, the Colombian Amazon has been considered to consist of the Departments of Amazon, Caquetá, Guainía, Guaviare, Putumayo and Vaupés, in addition to some parts of the Departments of Vichada, Meta, Cauca and Nariño (Salazar Cardona *et al.*, 2019). In recent years, however, this characterisation has become problematic. In the 2014-2018 Development Plan, the Colombian government left the Departments of Putumayo, Caquetá, Vichada and Meta out of the Amazon. According to some analysts, this change could be a strategy to facilitate extractive activities in these Departments (Díaz Parra, 2018). Such a claim would be consistent with the increase in mining concessions in the Colombian Amazon (as traditionally organised). It has also been recognised that these areas already granted as concessions (and/or in the process of being granted as concessions) overlap with areas of special protection such as natural parks, indigenous reserves and forest reserves, and are located in highly vulnerable areas, both socially and environmentally (Salazar Cardona *et al.*, 2019).

Putumayo is among the three Departments in the region, along with Caquetá and Guainía, with the highest number of granted mining licences. Between 2011 and 2018, the number of mining applications increased by 34%, from 67 to 103. Similarly, the area included in applications increased by 43%, from 75,786 ha to 132,969 ha. (Salazar Cardona *et al.*, 2019). Two factors have influenced this growth. First, in 2011 the Department of Putumayo was declared a mining district, fa-

cilitating the granting of mining titles and, consequently, investor interest (Avila & Sánchez Sambrano, 2014). For some public opinion leaders in the region, this declaration called into question Andean-Amazonian identity as a region of great biodiversity, the protection of which is incompatible with mining.[8] Second, for some local actors, it seemed clear that the signing of the Peace Agreement in 2016 created a more favourable context for investment in these territories, including mining activities.[9]

In 2019, the presence of Libero Copper was rejected by the communities located in the area surrounded the concession.[10] The main concerns related to the preservation of the headwaters of the Mocoa river basin and the fact that the "Mocoa project", as the company itself acknowledged, overlapped with a forest reserve (Libero Copper, 2022). A part of the local population has promoted the extension of the reserve, a request that has not been answered by the Ministry of Environment. In the meantime, if the "Mocoa Project" goes ahead, part of the reserve could lose its protection.

At the end of 2020, after activities were halted due to the pandemic, Libero Copper decided to resume the project by focusing on its social responsibility and community relations programme. Its strategy consisted of fostering bilateral relations with different local actors and scaling up its communication campaign. The first action to reach out to the population was to translate its name into Spanish: Libero Cobre. With regard to communication, they carried out open door campaigns in their offices for those interested in learning about the processes they undertake, as well as local media appearances and advertising. The company also partnered with local economic sectors such as sugar cane production and tourism, promoting the idea that "mining can serve to leverage and strengthen economic life".[11]

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[8] Interview held on 24 February 2022 with Andrés Cancimance, candidate for House Representative and Congressman since the March 2022 general elections.

[9] Interview held on 14 February 2022 with members of the Corporación Casa Amazónica.

[10] Interview on 23 February 2022 with representatives of Libero Copper in Colombia.

[11] Interview on 23 February 2022 with representatives of Libero Copper in Colombia.

Groups opposed to the company have criticised this move to reach out to the population. They pointed out that at the end of 2020 and 2021, Libero Cobre approached the *Juntas de Acción Comunal* (JACs) and promoted meetings with the directors, especially in the villages adjacent to the project. Several people who were acquainted with the process pointed out that this approach coincided with changes in the leadership of the JACs, and suggested that the company had influenced the elections by supporting candidates who were favourable to their operations.[12] Some of the people who made up the new leadership of the JACs are said to be related to the company or to be company service providers. The result is that the new JACs are more open to entering into agreements with *Libero Cobre* based on payments for land leases, hiring people to provide security services, or renting pack mules to carry tools.[13] However, there is no unanimous agreement by the local population, and the position taken by the JACs is creating internal divisions and tensions between different sectors of the population.[14]

During 2021 and 2022, the company focused on obtaining a social licence by engaging in closer ties with communities through the support of the JACs. Thus, they reported building community headquarters, hiring local staff for their initial operations, sponsoring events and advertising their local procurement policy. *Libero Cobre* has also carried out campaigns aimed at children and young people through the sponsorship of sports teams in the villages, support for local youth entrepreneurship, events to raise awareness of its activities and competitions with the delivery of tablets (Libero Cobre, 2022; Libero Copper, 2022). All these actions were publicised on social networks, where the company regularly posts its activities. One example of this was a post in October 2022 on the inauguration of

[12] Interview on 24 February 2022 with Andrés Cancimance, member of the Chamber of Deputies for the Department of Putumayo for the *Coalición Pacto Histórico*; and interview on 24 February 2022 with a volunteer from social organisations.

[13] Interviews on 22 and 23 February 2022 with an inhabitant of the Vereda Montclar, farmer and volunteer in social organisations.

[14] Interview on 22 February 2022 with a member of a social organisation for the defence of Human Rights.

a social and community house for the project at the entrance of the Montclar district.[15]

These strategies to become closer to the local population offering them different types of material resources have gone hand in hand with the construction of an appealing discourse about the company's work. The company conveys an image that is linked to clean energy, energy transition, social responsibility and building geological knowledge about the region. For the latter, it has established and publicised agreements with prestigious university centres such as the Mining Faculty of the National University of Colombia, in Medellín (Libero Copper, 2022).

However, the advertising strategy has also caused problems due to the use of symbols and festivities of the region's indigenous communities. For example, in February 2022, *Libero Cobre* advertised the traditional festivity of the Inga and Kamëntsa peoples, the *Atun Puncha/ Bëtsknaté* on its social media. In response, the *Organización Zonal Indígena del Putumayo* (OZIP) (Indigenous Organisation of the Putumayo Area) asked the company not to use its symbols and festivities to imply that the indigenous peoples are its allies or that they have consented to its activities. For them, *whoever drills and dynamites the body of mother earth will not be welcome at this ceremony of the original peoples and celebration of life* (*Organización Zonal Indígena del Putumayo*, 2022). In this way, the indigenous organisations showed their rejection of the *Libero Cobre* project.

Disagreements with indigenous peoples are not limited to symbolic issues. The most relevant and furthest-reaching issue concerns the obligation to carry out prior consultation. In 2019, the Home Affairs Ministry certified that there were no indigenous communities in the area to be explored, and *Libero Cobre* was exempted from the responsibility of engaging in a consultation. However, in September 2022, this decision was overturned as a result of a court case in which the *Resguardo Indígena Condagua* (Condagua Indigenous Reserve) of the Inga people demanded that their rights to prior consultation, cultural identity,

[15] See speech at the inauguration of the social house on Libero Cobre's social networks: https://www.facebook.com/watch/?ref=search&v=646142860515249&external_log_id=1dfa6f9c-0cfd-4f13-b7a7-40e057ee1fee&q=libero%20cobre

survival, self-determination, territory, and a healthy environment, and to the protection of their customs, traditions and worldview. This ruling ordered the Autoridad *Nacional de Consulta Previa del Ministerio del interior* (National Authority for Prior Consultation of the Home Affairs Ministry) to examine the impact or effects that the exploration and mining operations carried out by *Libero Cobre* could have on the Condagua Indigenous Reserve and to determine whether it was appropriate to carry out the consultation or to adopt the necessary measures to mitigate or prevent its effects. The technical verification process resulted in the need for prior consultation, as the exploration works disrupt the social, spiritual, cultural, health and livelihood structures of the community.[16]

The development of the Mocoa Project has also generated tensions between different levels of government. Local and regional governments have no jurisdictional authority to grant rights for mining exploration and exploitation activities, which are regulated by the national government (and in this case it strongly supports the project). The incumbent local authorities in the area for the period 2020-2023 have opposed the mining operations. Both the mayor and the company have stated that they have not engaged in dialogue about the project. The mayor has argued that exploration works have been imposed on them by national authorities, and this restricts their right to self-determination and land use planning, as well as failing to take into account the local view of development. The municipal position is set out in the Development Plan that guides the local government's action and in the Council's resolution on measures for the preservation and defence of the ecological and cultural heritage of the municipality. The latter document expressly prohibits mining work for the extraction of metals, and has been an important instrument for the articulation of citizen resistance to mining.[17]

However, the mobilising drive of the Resolution has not been sufficient to stop *Libero Cobre's* operations in the area. The company took legal action to ask for the Resolution to be rendered null and void on

[16] Resolution No ST-1450 of 26 September 2022- Directorate of the national authority for prior consultation, Ministry of Interior.

[17] Agreement 020 of 2018 of the Municipal Council of Mocoa.

the grounds that the local government lacked the relevant legal power and had overstepped their authority in deciding on the implementation of these operations in the community. In September 2022, *Libero Cobre* was ordered to suspend its activities in the area, as a decision by the Mocoa Court ruled against the company and ratified the municipality's authority to ban mining activities on environmental grounds.[18] However, despite this ruling, the local government is limited in its ability to enforce compliance with the Resolution and does not have sufficient legal power to act against decisions at the national level.[19] This tension between local and national government is also reflected in local politics. Several actors involved in the process of resistance to the Mocoa project have argued that the mayor has not acted forcefully and publicly in the face of this situation, which has given rise to mistrust in his stance and determination. Other local actors believe that, although the Resolution is significant, there is a real imbalance between the jurisdictional authority of national and sub-national governments. Local power cannot counteract national policies to promote mining.[20]

As discussed in the previous paragraphs, *Libero Cobre* has only a brief history in Mocoa. There is still a long way to go before any potential mineral deposits can be commercially exploited. However, the social and political effects of the past few years will extend over time and, therefore, shape the future of the region. The first consequence is a division among residents. On the one hand, there are sectors which, due to limited job opportunities, perceive mining as an economic alternative that generates employment and income. On the other hand, there are sectors of the population that are opposed to mining and committed to defending the territory. The second consequence is that the mining company's intervention rationale has co-opted some JAC leaders, causing some sectors of the population to mistrust these leaders. Thirdly, it has encouraged confrontation between different levels

[18] See: Mining ban in Mocoa ratified. https://asociacionminga.co/se-ratifica-la-prohibicion-de-la-mineria-en-mocoa/.

[19] Interview on 23 February 2022 with the Mayor of Mocoa.

[20] Interview on 24 February 2022 with Andrés Cancimance, member of the Cámara de Representantes por el Departamento de Putumayo por a Coalición Pacto Histórico (House of Representatives for the Department of Putumayo for the Historical Pact Coalition).

of government, and highlighted the differences in the way official institutions understand and apply laws and regulations. This lack of consistency ultimately erodes the legitimacy of public institutions. Finally, the company's actions have had a specific impact on the indigenous peoples wo live in the concession area to be explored. The way the company has approached them does not augur a peaceful coexistence.

Libero Cobre's discourse regarding its contribution to the energy transition and the decarbonisation of the economy reproduces the messages of the current national government of Colombia. This discourse helps the Government to justify its decisions to national public opinion, but not to the local populations that are directly affected. In this sense, the company's new discourses have not significantly changed the traditional practices of junior exploration mining companies. *Libero Cobre* has not shown that its actions and, therefore, its impact, will be any different from those generated in the early 2000s in different Colombian territories with the expansion of the extractive border, in the midst of the commodities boom.

5. **Conclusions**

The need for an energy transition towards decarbonisation is driving the demand for minerals. In some cases, such as that of copper, its increasing use is leading to the expansion of the areas where deposits are sought and exploited. The search for mineral resources is moving from the Andean mountain range to the headwaters of the Amazon basin. This search, which for decades was considered problematic because of its potential environmental impact, has found in the transition to clean energy a new legitimising narrative for governments and mining companies.

Previous studies have warned of the difficulties involved in making mining politically and socially viable in the Amazonian context, beyond the ecological impact. Some of its environmental features explain these difficulties. Firstly, Amazonian populations, which often include indigenous peoples, have in many cases prior rights of control over the territory. Secondly, large territories of great ecological value are legally protected in the different countries involved. Such protection precedes interest in mining, and any attempt to weaken protection are widely

contested. Finally, the presence of mining companies, beyond having a negative impact on livelihoods, tends to generate tensions and conflicts within communities, between communities and companies, and between different levels of government.

The two cases studied, concerning CMA in the Cordillera del Cóndor (Peru) and *Libero Cobre* in Mocoa (Colombia), confirm many of the dynamics reported in previous literature. However, they also reveal something relatively new. The two cases can provide a better understanding of the negative impacts that exist in the long period of time between a company showing interest in a territory and the actual construction of a mine and extraction of minerals. In many cases, the interaction over this period determines the future of the potential mining activity. In the case of CMA, after more than 20 years of problematic interaction, the lack of a social licence to operate has brought the operations to an end. In the case of *Libero Cobre*, despite being short-lived, it has already shown some of the problematic relationships that have held back other investments. The two cases also indicate that, beyond the end results of the interaction, the negative impacts on social relations and institutions may cause problems for the future of these territories.

In both cases, conflict appeared as an expression of the diversity of interests surrounding mining projects. In the case of CMA, conflicts led to violent confrontations which, in addition to the suffering and cost in human lives, have resulted in the destruction of social capital and the delegitimisation of public institutions. This has been exacerbated by the lack of consistency in the criteria for protecting the ecological wealth of the land and the rights of indigenous peoples. In Peru and Colombia, both territories have some form of legal protection in place which the government ultimately subordinates to the need for investment; in both cases, they ignored the need for consultation with indigenous peoples.

In addition to the delegitimisation of institutions and the consequent loss of trust in them, the presence of mining companies generates divisions within local populations. While the typically diverse opinions and interests is to be expected, there is a reason for concern regarding the attempts by companies to promote and deepen these divisions in order to break the capacity for collective action in the face of

their demands. This strategy, a long-standing one in the extractive sector, results in negative dynamics in the long term.

Finally, in the context of the intensification of informal mining, especially alluvial gold mining, the presence of mining projects can attract informal miners to the area, who end up becoming an additional problem. As in the case of CMA, the ability of the indigenous population to stop the company's claims has not completely freed the land from mineral extraction. In fact, the presence of informal miners is at least as serious a problem for both the environment and the indigenous peoples' ability to control their territories.

On the positive side, the two cases show the ability of local populations to build collaborative relationships with some state officials and agencies, as well as with social organisations. Time will tell to what extent this ability and the lessons learnt by the different actors during the process will help to overcome the negative impacts identified.

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Part 2

Resistance strategies to mining operations in the Amazon: the case of the Mocoa project (Colombia)

Asier Martínez de Bringas and Gorka Urrutia

1. **Contextualising the issue of resistance**

The Amazon is the largest tropical rainforest on the planet. Protecting it is of great strategic importance for humanity as it has the ability to regulate the carbon cycle, thereby strongly contributing to determining the global climate. It is also essential for regulating the Earth's hydro-climatic balance, as well as for the survival of many living communities, mainly indigenous peoples. However, the Amazon is one of the most vulnerable ecosystems in the world due to the risks of deforestation and desertification. It is for this reason that we are interested in the impact that the "Mocoa project" is having specifically on the Colombian Amazon as a strategic part of the Amazon itself.

Extractivism, specifically mining, weakens and makes the Amazonian ecosystem enormously vulnerable. This is conducive to changing the behaviour and cultural patterns of communities (especially indigenous peoples); radically altering security dynamics in the areas surrounding the sites through the search for income; generating activities

that significantly impact the natural and cultural environment, thus affecting living conditions, health, development, as well as opportunities for the inhabitants of these territories to obtain income. Therefore, carrying out sustainable mining projects involves a strategy of security and control, and of social and economic inclusion. It requires adopting an approach that brings the impacts (damages) into a broader spectrum of threats, risks and vulnerabilities that accounts for contextual conditions ; while also improving the living conditions and governance of the Amazonian population, and integrating the sectors that are furthest away from the country's economic circuits (Valdés *et al.*, 2019; SINCHI, 2019).

The study's subject —the Mocoa project— is in an exploratory phase. As this is an ongoing project, there is little detailed information available at this stage on how the exploratory phase of the mine will be carried out, and even less on how the exploitation phase will be executed. In the immediate future, strong land impacts are foreseen in the construction of roads and infrastructures to be used for extracting the mineral. The presence of Libero Cobre has been the source of strong tensions and conflicts over the land, dividing communities and sectors. There is an important group (articulated around some *Juntas de Acción Comunal*, known as *JACs*) that opposes the activities of Libero Cobre, due to its strong impact on the ecosystem and the overlapping of this project with a forest reserve or indigenous reserves. These JACs have complained of the lack of detailed information about ecological impacts in the area throughout the process, together with the opaque and confrontational relationships between the different local populations. However, there are also sectors that see the presence of Libero Cobre as an important opportunity for the local communities, especially in terms of employment. It is therefore important to note the existence of deep internal —intra-community— tension between the different residents in the Mocoa lands in terms of how they organise resistance. It is difficult to speak of a single model or paradigm of resistance in the area, as it takes the shape of different forms and strategies (for example, those articulated by the JACs; or those coming from the indigenous peoples). Moreover, these different forms of resistance in Mocoa have been strained by significant splits and co-opting processes within JACs themselves, as well as within the indigenous communities and their leaders.

Any resistance strategy to the exploitation of the Amazonian "abundant sources" in Mocoa must take into account three types of relationships occurring in the land: (i) the abundance-based relationship with the authorities and governance regimes of the area, and whether these facilitate and enable wealth to be distributed or not, thereby contributing to the well-being of the majority of the local populations, not only of certain elites; (ii) the abundance-based relationship with the level of political conflict, where the income obtained aggravates the causes of conflict, generating irrepressible competition between different conflicting groups in the mining land; (iii) the relationship of authorities and governments with private investors, analysing the extent to which they promote and facilitate the settlement and promotion of the different types of extractivism (Salazar and Reyes, 2015).

Any proactive resistance agenda that seeks to be effective and transformative must include: (i) a structural analysis of the mining commercial chain in order to take actions to break this chain, attacking the greatest part of its value and the strategies that enable the accumulation of wealth and the intense degradation of the land. This involves analysing the role of government institutions in promoting these activities and their profit margins; and (ii) understanding the potential and vulnerabilities of Amazonian land planning, proposing the means and instruments necessary to move towards forms of integration for the benefit and development of the communities that live there. This would entail overcoming the institutional framework in the mining sites that condemns the land to environmental, cultural, social, economic and political degradation. These two aspects are key to the analysis, although are still in an experimental phase in Mocoa and should be developed in much greater depth, given their newness. More research and investment will be needed in the future to carry out in-depth analytical monitoring of the structural impacts that mining will have on Mocoa in the coming years, which will help to build strategic litigation and resistance on the land, as has happened in other parts of the Amazon and in other states (Sinchi, 2015; 2018; 2019).

As discussed elsewhere in this study, resistance movements often take on three forms. Firstly, in some cases, local opposition has been so strong that it has galvanised resistance movements to mining activity that led companies to abandon their plans (Kröger, 2021; Martínez Alier, 2015; Walter & Wagner, 2021). These tend to be rare. Secondly,

in other cases, the local population needs the mining activity and there is no opposition, strictly speaking, between local communities and mining companies. Thirdly, there may be multiple interests, viewpoints and fractures within the local communities that live on the land where mining operations occur (Arellano-Yanguas, 201 Orihuela *et al.*, 2022). Although the three forms often intersect and interact, for the purposes of this study, the first and third types of resistance to mining are primarily of interest. It should be remembered that the starting point is a major intra-community split as a result of the presence of Libero Cobre in Mocoa. Creating and reinvigorating mechanisms that sustain and reproduce the community dimensions of territorial defence and appropriation is a key resource for understanding and defending the interests of communities and indigenous peoples as collective producers. This is intended to dismantle mining and extractive threats that lead to communities being uprooted, as in the ongoing case of Mocoa. Implementing models of indigenous autonomy is essential to understand the ways of inhabiting the territory, of identifying the threats that mining involves, of explaining the dynamics of criminalisation that loom over indigenous peoples, and of developing defensive strategies to face all of this (Escárzaga *et al.*, 2020).

The indigenous peoples' control and knowledge of the territory, together with the creation and maintenance of productive techniques appropriate to the diverse and hostile ecological conditions for human life in Mocoa, are resources that must be transferred to the organisational field, and to the realm of struggle and resistance strategies. The productive potential of all community members —women, youth and elders— is harnessed in the processes of Amazonian indigenous resistance (Martínez de Bringas, 2021); as is the capacity for struggle, where women organise "common pots", children play the role of *chaskis* (messengers), and everyone participates in the night-time surveillance of the communities, as also happens in Peruvian *rondas campesinas* (agricultural farmer patrols). These processes leverage the characteristics of the land and the community's knowledge and ability to move through it, as when the indigenous people imitated the sounds of animals to frighten and scare away oil company workers (Martínez de Bringas, 2021). Some of these dynamics are beginning to take shape in the area of Mocoa through the JACs, the indigenous peoples and the presence of other actors resistant to Libero Cobre's intervention.

2. **The importance of strengthening indigenous land rights in the Colombian Amazon**

In Colombia, the regulatory framework for mining is conditioned by the land rights of Amazonian communities and the State's environmental protection obligations with respect to the region. The 1991 Colombian Constitution recognises indigenous autonomy both in terms of land and political issues (Articles 286, 287, 288, 290, 321 and 329), indigenous jurisdiction (246), linguistic rights (10) and prior consultation (330). This constitutional framework has led to important legislative and jurisprudential developments in the protection and recognition of the rights of indigenous communities. As a result, some progress has been made in the construction of a culturally diverse and autonomous State for the peoples and communities of the Amazon.

Land rights are closely related to the right to autonomy, the right to self-development and access to land and its resources. These rights have been recognised in multiple international instruments such as the 1948 Universal Declaration of Human Rights, the 2007 UN Declaration on the Rights of Indigenous Peoples, ILO Convention 169, the International Covenant on Civil and Political Rights (Articles 1 and 27) and the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 d). At the domestic level, a combination of the 1991 Constitution, Law 21 passed in 1991, and the case law of the Colombian Constitutional Court are the mechanisms used to recognise land rights for indigenous communities.

One of the great Colombian advances in the defence of local governance has been the recognition of *resguardos indígenas* (indigenous reserves) as part of the rights to self-government and to collective land (Hernández, 2015). Under Article 329, *resguardos indígenas* were recognised as non-transferable collective property, which was vastly important for articulating indigenous resistance. Article 63, together with the legislation on Natural Parks, established that public assets, the archaeological heritage of the Nation and indigenous reserves are inalienable, imprescriptible and guaranteed against seizure, and cannot be subject to any commercial transaction. The Colombian Constitutional Court itself has established that indigenous people's collective land is much broader than how it is understood and assimilated by

the State, and a formal title is not required to recognise collective land rights.[1]

Although the designation as a *resguardo* acknowledges the collective right to land, its existence does not entail a particular form of political-administrative organisation. The granting of a land title *per se* does not confer indigenous communities a status of a local land ownership entity with a public authority role. The Constitution recognised the right to indigenous autonomy and self-government through their own authorities and institutions, seeking to make land and socio-cultural organisation coincide with the political and administrative-structure through the so-called *Entidades Territoriales Indígenas* (ETIs), that is, Indigenous Land Entities (Article 329). The aim was to establish a new organisational regime in which indigenous land would be granted the status of local entities, at the same level as municipalities and districts. This constitutional provision was left outstanding and subsequently regulated by means of the *Ley Orgánica de Ordenamiento Territorial* (Organic Law on Land Planning (known as LOOT)), which after more than 20 years was eventually issued in 2012 (Law 1454). However, the 2012 LOOT did not regulate ETIs. This legal vacuum has made it impossible for indigenous autonomy and self-government to effectively happen. In fact, the indigenous authorities have to deal with other political, administrative and organisational institutions for land rights purposes, such as governors' offices. Although these are regional authorities, they have taken over the functions of the municipalities in the management of transfer resources and in some cases, even in the organisation of the territory. This is how the territory is recognised through *resguardos*, but there are no clear rules on how these *resguardos* operate in political-administrative terms at the national, regional and local levels. This political-administrative void is particularly notice-

[1] The Constitutional Court has strongly established this as follows: "(...) it is evident that the constitutional legal system contains relevant and specific protections for indigenous peoples, grants them rights to their land and specifically defines the concepts of *resguardos* and indigenous land. The latter has been defined as land having autonomy for the management of their interests, rights, own functions and jurisdictional powers..." (Judgment T-01, 2019). On the definition of territory see Judgments: T-547 of 2010 of the Constitutional Court; I/A Court H.R., cases Awas Tingni vs. Nicaragua, 2001; Yakye Axa vs. Paraguay, 2004; Moiwana vs. Suriname, 2005; Saramaka vs. Suriname, 2005; Saramaka vs. Ecuador, 2012.

able and striking in the Amazon, since no local territory-based entities have been created in Guanía and Vaupés. Before 1991, the Amazon region was considered part of the national territories, administered by the central government through governors or *corregidores* (heads of a subdivision of a municipality) (Guío *et al.* 2015; Cayón *et al.*, 2008). For this reason, a large part of the Amazonian territory has remained regulated under the category of departmental *corregimientos* (subdivision of a Colombian municipality), despite the fact that the Constitutional Court held this organisational concept to be unconstitutional in 2001 (C-141 of 2001), and has repeatedly urged the Congress and the government to regulate the matter. The handling of transfers and management of land resources by Amazonian indigenous peoples has faced a lot more difficulties in the Amazon than in the rest of the country, due to the centralisation of territorial functions, which has rendered the indigenous reserves in the area powerless. This shortfall has been compensated for by the creation of *Asociaciones de Autoridades Tradicionales Indígenas* (known as AATIs), that is, Associations of Indigenous Traditional Authorities. These have played a leading role in triggering and catalysing indigenous resistance and mobilisation against the presence of companies in the Amazon. AATIs have enabled communities to engage in dialogue with departmental governments and environmental authorities,[2] such as the *Mesas Permanentes de Coordinación Interadministrativa* (Permanent Inter-administrative Coordination Tables). These have provided a space for dialogue and consultation, which has led to important agreements in favour of indigenous autonomy in the areas of health, education and territorial planning. The lack of ETIs has been somewhat compensated for by AATIs as a vector for guiding forms of territorial resistance.

Decree 632 of 2018 was enacted to fill these gaps and established a special procedure for the operation of indigenous land in non-municipal areas of the Amazon, aiming to recognise indigenous governance structures and delimit their land as territorial entities. The Decree es-

[2] We refer to the *Corporación Autónoma Regional para el Desarrollo Sostenible del Sur de la Amazonia* (Corpoamazonia); the *Corporación para el Desarrollo Sostenible del Nororiente Amazónico* (CDA); and the *Dirección Territorial Amazonia de la Unidad Administrativa Especial del Sistema de Parques Nacionales Naturales* (UAESPNN). The Amazonian Institute for Scientific Research (SINCHI) has also had a presence at the roundtables.

tablished a favourable scenario for strengthening a full process of self-determination and protecting their political, social and cultural institutions; in addition to bolstering self-government and advancing in the construction of balanced relations with the other entities of the State. Despite all this, the road for Amazonian indigenous peoples to be able to fully exercise their —constitutionally-recognised— right to self-government and political and administrative autonomy is fraught with obstacles.

It is also necessary to discuss the important regulatory developments and political implementation of prior consultation and free, prior and informed consent in Colombia, with emphasis on the Mocoa area. Article 330 of the Constitution recognises the right of indigenous communities and peoples to participate in decision-making related to authorising exploration and exploitation of subsoil resources, in order to avoid violating their cultural, social and economic integrity. The Constitutional Court strongly qualified this by establishing that prior consultation is a fundamental right that guarantees the cultural integrity and subsistence of ethnic communities as a group (Judgment SU-039, 1997). The Court set out a series of principles that articulate and guide any consultations to protect them and guarantee that they are effectively conducted. Any government is therefore obliged to carry out prior consultation processes, while companies do not have this authority; at no time can they lead or organise a consultation. It follows that no meeting between the companies and the communities may be held to ensure that a legitimate consultation process is carried out, as has also been claimed in Mocoa. The Court even specifically stated that any consultation process requires a pre-consultation to define its terms, procedure and territorial scope, taking into account the particular cultural features and worldviews of the communities to be consulted (Constitutional Court, Judgment SU-383, 2003; C-175, 2009). The Court further remarked that only the authorities that represent the communities (not by any member of the group or the community) are legitimised to make and agree on decisions in the consultation process (Constitutional Court, Judgment T-737, 2005). These representatives can be selected and appointed in the pre-consultation processes; in the case at stake, they are Community Action Boards or indigenous leaders in Mocoa. In addition, communities must be provided with accurate, full, specific and truthful information on the consequences and impacts

that companies' exploration activities have on the territory (Constitutional Court, Judgment C-030, 2008). It was also established that consultation must have a clear purpose: protecting the fundamental rights of the communities consulted (Constitutional Court, Judgment, C-175, 2009). Finally, the Court established that in cases where no agreement can be reached between the different opposing parties, the final decision will be left at the discretion of the governmental authorities. The decision must be reasoned, objective and commensurate to the interests and conflicts in the area. Furthermore, if the decision could in any way affect the production, reproduction and sustainability of life for the affected communities and indigenous peoples, it will be necessary to obtain the free, prior and informed consent of the communities and peoples concerned (Constitutional Court, Judgments T-769, 2009; T-129; T-601, 2011 and T-693, 2011).

Despite a constitutional framework with such a clear focus on land rights, there has unfortunately been some conflict related to consultation processes in Mocoa in connection with Libero Cobre, despite the fact the mining activity is still at an initial, emerging stage. On 26 September 2022, *the Head of the Dirección de la Autoridad Nacional de Consulta Previa del Ministerio del Interior* (National Authority for Prior Consultation of the Home Ministry (ST-1450, of 26 September 2022)) issued a Resolution on the appropriateness of prior consultation with ethnic communities for projects, works or activities within the Mocoa Project.

The Resolution was the result of a claim filed by the company Libero Cobre regarding the pertinence of a prior consultation for the execution of the project "Technical, environmental and social surveys" in zone 1, Mocoa Project. In relation to this claim, the Resolution forcefully established that it is appropriate and pertinent to protect the prior consultation with the claimant indigenous community in question regarding the Condagua indigenous reserve of the Inga people, against the Home Ministry and Libero Cobre. This was in compliance with the court resolutions issued by the *Tribunal Superior del Distrito Judicial de Mocoa* (Superior Court of the Judicial District of Mocoa), in the second instance (Sole Decision Chamber in legal protection proceedings (*tutela*) filed under code (*rad.*) 860013104002-2022-00042-01)). The Resolution also established a period of 48 hours for the Head of the National Authority for Prior Consultation to initiate the necessary pro-

cedures to verify the impact or possible effects that the exploratory mining activities carried out by Libero Cobre would have on the *Condagua* indigenous reserve of the Inga People. Finally, the company Libero Cobre was ordered to ensure that if there is any direct impact on the *Condagua* indigenous reserve of the Inga People as a result of mining exploration activities, the company must actively and collaboratively participate in the consultation process, or take any necessary steps to mitigate or prevent such impact.

All of this is fundamental to understanding the territorial conflict in the Mocoa project and the importance of resistance in the face of such conflict. This has led to focusing resistance strategies on strengthening land rights and other indigenous collective rights that have been recognised both constitutionally and by international indigenous law, all of which were ignored in the initial exploration operations of the Mocoa project. Having ignored these rights is likely to result in strong conflicts in the coming years when the mining activities reach their peak. The digression in the previous paragraphs is essential to understand the specific territorial conflicts in this region, namely, the lack of application and implementation of recognised indigenous territorial rights, with special constitutional and international protection; the lack of political on the part of the State to harmoniously manage the social implications for rural property with respect of indigenous rights; the deep fracture between the different communities in the territory of Mocoa, where different conceptions of the resistance processes can be found; as well as the connivance of the State in maintaining and sustaining a regulation that contravenes the forms of autonomy and recognised indigenous land rights (*resguardos*). All of this facilitates the establishment and entry of mining companies such as Libero Cobre in Mocoa and in indigenous territories. Given the conflicts related to the consultation has to date, the protest and indigenous resistance against the de-territorialisation suffered in this Amazonian region may be ultimately be criminalised.

2.1. *Legal protection proceedings heard by the Supreme Court of Colombia (Judgment 4360 of 2018)*

As discussed above, the focus on regulatory (state and international) recognition of indigenous land rights is used as a resistance

strategy by communities and peoples. This is why it is important to emphasise strategic litigation as a way of understanding resistance, including in Mocoa.

In this context, it is important to place the lawsuit for legal protection brought by a children's group that resulted in the Colombian Amazon being recognised as a "subject of rights". This made it a holder of protection, conservation, maintenance and restoration by the State and other territorial entities. It is therefore the first environmental litigation in Colombia aimed at mitigating global warming in the Amazon. The most important regulatory consequences were: (i) the Declaration of the Amazon as a subject of rights; (ii) the creation of an Action Plan to counteract deforestation in the Amazon; and (iii) the creation of an Intergenerational Plan for the life of the Colombian Amazon.

The Judgment has important contributions to make to articulating and channelling resistance and struggles for the future in the Amazon. Some of these contributions are related to the adoption of an overall vision of sustainability, as well as an approach based on collective land rights in order to guarantee Amazonian sustainability. The Judgment relies on the premise that climate change is drastically affecting the right of communities and groups living in the Amazon to live a life with dignity (with specific reference to conditions regarding health, food and access to water resources). It recognises the existence of a major deforestation process caused by the interdependent combination of several factors: illegal appropriation of community land; illegal single-crop farming; illegal mining deposits and ensuing mining processes; the creation of public infrastructures to allow access to the Amazon; the survival of agro-industrial crops; and illegal timber extraction, among others. To address this situation, the Judgment proposed adopting substantial measures to tackle deforestation, including steps to limit illicit crops and illegal mining, along with the granting of new mining titles, because of the huge impact this has on the Amazonian ecosystem. It also recognised the importance of the rights of future generations in the face of the risks posed by climate change, which is vital for sustaining intergenerational sustainability pacts in the future.

The preparatory process for the legal protection action, in which indigenous and agricultural communities and human rights organisations, as well as other social bodies, have come together, proposed

that the legal strategy enshrined in the Judgment should compensate for the state's failure to comply with its duty to protect the Amazon in its entirety. Therefore, the protection proceedings are considered a form of *strategic litigation to resolve the conflicts that climate-related impacts* and the effects of companies' actions on the territory (including mining companies) are having on the Amazon and its communities. The Judgment points to the need to adopt an ecocentric view that balances economic growth, social welfare and environmental protection. The resistance strategy seeks to shift emphasis towards constitutionally-recognised indigenous land rights, and to draw attention to the direct violation of these rights, which are key to sustaining life, through the actions of (mining) companies and other actors.

2.2. *The limitations of Judgment 4360 of 2018*

Despite the significance of this legal protection action, it is worth noting some of its limitations and shortcomings.[3] Many of them have to do with the fact that the ruling does not assume or incorporate the fundamental nature and meaning of community and indigenous ways of considering and protecting the Amazonian territory. However, these limitations suggest horizons and proposals for political action to continue thinking about and upholding resistance.

Limitations include:

— The mismatch between territorial planning instruments and environmental protection in the Amazon. The Judgment leaves out a crucial element of the debate, namely, the responsibility of essen-

[3] According to a report from Dejusticia on compliance with the obligations in the follow-up to the Judgment, by 2019 no municipality in the Departments of Caquetá and Putumayo complied with the third order of the Judgment. Only 5 municipalities in the Department of Caquetá (Milán, Solano, Solita and Cartagena del Chairá) submitted updates of the *Plan de Ordenamiento Territorial* (Land Use Plan (known as POT)), but without preventive, mandatory, corrective, and pedagogical measures aimed at climate change adaptation. Two municipalities in Caquetá (Doncello and Valparaíso) submitted an action plan to be included in the update to the POT. As a result, Mocoa is out of the scope of application of the measures necessary for implementing the material consequences of the Judgment (Garavito, 2019).

tial bodies that are competent in land-use planning. This issue was partly introduced when ETIs were first discussed in this study.

— The ineffective and rhetorical nature of legally recognised rights, such as that of the Amazon as a subject of rights, without establishing specific representatives or administrators of these assets, such as communities or indigenous peoples. Or the fact of establishing ecocentrism as the basis of meaning of the Judgment to guide the regulatory premises, paying no attention to further practical applications and failing to designate actors and subjects directly involved in its implementation.
— The need to move away from a state-centric understanding of territory and protection mechanisms, and to include the firm and effective participation of affected communities in the design of land protection plans.
— The need to include a form of environmental vulnerability that takes into account all of its complexity and different dimensions. This should avoid, therefore, a reductive consideration of territory and environmentalism, as the Judgment sometimes does. It is essential to consider the Amazon as a complex ecological system in order to think about resistance and alternatives.
— Recognition of the value and work carried out by the different communities concerned with the conservation and protection of the Amazon, focusing on the peculiarities and specific problems of the population affected by the impacts and land dispossession involved. Specific references to those who produce and live in the territory are necessary; rather than generic and abstract allusions, as those contained in the Judgment.
— Break away from the connection between *development, economic growth and mining model* (which until now has allowed the State to support and favour the anchoring of megaprojects in the Amazon). Instead, there should be a move towards a non-productive and non-mining based consideration of the land.[4]

[4] Mining and extractive activities have gained such prominence that they have attempted to break the legal system that protects and preserves territorial rights, especially indigenous rights. Such is the case of the debate raised by gold mining companies in the Yagojé-Apaporis Natural Park, which brings the State's ownership of the use and protection of natural resources into dispute under the Constitution. A previous Constitutional Court ruling ordered the suspension of any mining exploration and exploitation

The developmentalist understanding of territory entails radically disregarding the value of the land. It is necessary to go beyond market considerations in the understanding and interpretation of Amazonian conservation. This is essential to ensure that resistance actions can be built.

2.3. *Importance of the* Planes de Vida indígena *(Indigenous Life Plans) as a resistance strategy*

There is a need to focus on land resistance strategies that are based on the indigenous land rights granted by Colombian constitutional law (with specific references to the Amazon). This means that Indigenous Life Plans must be given centre stage, in order to understand the holistic approach to territorial protection proposed by indigenous peoples. The structural limitations contained in the Colombian Supreme Court Judgment analysed above can be inferred from the content of these Life Plans. The Life Plans are also fundamental to understanding the political rationale that activates and guides indigenous land resistance.

Indigenous Life Plans propose, first and foremost, a holistic consideration of sustainability. Rather than a development model, they involve alternatives and different transitions to development. They suggest a complex and structural analysis of the root causes of the ecological collapse in the Amazon, interdependently linking the de-territorialisation suffered by communities and peoples to the prevailing production model.

These Life Plans are essential for thinking about indigenous resistance, as they are at the core of indigenous self-determination that is articulated and built from a territorial point of view. Self-determination is a key element in understanding any form of indigenous resistance (in our case, to mining) by demanding devolution of power over the

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activities in the area. Therefore, the company *Cosigo Resources* sued the State for the revocation of the mining title, arguing, among other issues, the violation of legitimate expectations and the breach of the Free Trade Agreement with Canada (Constitutional Court, Judgment T- 348 of 2012). All these practices of strategic litigation and creative jurisprudence trigger forms of resistance and serve to emphasise the importance of constitutionally-recognised indigenous land rights.

land to accommodate indigenous modes of self-organisation as peoples and nations. Self-determination also entails plurinationality, which implies the intercultural empowerment of peoples and nations as political subjects with sovereignty, dimensions hitherto unknown within the framework of the state. Finally, it also calls for the recognition of a *plural economy*, strained as legal pluralism, which involves an articulated coexistence of different forms of production and organisation of life within the State, as well as a plural understanding of anything of a legal nature in terms of its development and implementation (Martínez de Bringas, 2018; García Linera, 2012).

Indigenous Life Plans embody the long-term political vision of the community, the fulcrum for understanding and invigorating indigenous resistance. They are offered and proposed as instruments of land planning, in critical contrast to the administrative territorial proposal made by the State;[5] all of this is built through a participatory process of self-diagnosis, in constant dialogue with State institutions. The community's representative political institutions are essential in shaping this process, as they include forms of government and internal decision-making. Indigenous Life Plans provide a snapshot of the forms of self-management, production models and proposals for territorial sustainability of an indigenous community. They are the engine of indigenous resistance, on which the political grounding for all demands lies.

Indigenous Life Plans exemplify the political notion of indigenous resistance, as they emphasise: (i) the complex life process of communities in the Amazon, where ecological and cultural considerations are synchronous and must be considered interdependently in order to understand ecological transitions, development paths and forms of sus-

[5] The importance of this issue was noted in connection with the lack of regulatory developments of the ETIs in the Amazon; with the State's intention to postpone the development of legislation that would allow for indigenous autonomous development as a condition of possibility for implementing the depth and scale of community territorial considerations. This shortfall related to an obvious constitutional requirement (key to applying an understanding of that the land involves that constrains extractivism) triggers all forms of indigenous resistance. Indigenous Life Plans function as a resistant alternative to the developmentalist models proposed by the State, covering its lack of normative action despite the constitutional requirement to establish a territorial framework for the Amazon that recognises indigenous territorial rights and their specific worldviews.

tainability; (ii) the process of social organisation in the Amazon, drawing attention to the status of indigenous peoples as subjects of rights in eco-social relations, as well as the important role played by indigenous peoples and other communities in the protection of ecosystems and territories; (iii) the central cultural and ecological value of community resources, above and beyond the market.

All these considerations shape and structure the practice of indigenous and community resistance in Amazonian territory. The policy of land resistance entails building a meticulous and committed network of alliances, such as *Las Mingas de Resistencia Comunitaria*, which are formed and articulated around Indigenous Life Plans. The following pages will address some of these issues in relation to the Mocoa case study of the Libero Cobre mining project. This will include the resistance and responses to the company's presence and interest in establishing an open-pit copper and molybdenum mine. As discussed in the previous chapter, this company's activity can be traced back to years of work, although stronger exploration operations began at the end of 2021. In this context, there a series of reactions to express rejection to their presence, their exploration and possible mining work have been identified. The interest in this case is due to the fact that, while it is at an early stage, local responses have already started to take place.

3. **The social response to the initiative of Libero Cobre in Mocoa**

The objective of this section is to identify the most significant aspects of the response to this mining project, the reasons for it and, as a consequence, the factors that may hinder or fully stop the company's activities. In order to answer these questions, a series of in-depth key informant interviews were conducted in February 2022 to gather information and evidence about the region, past and current natural resource extraction operations, and current responses/resistance to the implementation of Libero Cobre's project. These informants were people from the main actors involved: State/public institutions (ETDO), companies (EMP) and civil society (CS), with a special focus on the role of indigenous communities. The following table shows the profiles of the people interviewed.

TABLE 1

Interviews conducted

No.	Type of actor	Sex	Date	Profile
1	EMP	M	23 Feb 2022	Libero Cobre representatives
2	SC	M	24 Feb 2022	Political representative, academic and social leader
3	ETDO	M	23 Feb 2022	Representative from the Mayor's Office
4	ETDO	F	25 Feb 2022	Government Officials
5	SC	Various	9 Feb 2022	Representatives of national social organisations (human rights advocacy)
6	SC	F	14 Feb 2022	Member of a women's social organisation (studies and research area).
7	SC	F	14 Feb 2022	Representative of a local social organisation (human rights, territory, rural areas)
8	SC		26 Feb 2022	Indigenous reserve member and teacher
9	SC	F	26 Feb 2022	Member of an indigenous women's social organisation
10	SC	F	22 Feb 2022	Local lawyer and human rights legal advisor
11	SC	M	22 Feb 2022	Agricultural farmer from the region involved in political-institutional and social organisations.
12	SC	M	22 Feb 2022	Resident of an area affected by mining
13	SC	F	22 Feb 2022	Human rights and land advocate with experience in political and institutional representation
14	SC	M	24 Feb 2022	Member of local social and cultural organisation
15	SC	F	22 Feb 2022	Member of various local social and cultural organisations
16	SC	M	25 Feb 2022	Indigenous authority
17	SC	F	23 Feb 2022	Resident of an area affected by mining
18	EMP	F	28 Feb 2022	Putumayo Chamber of Commerce Representative
19	SC	M	27 Feb 2022	Religious institution representative (Catholic priest)
20	SC	M	22 Feb 2022	Researcher specialising in Amazonian issues

The interviews used a semi-structured script to gather diverse information about the context and the region, the role of each actor, their positions on the mining initiative, and other relevant information to meet the objective of this chapter. The reading and analysis of the data was structured into four key areas: (i) the expectations generated by these projects in the territory and the local communities; (ii) the main issues in the dispute; (iii) the most relevant aspects linked to the discourses produced in these contacts; and (iv) elements related to the articulation and organisation of civil society[6] in the presence of mining projects, especially those aspects related to indigenous peoples, who have a preeminent role in the protection and care of the land.

TABLE 2
Analysis matrix

Key element	Aspects to consider
Expectations	Expectations of the population, institutions and civil society on the (positive and negative) impact of mining projects
Disputes	Main issues in dispute: within the local population, between the local population and the companies/ project promoters. Conflicting elements
Discourses	Arguments used for and against projects and their impacts
Organisation	Aspects related to the articulation and organisation of civil society, in particular, the response and role of indigenous organisations and/or communities regarding the protection of their rights

[6] When referring to civil society, we should consider its diversity and complexity, since the term "civil society" alludes to sectors made up of people linked to business profiles, grassroots people or other types of social leaders.

3.1. *Mining initiatives in Mocoa*[7]

Throughout the 20th century, the economic situation of Putumayo was boosted by the exploitation of various natural resources (cinchona, rubber, oil, etc.). The oil sector was the strongest industry in the economic growth period in the region. At present, other tourism and the agro-industrial sectors are important for the population in this area. Most of the companies in the region are small to medium-sized in terms of number of employees. As far as mining is concerned, the first exploration concessions date back to 1976.

The region is part of the Amazon; specifically, it is located in the Amazonian plain. It is therefore a territory rich in terms of fauna, flora, biodiversity and other natural resources. Previous experience with oil extraction has not been very encouraging, as it is perceived that, at least from the point of view of civil society, these initiatives did not produce the expected results in terms of social development and investment in infrastructure for the area's residents. As will be seen below, the fact that previous initiatives left no tangible benefit in the area has shaped the reaction and response to current mining projects by those who oppose them.

The current mining project in Mocoa dates back to the concessions granted in 2006 to Anglo Gold Ashanti, a company which subsequently transferred the rights to Mocoa Ventures (2009) and was eventually renamed Libero Cobre, its current name. The previous armed conflict and the large FARC presence in the territory made exploration and exploitation difficult prior to 2016. Following the peace agreements between the Colombian government and the FARC in 2016, activities for the exploration and exploitation of natural resources intensified. During 2020, operations were paralysed by the Covid-19 pandemic, and once the most acute moments of the pandemic had passed, they were resumed, taking advantage of the post-pandemic context. This situation has once again brought to the surface the response to and rejection of the Mocoa Project.

As stated by the company's representatives in their interview, this project is in its exploration phase. Therefore, as they indicated, there

[7] The information contained and discussed in sub-sections 3.1. and 3.2. is based on and part of the set of interviews carried out during fieldwork (see Table 2).

is no further information on how the mine will be constructed and the details of the exploitation. The company explains that knowledge about the existing resources is being produced in this exploratory phase in which and therefore it is too early to have details of the exploitation phase and its possible effects. In fact, as indicated by a Corpoamazonía contractor, Libero Cobre may be moving ahead with exploration work to make use of the mining title granted to it, without having a fixed idea of whether or not a mine will be established. The contractor claimed that the construction of a mine in this area (between 1000-1800 metres above sea level) would be very difficult and it is likely that the exploration contractor will not be the one to continue with the construction of the mine and the exploitation of the ore. However, the impact on the land is considered high risk by certain sectors of the community, mainly considering two factors: the experience of the population of Lower Putumayo with hydrocarbon exploitation and the experience of other areas of the country that have been reported.

Indigenous communities are another major stakeholder. There are several indigenous peoples in the area; the municipality has 27 indigenous communities and a fairly important town. Some of them may be affected by exploitation projects, as is the case of the Yunguillo and Condagua indigenous reserves. The perspective that residents have of the developmental implications for the area has a strong component of environmental care and biodiversity protection, as is characteristic of most peoples. It is precisely this assessment of environmental wealth that lies at the heart of the rejection of and conflict over the concession for the current mining operations. As the interviews showed, indigenous peoples and their organisations can play a crucial role in protecting the territory, as they believe that these spaces of resistance can best and most effectively help slow down or reject mining projects such as the one led by Libero Cobre.[8]

One of the main spaces of resistance results from friction/tension involved in competing interests between the national and the local or subnational level. The interests of national institutions (mainly the Colombian government) clash with those of local institutions (mainly the mayor's office). While national institutions have a perspective focused on the ben-

[8] For detail of the conflict caused by the project, see Part 1 of this publication.

efits of mining at a global level, local institutions are mainly concerned about the (negative) impact that the intervention has for their municipality, both in environmental terms and in terms of the limited long-term profits for the region. The response to this situation at the local level was *Acuerdo Municipal* 020 (Municipal Resolution 020), which the Mayor's Office used to establish a ban on (large and medium-sized) mining activities due to the geological risk in the area.[9] This resolution was approved after the avalanche in Mocoa in 2017 and also as a consequence of previous experience in the extraction of natural resources in the region.

We will now focus on the response from civil society, mainly the rejection of mining operations. However, it should be noted that, within the group of civil society actors, the commercial-business sector is divided over the opportunities for economic development that such a project could bring, as well as over the type of development to be implemented. As one party is in favour and the other against, discrepancies have made it difficult for the chamber of commerce to take a clear position.

In short, the general approaches that have been identified with regard to the presence of mining companies are those that can be found elsewhere in similar situations: (i) development opportunities, and (ii) potential damage to the ecosystem. The following pages contain the main findings based on the four key elements indicated above (Table 2, analysis matrix), which identify the positions of the various actors involved in the Mocoa Project.

3.2. *Social dynamics and responses to the mining project in Mocoa*

[a] Expectations

Expectations, whether real or unfounded, set the framework for each actor's positions and how they act in the face of a mining project such as

[9] Resolution No. 020 of 6 December 2018 of the Municipal Council of Mocoa was passed "to prohibit in the jurisdiction of the municipality of Mocoa any metal mining activities and large and medium mining operations for the extraction of other minerals (...) in order to safeguard the ecological and cultural heritage of the municipality'. This is yet another example of the controversy between national and sub-national bodies over the management of natural resources.

the one being implemented by Libero Cobre. The institutions, organised civil society and the population in general, faced with the impact of mining projects, adopt one of the two positions outlined above. Some positions have positive expectations, as they consider that the investments and the employment that will be generated will be eminently beneficial, while others argue that these operations will be temporary and will have no long-lasting positive effect. Rather, the latter hold that there will have harmful effects on the environment due to the type of mining operation. Moreover, they believe that the project will have a negative impact on the socio-economic fabric, given the temporary nature of the mining activities.

Some of the aspects that stand out regarding the impact of these types of interventions include the generation of a very specific type of labour profiles derived from the project (temporary, low qualifications, dependency, etc.); a development of the urban environment that neglects the balance between rural and urban, with the ensuing environmental impacts; the use of harmful extraction methods similar to those used in other contexts that have impoverished the local population, militarised their areas and prioritised national over local interests. In contrast, what the local population and the resistance of civil society are mainly seeking and causes their rejection to the project is that the communities should have a good life and the companies involved should take responsibility and provide fair compensation for the municipality.

This concern about the mining project was repeated most often, and most forcefully in the interviews conducted. The tension between the development opportunities and positive impact on the area versus the risks related to the environmental impact and the economic structure of the area had a central place in the interviews. This concern is based on previous experiences in the area and on information available from similar cases and projects elsewhere in the country. In addition, the impact that the 2017 avalanche had on the local population, mainly due to the inadequate response of the State, has resulted in a strong psychological impact on the population of Mocoa, who have had little trust in the authorities since then.

[b] Issues leading to tension and disputes

There is tension and conflict between the different positions and actors involved, namely, between those who are clearly in favour of the

project (the company and the national government) and those who are clearly against it (a large number of social leaders and local representatives). There are a number of other actors (from local civil society to local residents) who are halfway between the antagonistic positions. Some of them assume and expect that the project will go ahead, regardless of any rejection or resistance, and therefore consider that it is better to look for ways to profit from operations that will inevitably take place. As discussed in the previous chapter, this situation generates and deepens dispute, division and conflict within the local population.

One of the aspects that emerges from the interviews in relation to these conflicting relationships is the legitimacy for the exploration (and exploitation) of mineral resources in the area. The main tensions between the national and local levels, the judicialisation of the process between institutions, are a clear, unresolved example of this. There is a general perception at the local level that both the company and the national government lack the necessary legitimacy for the exploitation of the subsoil resources in the area. This legitimacy is deemed to be even more doubtful if the local authorities and population are not taken into consideration. However, interviewees had strong views on the power that these institutions (government, companies) have to carry out and advance with exploration work, imposing their interests above any other criteria.

In this context, given the existing socio-economic conditions in the area, companies find it easier to exploit the population's high vulnerability in order to achieve their objectives. The level of poverty, the lack of public services and the absence of investment by the state are some of the main conditioning factors that companies take advantage of to gain access to the territory, aggravate existing vulnerabilities and offer company services as alternatives for development and improvement of living conditions, to which many people succumb. This imbalance of power between the company and the community has even contributed to creating discord among the local population leading to divisions between those who claim to care for the spaces, for the community heritage, and those who simply seek employment or individual gain.

As a result, the main points of tension are:

— Libero Cobre's practices to neutralise, co-opt and/or corrupt social leaders have led to increased tensions in the project's areas

of influence. Economic and living conditions have resulted in conflicts among residents, in which some people have chosen to prioritise their individual gain over that of the collective. Members of the *Juntas de Acción Comunal* (JACs) have been among the targets of these practices.

— The experience of the 2017 avalanche. People's memory of this is deeply ingrained in their minds. Any large-scale project (such as the Farallones project) causes tension due to the mistrust caused by the inadequate intervention of the state at the time. This has had an effect on current interventions aimed at reducing the risks of future similar disasters.
— The actions that the company is taking with local leaders (e.g. JACs) leave a residue that hinders the relationship with and interaction between the different local political actors. Consequently, local intra-institutional conflicts arise which, among other things, make it impossible to reach a basic consensus on the care and protection of the land, and also exacerbate conflicting party positions.
— Violence and tensions arising from the armed conflict have become apparent. Some presence of armed actors to deter resistance to the mining project has been reported, using the argument that there are illicit crops.

Finally, an element should be noted that also has an impact on disputes and on aspects that contribute to aggravating the conflict: information in all its forms. There is a lack of information on the actual impacts that this type of project can have on the territory. Additionally, when information about projects is disseminated among the population, it includes technical language that makes it difficult for community members to understand the real impact. In this line, some interviewees explained that the company deliberately uses misinformation strategies which contribute to creating divisions among people and leading them to hold opposing views. These issues are related to the next key element in this section, the narratives of the actors involved and the affected population.

[c] Discourses

This information is part of the arguments being used for or against mining projects in Mocoa and their (positive or negative) impact on the territory.

Firstly, the company has implemented a programme to engage with the local population and exploit this relationship. Every gesture, however small, is used to convey a positive image of their work in the territory. Their goal is to reinforce the discourse of a company that is socially committed to the land, to the people (in general and to young people in particular), and to sustainability and the environment. This is embodied in some of the following slogans used in various spaces:

— *"We are Mocoa, we are local":* By using this slogan the company tries to show that they are a local-national company (e.g. by changing their name from Libero Copper to Libero Cobre); that most of the contractors are local people; and that they have local development in mind.
— *"Clean mining":* The discourse around elements of energy transition and the replacement of hydrocarbons is another argument used by the company.
— *"Let's explore together":* This slogan is linked to an educational guide contained in one of the many electronic devices with which the company is reaching out to many people to consume its information.

In contrast to the company's speeches and positions, civil society has some of the following positions.

The social actors involved, relying on information they have received and some to which they have had access, have become aware of the similar procedures used by mining companies in the different territories where they operate. Their messages followed a very similar pattern. For example, they complained about how these companies break into the territories and make business proposals, arguing that they need to access their land to conduct scientific studies against climate change; they also make job offers to local residents or offer them training related to mining, among others. These practices are used to trick or deceive the residents of the areas where they want to carry out mining operations. Civil society actors highlighted that many of these professional practices are very similar to those found in the mining and energy sector and in the hydrocarbon sector, and involve professionals, networks of people working in the industry, engineers, etc. All these types of practices and dynamics cause a sense of mistrust towards the

work and purposes of the companies and lead local communities to be suspicious of their presence and actions.

In this context, it is worth highlighting that there have been forms of organisation and response for the articulation, defence and protection of the land in Putumayo since ancient times. One of the main agents of resistance are the *Comités Cívicos* (Civic Committees). One was particularly active in connection with Libero Cobre's Mocoa project, namely, the *Comité Cívico por la Defensa del Agua y del Territorio* (Civic Committee for the Defence of Water and Territory). There is a need to raise awareness among the population about the importance of the territory and the (negative) impact that this project (and similar mining initiatives) may have. This Committee was strongly involved in enabling local people to defend what they consider to be important to their work and their resources: forests, water sources, fauna, etc., over and above the royalties that may be derived from the mining project.

[D] Organisation

This section will briefly refer to the response from the local institutions. Municipal Resolution 020 was as one of the most important initiatives in terms of holding a strong position against the mining project. This resolution slowed down the mining project and strengthened the jurisdictional debate (between the national and sub-national levels). This issue is awaiting resolution in the courts.

In parallel to this institutional response, there have also been various reactions from civil society. One of the aspects that emerged from the interviews is the asymmetry between national and corporate power, on the one hand, and local initiatives, on the other. In contrast to the vast resources available to business, civil society has to organise itself by resorting to the few means at its disposal. One aspect that has a negative effect on this asymmetry is the changing level commitment of the population in mobilising and defending aspects related to their interests, the environment and their territory. Organisations have been somewhat slow to respond to the presence of the mining company. Additionally, there has been no joint agreement on what and how to implement their response. This is due to difficulties in coordination and cohesion and has been especially noticeable in the villages

most affected by the project (Montclar and Pueblo Viejo). These are places where more participatory and community fieldwork might have contributed to a better organisation of the population and, therefore, a more articulated response.

One aspect related to the structure of responses and resistance is particularly interesting, namely, how this has been articulated by organisations or networks at the national level, and even at the international level. Networking with other support organisations can provide better, more effective responses, which is important with a view to achieving the objectives set out. This concerns both the impact of civil society's rejection and the financial and technical resourcing of responses and resistance.

Finally, one aspect that emerged from the interviews was the role played by indigenous communities as a prominent collective in organising resistance to mining projects. The collective feeling of this population gives resistance a greater degree of articulation and mobilisation compared to the rest of the local population. The regulatory and institutional recognition of indigenous communities is also remarkable in the resistance process, as it provides specific response mechanisms. Additionally, when indigenous communities operate in a highly articulated manner with other indigenous organisations and networks at national level,[10] this has a positive impact on them.

Recognising indigenous rights has implications for the autonomy of indigenous reserves, prior consultation rights, and the authorisation of indigenous peoples. These elements emerged as a form of response and resistance to mining projects and also came out of the interviews as qualitatively relevant mechanisms. In contrast to these resources, some concerns were expressed about a lack of suitable responses from institutions, for example, in situations where companies continued with their mining projects despite not having complied with the appropriate legal procedures. Some of the limitations identified in the resistance processes of indigenous peoples and organisations (as of civil society as a whole) were intra-community conflicts over strategies to be followed or over the opportunity to obtain resources from these projects; dis-

[10] For example, there is a network engaged in organising actions and building collaborative efforts in the six regions in the Colombian Amazon.

crepancies based on the different needs that exist within the community; or simply linked to individual needs derived from their own living conditions.

4. **Conclusions**

The local population had differing opinions and positions on mining activities in general, and those promoted by the Libero Cobre project in particular. There were those who saw it as a window of opportunity for the economic development of the area and for job creation for community members, given the current socio-economic conditions. In contrast, other people and groups stressed the negative consequences that this type of project can have in environmental, social and economic terms, both in the short and long term. These positions were most closely linked to the processes of mobilisation about, response to and rejection of mining projects and were based on previous experiences in Putumayo and other locations in Colombia.

Other types of opinions and positions were identified in which some sectors were in favour of the project. They were of the view that, given the strength of the project (due to the company's resources and support at national level), the initiative will go ahead anyway and the best thing to do is to row in the same direction as soon as possible so as not to miss out on the opportunity to pursue (individual) gain. The difference from those who openly supported the mining project (because they saw it as an opportunity for development) is based on the fact that this sector is in favour of the project out of resignation to what they consider to be unavoidable. This has to do with the strength of the project and the asymmetry with those who oppose it.

The asymmetry of power was also visible in the institutional sphere, crystallised in the tensions between the positions of the national and municipal governments, respectively. The role played by each of the governments was influenced by issues of jurisdictional authority, issues derived from the resources of the various institutions, and the relationship of the national government with some sectors (investors, companies) and of local governments with other sectors (local population, citizens). The conflict arising from the passing of *Resolution 020* in 2018, as well as the role of the municipal governments will be reflected in

the next local elections in 2023. The current political and local fragmentation is likely to be strong, and even aggravated as a result of the presence of the mining project in the municipality. The change in the national government and the new cabinet's discourse on energy transition and decarbonisation of energy has been used by the company to argue in favour of its project.

All these institutional aspects will need to be closely monitored to see whether they affect the project's pace (by making it slower)or even result in the project being rejected. For the moment, what has been perceived as one of the most solid mechanisms of response and resistance to the presence of mining companies is that produced by sectors linked to indigenous peoples and the articulation of social organisations with (national and international) networks for the protection of the territory. The legal mechanisms for territorial protection recognised by the Colombian State can be used to articulate responses. However, they are strengthened by the between social organisations working as networks at different levels (local, national, international).

Finally, it is essential to articulate resistance practices based on the potential for action and political proposals involved in Indigenous Life Plans. For this reason, in order to protect environmentally important areas such as the Amazon, national and international alliances must crucially be built that enable forms and practices of strategic litigation to defend and reclaim the territory. All of this must be consistent with their recognition under domestic rules and regulations in Colombia, or by international law; or in line with what has been done in other areas of the Amazon by different indigenous peoples. In this sense, the practices of indigenous resistance should be taken seriously insofar as they are based on the opportunities provided by indigenous territorial recognition.

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Conclusions

It has been known for some years that the much-needed energy transition towards decarbonisation will inevitably involve an increase in mineral extraction. While the scale of this increase is still uncertain, current technology shows that 3-6 times as much copper is needed for each unit of energy produced. For other critical minerals, such as molybdenum, lithium, cobalt and nickel, the growth rate is even higher, although the total volumes are smaller (World Bank, 2020). Indeed, global copper consumption rose from 17.8 million tonnes in 2009 to 25 million tonnes in 2019, and global demand is expected to grow faster than production capacity over the coming decades (S&P Global, 2022).

This increased production will lead to greater environmental impacts. It has been estimated that between 2000 and 2050, copper mining will produce nine times more tailings than in the entire 20th century (Goldman Sachs, 2022).This phase of mining expansion is taking exploration and extraction activities into areas with no previous mining history. This is the case in Amazonia, where a number of operations have been planned, particularly in the headwaters of the Andean foothills. The two case studies analysed here fit this typology.

This report has shown that there are major difficulties in ensuring that mining in the Amazon will peacefully coexist with the environment and local communities. The impact analysis conducted in

the first chapter highlighted the objective challenges involved in making extraction environmentally, socially and politically viable. It also showed that the determination of companies and governments to pursue mining projects against the wishes of local people is causing serious social and political problems, as well as avoidable suffering and loss of life. Many of these negative impacts are neither new nor unique to the Amazon. Despite mining companies' claims about their contribution to the environment and their intention to build positive relationships with local communities, the evidence collected suggests that the impacts of mining in the coming years will be no different from those of recent decades. This is because the companies are the same, the workers are similar and have been trained in the same schools, the laws and regulations have not undergone significant changes, and governments have the same or greater interest in exploiting these resources.

Impacts that are likely to continue include effects on human rights, the existence of civic space for debate, and the situation of environmental defenders.[1]

In recent years, environmental activists have been severely persecuted. Global Witness reports that four advocates are killed every week. Opposition to potential mining operations is one of the contexts in which persecution has been most frequent and deadly (Global Witness, 2022). In many cases, persecution does not involve physical violence, but rather legal action to quash opponents' actions and repress their voices. Strategic Lawsuits Against Public Participation (SLAPPs) are the most common strategy used for these purposes. The Business and Human Rights Information Centre identified 355 cases of SLAPPs between 2015 and 2021, of which 108 cases (30%) were related to the mining sector, thus making it the most reported sector (Zuluaga & Dobson, 2021). These overall figures help to situate our analysis of the Compañía Minera Afrodita and Mocoa Project cases.

In both cases, opposition to the company's actions had to contend with a substantial network of interests and complications be-

[1] These arguments were inspired by a lecture given by Anthony Bebbington at the University of Deusto on 27 September 2022 within the project of which this report is also a part. The content of this lecture is reported in Bebbington (2023).

tween the state and the companies. In the case of the Mocoa project, what is new is the existence of a narrative about the contribution of mining to reducing CO2 emissions by 2030, thus preventing global warming from exceeding 2 degrees Celsius. This sense of urgency is a breeding ground and a justification for curtailing the rights of local communities. These narratives can also be used to impose certain projects on general interest grounds, closing down spaces for debate and restricting the rights of local people who, due to their small numbers and dispersion, are often unable to confront these authoritarian logics.

The second chapter of this report highlights that recognising the rights of local communities is important for two reasons. Firstly, because only by acknowledging and respecting these rights can we speak of justice, particularly in the context of energy transition. Secondly, from a pragmatic perspective, two types of evidence show that recognising these rights supports more effective natural resource management: (i) forests are better conserved when Amazonian communities, especially indigenous communities, have rights to territorial control and self-governance (Science Panel for the Amazon, 2021); and (ii) the violation of rights often leads to conflicts that slow down the development of undesirable activities, but also of others that could be viable and could effectively contribute to the decarbonisation of energy production (Bebbington, 2007).

In order to ensure respect for the rights of Amazonian populations potentially affected by mining operations, at least two things are needed in addition to codifying these rights into enforceable laws. The first is to build political alliances between different stakeholders, recognising that they may sometimes have different and even conflicting interests. To do so, spaces must be created for different groups of local people to meet and deliberate freely, including authorities at different levels of government; state institutions; and public officials responsible for environmental protection. The second is to initiate an open debate on who should bear the economic costs of a just energy transition, to ensure that mining operations are conducted responsibly and are not imposed on local populations or destroy the environment. Governments, consumers (especially in the North) and mining and energy companies have the greatest responsibility for making this possible.

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AGENCIA VASCA DE COOPERACIÓN PARA EL DESARROLLO

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