

13

Small-scale gold-mining: Opportunities and risks in post- conflict Colombia

Alexandra Urán

In the last 50 years, the guerrilla group Colombian Revolutionary Armed Forces (Fuerzas Armadas Revolucionarias de Colombia, FARC) has made progress in furthering its operations, mostly in areas with a relatively poor government presence. In these areas, on the margins of the official government, this armed group has spread the construction of a political setting in order to develop a set of rules that control rural areas. It is not a mere coincidence that these areas are the same places where small-scale mining (SSM) activities occur in conditions that are out of reach of the official legal system (Toro et al. 2012). The strong presence of the FARC guerrilla and other illegal armed groups in these rural areas have increased procedures for managing and administering natural resources separately from the official legal system and outside of the government's control, and they have also fabricated an extended conflict in response to the political competition for power (Álvarez 2015). This chapter focuses on the situation of gold-mining to show how the Government of Colombia in the last decade has intensified and reproduced a neo-extractivist model of an industrial and mechanised paradigm for mining: a strategy that has excluded small-scale miners as local agents and decision makers. The main objectives of this chapter are twofold: to evaluate how the radical left in the political scenario may be included and recognised as a political

actor in order to change the rules on mining and the administration of mining resources; and to generate a better understanding of the violence and analyses of the socio-environmental conflicts associated with the large-scale exploitation of mining resources. The purpose is to foster an international debate around the post-conflict process in Colombia and, perhaps even more importantly, to underline how including the left army group in the sphere of politics and recognising them as an actor can create opportunities for the SSM in the near future, as well as opportunities for the construction of legal pluralism in the exploitation of mining resources as a way for democratising one of the most complex fields and disputes in Colombia.

Peace process: Background

In 2011, President Santos manifested his intention to the guerrilla group to resume talking about the peace process¹ with the enactment of the Victims and Land Restitution Law (*Ley de Víctimas y Restitución de Tierras*). This law included a list of the issues that the government proposed to address, the representatives that they suggested and the possible places in which meetings for peace talks could be held. After some discussion, the government and the FARC chose Cuba and Norway as the two nations that would mediate the talks: Cuba for being the headquarters of their first meetings in 2010 with other countries and Norway for its experience as a moderator in conflict resolution. The Catholic Church in Colombia also offered their assistance as moderators, as they had participated in humanitarian efforts with the FARC in the last two decades.

The final outline for the agenda consisted of five items:

- **Integral agricultural development policy:** In their agricultural proposal, the FARC placed an emphasis on the creation of a ‘designated land for farmers’ (*Territorios Campesinos*), which would be collectively owned and managed by individuals chosen by the community.
- **Political participation:** The FARC and the government would jointly identify regions particularly affected by the conflict, in which the national government would commit to creating a total of X Special Provisional Peace Districts, in order for a total of X House

¹ The negotiations lasted over two years (*Los Tiempos Internacional* 2012).

Representatives to be elected temporarily and for X electoral periods. The topic was also presented that special attention should be given to the parties that arise as a result of the peace talks, such as the FARC-EP party, both in regard to their access to the media, as well as having their programs reach a greater public.

- **Ending the conflict:** The surrender of arms by the FARC, which the FARC say should be accompanied by a restructuring of the military. The surrendering of arms should be done in order for them to return or enter into civilian life through a legal framework for peace—an effort that is a defining element of the suspension of legal processes for subversive agents.
- **Reach a solution to the problem of illegal drugs:** The FARC proposed to prioritise physical eradication as a method for eliminating drugs. In agreement with the cultivators and producers of illegal drugs, it was agreed that the cultivation of plants for ancestral use could not be eliminated.
- **Identify the victims of the armed conflict:** While members of civil society at large are also to be considered victims, special acknowledgement would be given to farming communities—ethnic victims of the attacks made by FARC-EP. Additionally, acknowledgement would be given to the victims of government-inflicted violence, such as the political organisations of leftist and/or trade union groups, which had experienced repression and violence by the government.

It is important to recognise that all the items listed in the agenda for the peace talks are absolutely necessary in order for an agreement to be reached. It is also important to recognise that they may influence the development of mining in Colombia. Simultaneously, each of these items of negotiation may be changed, resolved or negotiated upon, due to decisions made on mining policies. As this is a process of negotiation that involves mining, not only will the efficiency of production improve, but as a result of the resolution of the extensive conflict in Colombia and political polarisation, it will also further develop the democratic process and encourage freedom of speech for different players.

The situation in 2015 urgently demanded the signing of a peace agreement. The government has indicated that only through the solidification of the peace process can economic stability be established in the country. The main question to be asked then is: what principles

should the peace agreement secure in order for the mining strategy to be implemented successfully? The discussion that follows is focused specifically around SSM. It will review the case of gold-mining, as in this particular case study different levels of investment resources and players are involved, which will enrich the discussion on the opportunities and risks that the post-conflict era in Colombia brings to the exploitation, use and management of natural resources.

Gold-mining and social involvement

Gold-mining in Colombia is an activity that involves a diverse group of social agents. Unlike in other extraction activities, there is a high demand for the participation and inclusion of different agents in order to regulate and manage this activity. Gold-mining is performed on different scales, from its artisanal form to its most industrial form. On the smallest scale, it is performed without machines and by local communities. The semi-mechanised mining today involves the use of excavator hoes and technology that require high levels of investment by miners. Large-scale or industrialised mining requires high levels of investment in capital and technology and is performed by large companies, the majority of which are international. Each of these scales of mining have different ways of standardising and formalising their processes, different economic impacts, different levels of social involvement, different forms of operation and varying levels of environmental impacts.

SSM is performed mainly in the collective territories, by communities of African descent and some indigenous communities. The government has acknowledged the right of these communities to perform *de facto* or traditional mining² as a form of subsistence, provided that it is not performed intensively. This form of mining does not require an environmental licence. Small-scale mining is also performed as an informal activity, particularly in regions where large-scale mining leaves scrap material that cannot be used with mechanised mining systems. Miners from everywhere in Colombia come to the Chocó region to

2 'Traditional Mining is considered to be that which is performed by individuals, groups of people or communities that mine government property without a permit registered in the National Mining Registry and that can verify through commercial and technical documentation that their work has been continuous over the last five (5) years and that the work they perform has been in existence for at least ten (10) years prior to the date in which this law came into effect.' Mining Code, Law 1382 of the 2010 Colombian Congress, Paragraph 1/Article 1.

perform mining manually, which is not very profitable, but becomes a form of subsistence for those who do not have other opportunities in the formal labour market. As this activity is performed using artisanal techniques, in collective territories where *de facto* mining is performed, or in regions where mining companies have environmental licences and mining rights, it is not a requirement for the miners who work in SSM to have individual mining permits. Recently, however, the use of an identification number, RUCOM,³ has been implemented in order to sell gold—an implementation that has been met with great resistance.

Following small-scale mining is mid-scale mining, which today is extremely complex. Production units that operate on this scale are identified on the basis of mining contracts. However, the actual geographical distribution of such mining contracts is unknown, and thus, no clear structures exist that can regulate their functioning. Mid-scale mining contracts are frequently established in areas that receive special environmental protection, such as parks and highland areas, and even in the collective territories of ethnic communities where environmental authorities are not present. This is why the effects of its impact on these ecosystems are yet to be determined. While legally, a mineral title and environmental licence is needed (as the activity involves mechanised or semi-mechanised mining), local authorities are not in a position to closely audit the territories for such permits. It is important to note that the process of obtaining a mineral title is a heavy burden for a mid-scale mining company. This is one of the reasons why the mid sector of gold-mining, at best, becomes a form of outsourcing for the mining industry—in regions where a mineral title exists, mid-scale miners sign agreements allowing them to utilise the large-scale or industrial mining areas, provided that the gold is sold exclusively to the big company that owns the permit, who then sells and receives the profits of the mineral.

3 Commercial Mining Registration Number (Registro Único de Comercio Minero, RUCOM), established under Article 112 of Law 1450 of the year 2012 of the National Development Plan. Through the RUCOM, the National Mining Agency mandates for controls to be implemented on the sale of minerals and that a list of those that hold mineral titles be published, as well as information on the agents that are authorised to sell minerals. The purpose of this regulation is to generate greater transparency and control around the commercial activity of minerals in Colombia. This regulation was implemented in January 2014.

Such arrangements between large-scale mining companies and mid-scale mining contractors do not account for more than 13 per cent of mining practices. The remaining 87 per cent of mid-scale mining is performed illegally, without the permission of the permit owners or on land where no titles exist (Güiza 2014: 100). In other words, the majority of mid-scale mining operates without any type of monitoring or environmental control,⁴ which also contributes to tax evasion, fosters money laundering and the financing of illegal armed groups, guerrillas, paramilitary groups and groups that perform ordinary crimes. This phenomenon has become evident in many parts of the world, as suggested by Di John's (2008) analysis of the causes of what he calls the 'failed states', which, according to him, focus their economies on mining processes themselves and not on the commodification processes of the raw material that promote national industry and generate employment.

Last is large-scale mining, for which legislation, some regulations and specific standards exist, such as mineral titles, environmental licences and management and deforestation plans. Although regulatory guidelines exist, the government's structure for the monitoring, assessment and control of activities related to the management and mitigation of environmental impacts is still unstable and not widespread. The Colombian Government has few officials in the Ministry of the Environment; and, while the government does have regional environmental authorities (CARs),⁵ in the majority of cases where the ethnographies were conducted, these officials were found to be influential allies of the mining companies and continued to receive large financial benefits from them. Sometimes, they are even owners or partners of illegal mining contractor groups, which demonstrates the high level of corruption and the resulting lack of impartiality when it comes to performing their duty of monitoring as environmental authorities.

4 The estimated average amount of deforestation caused by illegal mining in Colombia between 1990 and 2019 is 310,349 hectares a year, which amounts to an estimated 6,206,000 hectares of destroyed forest land, or 5.4 per cent of Colombia's surface area (See Güiza 2014: 112).

5 Regional Environmental Corporations (Corporaciones Autónomas Regionales, CAR), part of the Ministry of the Environment.

Colombia: A state of competition for mining land rights⁶

The Right of Preference⁷ privileges ethnic groups for the use and management of the natural resources in their territories. Although this right is given to the ethnic communities of the Collective Territories of Afro-Colombians (in the case of Afro-Colombians), or to the *resguardos* (a reservation system of communal landholdings) in the case of indigenous groups, evidence shows that in many cases these groups cannot compete with large-scale mining. When they apply for mineral titles, the majority of times they are denied and instead the titles are directed towards the large international mining companies. This is the case of the Greater Community Council of Condoto Río Iró in Condoto in the Department of Chocó. Since 2010, this council has applied for mineral titles for the main gold deposits of the collective territory, for them to be mined by the Afro-Colombian community using industrial methods. In 2013, concessions for the majority of these deposits were given to the international companies—Anglo Gold Ashanti Colombia and Roque de Jesús Homez Robayo International Business and Investments LTDA. The Greater Community Council of Condoto Río Iró, however, were only granted mineral titles that corresponded to less than half of those they applied for—the reason for such rejections being that they did not meet the requirements established by the government, nor did they have the financial or technical resources to perform environmental management. The Right of Preference, therefore, is not given to these communities and, instead, a different law is employed, which is a result of the Constitution

6 Concept introduced by Urán (2008) to examine the transformation of the Colombian state, seeking its incorporation into the global market using two complementary strategies: competitiveness and militarisation. The Colombian case is presented as a key example of the Militarised Competitive State, which opens up the path for extended capital accumulation, but also exacerbates the levels of social and economic inequality and social conflict. In this article, it is used to talk about the (mining) land-right competition on the new model of the Colombian state, where unequal policies have been used by the state to protect the interests of the multinational corporations as a strategy to ‘clean’ the land, removing the ‘unproductive’ productive sectors—illegal, artisanal and SSM—and to create the idyllic productive state, based on the extraction of mining resources.

7 The Right of Preference is the privilege granted by law to ethnic minorities that allows the government, by way of the Ministry of Mining and Energy, to issue these groups a special exploration and drilling permit in the mining regions of individuals of African descent, in order for them to extract the non-renewable natural resources that are traditionally extracted by these communities. The Mining Code, Law 685 of 2001/Article 133, states, ‘In the granting of concessions by the mining authority, priority will be given to the Afro-Colombian community with regard to the concessions for oil field and mineral deposits located in the mining regions of these communities’.

of 1991. This law establishes the government as the owner of the subsoil,⁸ and refutes the pre-existing Right of Preference. The new mining code gives privilege and guarantees for multinational companies in terms of production and regulation: the concession or allowances for exploitation of mineral resources was structured as a privileged form of interaction between the state and the private agents, there was an increase on tax exceptions, a weakening of environmental regulations and limited need of consultation with communities, among others characteristics.

Along with the mining boom, these large international companies receive greatly beneficial privileges from the government, which is currently focused on attracting foreign investments. These benefits allow them to mine large mining reserves even in regions that had previously been identified as special-use and environmental management regions, such as collective territories, national parks for biological conservation or research, or lands that had been considered as land reserves apt for agricultural activities. Citing the reason that these lands need to be more productive, today these regions are recognised as mining regions. The government justifies this by claiming that it is important to create a strategy that allows for the promotion of a development model that fosters ‘prosperity for all, more employment, less poverty and greater security’ (Departamento Nacional de Planeación (DNP) 2011).

More specifically, the Government of Colombia has insisted upon the need to strengthen the industrial mining sector in order to further develop the country, which is already included in the ‘National Plan for the Development of Mining and Environmental Policy, Vision Colombia 2019’ (UPME 2013). The surge of large-scale mining in Colombia is part of a strategy that seeks to take advantage of the high international demand for minerals: mining in developing countries in order to fuel industry in influential countries or in emerging large economies that produce high value-added products, prioritising the economies of mining countries (*La Razón Pública Journal* 2015). This mode of production based on the extractive industry is idealised by formal institutions and public entities due to its potential economic outcomes and also due to the level of resource mobilisation that it could achieve (Bebbington and

8 In the 1991 Political Constitution of ‘Title XII of the Economic Framework for Public Finance’, Chapter 1, General Provisions, Article 332 states: ‘The government is the owner of the subsoils and of non-renewable natural resources, notwithstanding the rights acquired and established in accordance with previous laws’.

Bury 2013). For many academics, this mode of production consists of the 'neo-extraction project', which has been adapted as a financial strategy in Latin America (Acosta 2011).

The mining resources of the country have been conceptualised as commodities that need the expertise and technical capital of multinational companies to become assets to the state; as such, all the resources of the country have become available in legal and political terms for the large-scale extraction performed by private companies. In consequence, local communities and miners are understood as occupiers of those resources, instead of their legitimate historical users or marginal subjects in need of policy intervention (Bebbington 2012). Historically, public entities and official institutions have concentrated their formal efforts to promote and create secure conditions for the large-scale extraction of resources (Palacios 2006). This dynamic of changing the occupational means of production on collective property lands without prior consultation,⁹ or without a general agreement from the communities that are directly affected, has caused social action to be taken, such as blocking of main roads and roads used for commercial distribution, confrontations, the closing of highways and even mining sites, and other acts of protest that have affected the operations of some of the companies operating in Colombia. These companies include Gran Colombia Gold, an international company from Canada that has 111 mineral titles in Segovia and Remedios in the Department of Antioquia; and Anglo Gold Ashanti, which has been in the country for eight years and is the largest investor in the gold-mining of La Colosa, located in the highlands of the Department of Tolima and in Chocó, in the region where collective permits are used, as mentioned earlier.

As an example, Gran Colombian Gold has experienced serious confrontations with the public with regard to the validity of the mineral title; these confrontations have continued since Gran Colombian Gold received the permit from the international company Frontino Gold Mines Ltd of the United Kingdom. Gran Colombian Gold received the contract for operations in the region that initially had been granted to the company from England in the first quarter of the nineteenth

⁹ Prior consultation is the fundamental right of the people of ethnic groups when measures (legislative and administrative) are taken, or when projects or activities are going to be conducted within their territories. The purpose of prior consultation is to protect their cultural, social and economic integrity and to ensure their right to participation (Sentencia SU-039 of 1997, cited in Rodríguez 2014).

century, under operational contract number RPP00140. Under these companies, however, the property has been in a lawsuit since 1976, when the Frontino Gold Mines entered Concordato and when mining rights were being demanded by workers who, at the time, were being laid off. These mining rights were demanded as part of the negotiation of their benefit settlements. In the year 2000, the national government placed the mine up for a public bid. Finally, in 2002, in a unilateral decision made by the government, the licence belonging to Frontino Gold Mines was awarded to Gran Colombia Gold. It wasn't until the year 2010 that Gran Colombia Gold could begin operations, as protests arose rapidly. The figures on union-related violence in North of Antioquia during these decades are among the highest in Colombia. Historical reference can be made to events, such as the Massacre of Segovia and Remedios in 1988,¹⁰ and other actions against the public and the community of union workers, which, due to forces of coercion, had to abandon their hopes of obtaining mining concessions. This demonstrates that though the company has been granted the concession of the mineral title by legal means, several different interests exist that arise in violent protest in order to preserve the mining land rights.

In addition to the issue of violence in these mining regions is the problem of illegal mining. According to the data from the Colombian Mining Association (Asociación Colombiana de Minería, ASM), only 13 per cent of the mining activity in the region is legal or formalised. As national media outlets purport, this issue of violence is a direct product of the illegal aspect of mining and not due to a lack of consensus among the different players. This attitude is reflected in the following news remark (*Semana* 2015):

Gold is part of an illegal empire ruled by criminal organizations that inflict serious problems on the environment, to the region and in the economy. Of the 55 tons of gold that are produced each year in Colombia, only seven belong to large companies, the majority of which are foreign investors that follow regulations. Santiago Ángel, President of the ACM, affirmed that if everything was formalized, the country would receive more than two billion dollars. In other words, this sector would be one of the greatest generators of income in the country.

10 The period between 1982 and 1997 in Segovia and Remedios, Antioquia, was an ongoing period of political violence against the public that specifically targeted those who expressed political dissidence: social movements—community associations, unions, public boards, human rights committees—and the Patriotic Union (Centro Nacional de Memoria Histórica 2014: 45).

Paradoxically, the municipalities¹¹ that report larger productions of gold also report experiencing vulnerable conditions and the presence of armed conflict, as the investigation made by Ibañez with Laverde (2014: 217) revealed:

Mining municipalities, particularly those that mine silver and gold, demonstrate a lack of institutional structure and experience vulnerable socioeconomic conditions that existed prior to the initiation of mining practices. These municipalities do not have a strong institutional presence, they experience more armed conflict, are more isolated from main centers of production and tend to be more dependent regions. They are also municipalities with less potential for agricultural production.

Although evidence of these vulnerable conditions has been well documented by researchers and experts in the main gold-mining regions, the national government has refused to admit to the correlation between mining and violence. For instance, Rettberg and Ortiz-Riomalo identify 12 mechanisms whereby mining may be nurturing conflict and criminality, which we group in two categories: direct and indirect mechanisms. Direct mechanisms refer to activities whereby illegal armed actors seek direct access to mining-related rents. This may take the form of actually running mining operations or taking part in distribution and trade of mining output. Indirect mechanisms are those whereby mining feeds into and exacerbates existing social conflict, or contributes to funding illegal actors, for example, via protection payments (Rettberg and Ortiz-Riomalo 2014).

In another study conducted between January and December 2011 by Centro de Investigación y Educación Popular (CINEP 2012), researchers registered 274 collective social actions in their database of social struggles related to the extraction of oil, coal and gold, which, over time, has shown an increase since 2005, and consistent growth between 2008 and 2011.

For the government, violence is not an indicator of the need to question the efficiency of mining activities, as the parameters used by the government to measure the competence of mining do not specifically measure the capacity of mining to make efficient social reproduction possible. In other words, the government focuses on showing the positive impacts created by mining, such as a strong source of income, but does not show how it also creates negative social impacts, such as violence. In terms of its capacity to

11 Translators note: Municipalities in Colombia are the sub-regions by which departments are divided.

generate financial surpluses and earnings for those that have the privilege of owning mineral titles, mining in Colombia is therefore valued for its economic efficiency, even though society may not be effectively involved in the activity. Additionally, the legitimacy of the mining process and its justification as the present development model, based on the exploitation of natural resources is specifically associated with economic growth and is limited to the meeting of regulations (even though these are flexible and manipulated), and not with their ability to produce in a socially responsible way. This perspective needs to be debated, given the critiques of the efficiency of the neo-extraction model, which have demonstrated that the limitations of the model are connected to the limits of nature itself, as well as to the strategies of social reproduction (Brand 2014).

Mining activities should therefore be thought of as a way of not only creating material reproduction, but also political reproduction. Further, the peace process should be perceived not just as a new political agenda, but also as related to the reproduction of the economic system.

Parties' positions on the issue of mining

The participation of illegal groups in mining has been so radical that the official sources estimated that the extraction of natural resources has become their main source of financing (BBC News 2011). The government has argued that in order to bring in investment to the country, national security and stability are fundamental. Arguments like these are based on figures such as those shown by 2014 Control Risks,¹² which registered a 60 per cent increase in road and oil well blockades as compared to the year before, which caused a decrease of 65 per cent in foreign investment during this period (UNCTAD 2014). In the negotiations in Havana, the topic of agrarian reform and its relationship to mining and energy policies has yet to be properly addressed. The government has argued that there are other issues of greater priority to be addressed, such as the establishment of a ceasefire as well the guidelines for the end of the conflict, which is what negotiations have focused on until now.

12 Control Risks is an independent, global risk consultancy specialising in helping organisations manage political, integrity and security risks in complex and hostile environments. They support clients by providing strategic consultancy, expert analysis and in-depth investigations, handling sensitive political issues and providing practical, on-the-ground protection and support.

Even though the FARC guerrillas have been accused of participating in illegal mining, they have publicly established their interest in reforming the mining and energy sectors. They have expressed the need for Farmer Reserve Zones (Zonas de Reservas Campesinas, ZRC) to be established, which consists of identifying lands with an agricultural priority or under agrarian reform, as an initial topic to be included in negotiations. They have also called for the establishment of clear regulations for land restitution. This includes defining who the victims are and what arrangements are needed in order for restitution to occur, as well as defining the processes for the productive inclusion of both the victims and the arrangements for restitution, which is part of the fifth topic of the suggested negotiation agenda.

In order to reach an agreeable compromise that considers both positions—government and opposition—mining policies must be reformed to take land-use regulations into account. These regulations need to be based on an environmental plan that ensures the conservation of the environment and the implementation of a rural development policy that makes agricultural economies viable for farmers. This implies an adequate use of the soil, the organised management of agricultural land boundaries and the institutionalisation (formalisation or legalisation) of mining activities. In this way, under the framework of a rural development policy, mining policies may acknowledge the rights of citizens in territories affected by the mining of natural resources, as well as the right of the application of Mining Code, Law 1448, on the reparation and restitution of land.

It is evident that while the peace talks in Havana have given priority to the idea of putting an end to the conflict through practical actions, such as a ceasefire, other issues are still being left by the wayside and may have to wait longer for resolution. This suggests that signing a peace agreement, which is what is being discussed today and what national and international opinion calls for, is not the same as an actual agreement *for* peace. The hasty signing of an agreement may mean that guidelines regarding the mining of mineral resources may not be established. While it is possible that the signing of a peace agreement may generate a climate of financial security, which will surely provide greater incentive for foreign investment, it is also very possible for it to bring legal difficulties that may negatively affect operations in the mining and energy sectors. Some of these risks may include, for example, ambiguity around environmental licences, as well as confusion regarding prior consultation in the mining

regions of indigenous and Afro-Colombian communities related to the topic of victimisation, which is currently happening on a large scale throughout the country.

The peace agreement is key

President Juan Manuel Santos believes that the mining industry is the key to financing ‘the closing of the peace process—if a final agreement is signed in Havana’ (Bermúdez 2015). However, the social cost, which in this case is a product of the social and environmental impacts of mining, also limits the reproduction of the model based on the exploitation of natural resources. This is why these impacts must be accounted for in the process of analysing the efficiency of mining in Colombia.

SSM is gaining public attention, but the state through its formal institutions is pressuring its actors and using categories such as illegal, criminal or *mineros de hecho*, de facto as synonymous without any precision or empirical knowledge (Álvarez 2015). The historical nature of the diverse forms of extraction has been abandoned for more simple explanations that reduce the activities to legal and illegal ones. Therefore, the intervention of the state is also simplified into the options of formalisation or criminalisation as the two policies controlling the involvement of the official legal system in mining (*ibid.*).

In light of these issues, the following 10 recommendations should be held in consideration in order to put the mining system back on track, or in order to reach what we can refer to as the Agreement for Peace. Classification of the different types of mining would include: *formal* (which meets all established regulations); *artisanal* (which includes mining performed by indigenous Afro-Colombians and farmers); *informal* (which does not meet some environmental, labour, mining or health regulations, but has the intention to formalise); *illegal* (which does not meet any regulations, but mining is not their vocation); and *criminal* (which finances illegal activity). Other possibilities are the establishment of an office for SSM to convert formalisation into a gradual process; formation of an agency that assists small-scale miners in the formalisation process; hunting down the ‘big fish’ of criminal mining; and, last but not the least, the development of a social map of mining that allows for information on the mining cadastre (with all the mineral titles identified) to be cross-identified with ethnic group territories and protected environmental areas, which shows where miners of all types and races work (from ancestral to informal miners) and

locates criminal miners. Other plausible options include the establishment of the ‘consolidation’ of mining zones, taking item one from the peace agreement negotiations into account; an agency for intercultural dialogues, in order for these ongoing dialogues with grassroots communities to have an institutional space; or organisation of prior consultation for larger-scale formal mining. Two out of every three mining projects considered to be of ‘national interest’ by the government currently experience difficulties with prior consultation, which has created the idea that prior consultation is an obstacle for development (Bermúdez 2015).

By carrying out these recommendations, the government will be able to consolidate a more participatory mining process, as current assessments made by the government on mining in Colombia reveal a high degree of improvisation on behalf of the national government, with regard to the use and management of its natural resources, and a low degree of participation and distribution of its benefits. SSM should not be reduced to a premodern set of practices on its way to disappearing, but should evolve as a social expression of discontent with official institutions and social phenomena, which creates a need to conceptualise alternative legal descriptions capable of capturing its complexity and social relevance (Álvarez 2015). These aspects make mining a highly political issue, which should be open to debate and to seeking solutions among different sectors and agents in Colombia.

Signing a peace agreement that is based on an *agreement for peace* will make this process a more open strategy and will serve as a more active exercise of democracy, which could fuel the successful reproduction of mining companies. Demobilising the guerrillas is not a guarantee of the successful process of social progress, as the national government suggests. The peace process should combine demobilisation of the guerrillas with the active participation of all the political forces in the country, including the left and the opposition in general. This would give a new voice to rural sectors, including environmental and human rights defenders, and would therefore increase the pressure on the government with regard to the management of mining and oil exploration and exploitation permits.

The peace talks have already tangibly impacted the mining and energy sector and have the potential to substantially influence reforms for regulations around investing, which could radically restructure the national investment map. Nevertheless, it is important to emphasise that the possibility of greater influence from the political left on economic

and development policies, as a result of the political participation of the FARC-EP guerrillas, may broaden the panorama of decision-making and may not negatively affect the interests of a considerable part of Colombia's corporate sector, as suggested by those who oppose such a development. After all, no nation may rebuild itself democratically without opposition.

Conclusion

The role of the state as the promoter of mining through the insertion of multinational companies into the country has generated a collision of interests that had been almost invisible or marginal before (Álvarez 2015). The complexity and diversity of actors, mainly the small-scale and local mining communities, institutions and rules on the mining ground need to be studied more deeply and empirically to achieve an efficient arena of participatory post-conflict Colombia.

The effect of post-conflict implications in Colombia on the mining sector is indisputable. The participation in the political and formal life of a group with ideas of opposition, such as with the FARC, may make for a debate that is broader in its vision on the management of the mining sector. Demobilisation, as well as the political participation of the FARC, may broaden the debate on the mechanisms and strategies that allow a political and economic operation to be carried out successfully, with regard to the use and benefit of mining resources. Political pluralism is a reality that exists in society or, more precisely, in multiple social fields. Consequently, the participation of the more radical left, with a discourse that will most likely be strongly influenced by the idea of nationalising resources, would also be a position that should be heard, as has been done in other countries in the region. While the case of Colombia has remained far from the other political tendencies in Latin America, where governments from the left have reached power (even though it is not as likely that a coalition of forces from the left wins a majority in elections in Colombia), the possibility of a peace agreement with the guerrillas may and should change its governability, based on this first peace agreement between Colombian Government and FARC-EP 2017, which could be reproduced with the National Liberation Army (Ejército de Liberación Nacional, ELN).

References

- Acosta, A., 2011. 'Extractivismo y Neoextractivismo: Dos caras de la misma Maldición.' In M. Lang and D. Mokrani (eds), *Más Allá del Desarrollo. Grupo Permanente de Trabajo sobre Alternativas al Desarrollo*. Quito: Fundación Rosa Luxemburg with Abya-Yala.
- Álvarez, J.D., 2015. 'Governing Mining Resources in the History of Colombia: Between Official Institutions and Resistance.' *Law and Development Review* 9(11).
- BBC News, 2011. 'La Minería Ilegal Financia el Crimen en Colombia'. BBC Mundo, 11 March. Available at www.bbc.com/mundo/movil/noticias/2011/03/110310_colombia_mineria_ilegal_az.shtml
- Bebbington, A., 2012. *Social Conflict, Economic Development and the Extractive Industry: Evidence from South America*. London, New York: Routledge Press.
- Bebbington, A. and J. Bury, 2013. *Subterranean Struggles: New Dynamics of Mining, Oil and Gas in Latin America*. Austin: University of Texas Press.
- Bermúdez, A., 2015. 'Los Coqueteos de Santos II a los Mineros'. *La silla vacía*, 26 abril. Available at lasillavacia.com/historia/los-coqueteos-de-santos-ii-los-mineros-50094
- Brand, U., 2014. 'Social-ecological Transformation as Basic Condition for a Realistic Post-2015 Agenda.' *Die Post-2015 Agenda. Reformoder Transformation*. Wien: Österreichische Forschungsförderung für Internationale Entwicklung.
- Centro de Investigación y Educación Popular (CINEP), 2012. 'Minería, Conflictos Sociales y Violación de derechos humanos en Colombia.' Informe Especial 2. Bogotá: CINEP/Programa por la Paz.
- Centro Nacional de Memoria Histórica, 2014. *Silenciar la Democracia. Las Masacres de Remedios y Segovia, 1982–1997*. Bogotá: CNMH.
- Departamento Nacional de Planeación (DNP), 2011. *National Development Plan 2010–2014*. Bogotá: DNP.

- Di John, J., 2008. 'Conceptualizing the Causes and Consequences of Failed States: A Critical Review of the Literature.' *Working Paper Crisis Series* 25: 1–51.
- Göbel, B. and A. Ulloa (eds), 2014. *Extractivismo Minero en Colombia y América Latina*. Bogotá: Universidad Nacional de Colombia.
- Güiza, L., 2014. 'Informe Colombia.' In C. Heck and J. Tranca (eds), *La Realidad de la Minería Ilegal en los Países Amazónicos de SPDA*. Lima: Sociedad Peruana de Derecho Ambiental.
- Ibañez, A. with M. Laverde, 2014. 'Los Municipios Mineros en Colombia: Características e Impactos Sobre el Desarrollo.' In J. Benavides (ed.), *Insumos Para el Desarrollo del Plan de Ordenamiento Minero*. Bogotá: Universidad de los Andes.
- La Razón Pública Journal*, 2015. 'El Trilema Minero: La Gran Minería Sostenible y Socialmente Responsable es una Falacia.' 29 August. Available at www.razonpublica.com/econom-y-sociedad-temas-29/2349-el-trilema-minero-la-gran-mineria-sostenible-y-socialmente-responsable-es-una-falacia.html
- Los Tiempos Internacional*, 2012. 'La negociación duró más de dos años.' 17 September. Viewed at www.lostiempos.com/diario/actualidad/internacional/20120917/la-negociacion-duro-mas-de-dos-anos_185766_394085.html (site discontinued)
- Palacios, M., 2006. *Between Legitimacy and Violence: A History of Colombia, 1975–2002*. Durham: Duke University Press. doi.org/10.1215/9780822387893
- Rettberg, A. and J. F. Ortiz-Riomalo, 2014. 'Conflicto Dorado: Canales y Mecanismo de la Relación entre Minería de Oro, Conflicto Armado y Criminalidad en Colombia.' Informe final. Bogotá: Universidad de Los Andes/ Centro de Estudios sobre seguridad y Drogas–CESED.
- Rodríguez, G. A., 2014. *De la Consulta Previa al Consentimiento Libre, Previo e Informado*. Bogotá: Universidad del Rosario Press.
- Semana*, 2015. 'El Drama del Oro Colombiano.' 31 January. Available at www.semana.com/economia/articulo/mineria-el-drama-del-oro-colombiano/416246-3

- Toro, C., J. Fierro, S. Coronado and T. Roa, 2012. *Minería, Territorio y Conflicto en Colombia*. Bogotá: Universidad Nacional de Colombia with Censat Agua Viva.
- Unidad de Planeación Minero Energética (UPME), 2013. 'Plan Nacional de Desarrollo: Minero 2010–2018.' Ministerio de Minas y Energía, República de Colombia. Available at www.upme.gov.co/Docs/Plan_Minero/PNDM_2010_2018_dic_31.pdf
- United Nations Conference on Trade and Development (UNCTAD), 2014. *World Investment Report, 2014: Overview*. United States and Geneva: United Nations. unctad.org/en/PublicationsLibrary/wir2014_overview_en.pdf
- Urán, A., 2008. *Colombia un Estado Militarizado de Competencia: Las Fallas Estructurales Para Alcanzar la Explotación Sustentable de los Recursos Naturales*. Kassel: UniversitätPress.

This text is taken from *Between the Plough and the Pick: Informal, artisanal and small-scale mining in the contemporary world*, edited by Kuntala Lahiri-Dutt, published 2018 by ANU Press, The Australian National University, Canberra, Australia.

doi.org/10.22459/BPP03.2018.13