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THE POLITICS OF STATE ACTION (AND INACTION)**

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State Responses to the Gold Rush in the Andes (2004-2018): the Politics of State Action (and Inaction)

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Abstract

Despite many similarities, the gold rush that hit the Andean countries in 2004 elicited different state responses in Bolivia, Colombia and Peru. Initially there was a lack of enforcement towards illegal and informal mining, but eventually Colombia (2009) and later Peru (2011) enforced regulations, with mixed results. Bolivia, on the other hand, has not enforced such regulations. At first, this may appear a story of state capacity, with a more capable Colombia reacting quickly against illegal challengers, a weak Bolivia overwhelmed, and Peru falling somewhere in between. But a closer look uncovers different motivations behind these state actions (and inaction). We propose that the nature of the social actors that profited from gold during the boom, alongside international and domestic pressures, lie behind these different government responses. These findings allow us to uncover the determinants of state responses and to distinguish empirically between forms of state inaction with distinct political consequences.

The most-recent Latin American commodity boom triggered a gold rush in Bolivia, Colombia and Peru. In 2012 an ounce of gold cost US\$ 1669, 360% more than in 2004 when the boom began¹. Although the price of gold has since fallen, it remains above US\$ 1000, providing strong incentives for citizens to become miners - many of them illegally. When its price is high, gold is highly profitable, explaining the rush of thousands to extract it illegally. At the same time, the metal is usually located in geographical areas with a limited state presence, making it harder for governments to control the phenomenon. This gold rush presented many common characteristics across the three countries: illegal extraction, environmental damage, entitlement conflicts, forced labor, prostitution, human trafficking, transnational exporting mafias, money laundering, among others².

Despite further similarities in terms of the violation of environmental and criminal regulations, there are clear differences in how the three states responded to the challenge of the gold rush. Here we propose there were three types of response to the gold rush: two involving state inaction (standoff and forbearance), and one, state action (enforcement). In Colombia, the state did not initially consider regulating illegal gold mining to be a priority, choosing instead to stand off. This position changed around 2008 when it became clear to state actors that mining was providing more and more funds for illegal armed groups, thus becoming a security issue prioritized by the Colombian state. Since then, the government has followed the enforcement path to prevent these challengers from exploiting gold rents. In Peru, the state likewise did little to begin with, allowing thousands of migrants to move to gold areas and start illegal mining. Then the government slowly moved towards weak forms of control until eventually, in 2011, it implemented a more comprehensive enforcement strategy. In Bolivia, small mining cooperatives went about their activities, and the government forbore from its duty to enforce criminal and environmental regulations.

What explains these different state responses to a common challenge within a similar time-frame? What ultimately led two of these states to attempt to enforce laws and regulations while the third did not? State capacity, defined as “the state’s ability to exercise control and implement policy choices throughout the territory it claims to govern”³, is used to explain states responses to the challenges they face. This factor is certainly relevant, as more-capable states will be better equipped to react to criminality and environmental violations, and to prevent them from occurring

1 Poveda 2015a, 6

2 Devisscher 2008: 20-24; Ashe 2012; Cremers et al 2013; Amazon Conservation Association 2014; SPDA 2015

3 Soifer 2015, 9

in the first place. However, state capacity only takes us so far in explaining the outcomes under consideration. From a comparative perspective, these three middle-income states have similar levels of state capacity and are each capable of at least reacting to the phenomenon. But as these cases show, under certain circumstances middle-income states are moved to act, even if their enforcement ultimately proves ineffective. State capacity alone cannot explain the different timings of the responses in Colombia and Peru, nor the remarkable absence of enforcement in Bolivia.

Instead, we look to social actors (or the lack thereof) to understand the state responses and how they changed over time. Through interviews with key state and social actors in each country, a review of official documents and press reports, as well as fieldwork in two of the key gold extractive regions in Peru (Madre de Dios and Puno), we document how in all cases the characteristics of the gold rush and the different state responses were strongly conditioned by prior political and institutional trajectories. Political and institutional processes, some of them unfolding several decades before the gold rush, gave rise to social actors (or a lack thereof) that profited from high gold prices during the boom. It was these differing social and political contexts that determined the state responses.

In Colombia, gold fueled violent actors long established in the territory, explaining why the state treated the phenomenon as a security issue and opted for enforcement; but since the link between armed groups and illegal gold mining was not always clear, the Colombian state opted initially for standoff. In Bolivia the power and relevance of cooperatives –preexisting social organizations used as an institutional vehicle by those interested in quickly exploiting the mineral– compelled the government to forbear from its enforcement activities. But the government *was* active on other fronts, developing incentives to promote gold exploitation and limit the timid enforcement efforts. These solid political ties explain why in Bolivia, domestic and international pressures were less effective in prompting enforcement against gold miners. In Peru, the lack of pre-existing organized political or violent actors led to an atomized gold rush, giving the government more options with which to deal with the phenomenon. When the state eventually enforced regulations, it did so mainly in response to international and domestic pressures.

In Table 1 we present our explanation for these three cases, but point to more general observable implications for distinguishing between types of state response (especially forbearance and standoff).

Table 1. State Response, Motivations and Observable Implications

State Response	Motivation	Observable Implications.
<p>Forbearance</p> <p><i>Bolivia (2004-2016)</i></p>	<p>Political gains.</p>	<p>-Inaction against violators of criminal and environmental regulations.</p> <p>-State actions to build and support other state institutions that promote gold extraction and limit enforcement.</p>
<p>Standoff</p> <p><i>Colombia (2004-2008)</i></p> <p><i>Peru (2004-2010)</i></p>	<p>The phenomenon was not prioritized.</p>	<p>-Inaction against violators of criminal and environmental regulations.</p> <p>-No actions to support or erode formal and informal institutions that affect gold extraction.</p>
<p>Enforcement</p> <p><i>Colombia (2009-)</i></p> <p><i>Peru (2011-)</i></p>	<p>Colombia: Mainly state actors' security concerns.</p> <p>Peru: Domestic and international pressures.</p>	<p>-Coordinated action against violators of criminal and environmental regulations.</p> <p>-Other actions to create formal and informal institutions to regulate gold extraction.</p>

As proposed by Eaton⁴, a “most similar systems” comparative research design (similar countries affected by the same challenge) allows exploration of the different determinants of state responses in developing countries. In our cases, the different paths of the gold rush show how the type and characteristics of social actors are crucial in determining responses in middle-income countries with limited state capacity. In particular, we find two theoretical points interesting. First, the cases clarify the differences between two forms of state inaction, standoff and forbearance, which appear similar but are vastly different in origin, and have quite different consequences (Slater and Kim 2014; Holland 2016). We show how standoff states can be more easily steered towards action by different pressures (domestic or external) or by internal state processes while forbearance is rooted in strong limits upon state action. Second, the three cases, especially Colombia, reinforce a claim made by Slater and Kim: standoff positions occur more frequently than expected in developing countries, as even state security forces can be slow to respond to challengers, and sometimes simply fail to do so.

4 Eaton 2011, 650

The article proceeds as follows. In the next section we discuss recent theories about determinants of state responses, with special attention on works that focus on state inaction (standoff and forbearance). Then we provide some background to small-scale gold extraction in each country and document how states reacted (or did not) to the gold rush. In the third and main section, we analyze the aforementioned determinants of state responses. We conclude by presenting some implications of these findings.

I. Commodity booms, challenges, and state responses.

Starting in 2004, mineral prices rose to record highs, providing Latin American states with windfall resources. As in previous booms, these changes produced significant social, economic, and political challenges throughout the region: social conflicts in mining areas⁵; the strengthening of private actors benefited by these rents⁶; the emergence, or invigoration, of challengers to state authority (such as extortive organized crime, smuggling rings, drug traffickers, and violent actors including gangs or guerrillas)⁷, among others. The cited studies show how these states were overwhelmed by these changes, highlighting how prosperity can also bring many political and social problems.

The gold rush shows these dynamics. As we will see, each of the three countries has a long history of artisanal and small-scale gold mining, but the current boom has greatly altered the magnitude and importance of the phenomenon, with significant social and political implications. To begin with, miners repeatedly broke mining and environmental regulations, as well as criminal laws, in each of the countries. The enforcement of these norms was already lenient, and the formal system regulating small mining proved totally inadequate following the gold rush⁸. Moreover, the weak state presence across the territory made it difficult to solve old and new entitlement disputes that frequently turned violent; formalization processes and weak judicial systems could not restore order between conflicting parties. Furthermore, myriad illegal activities grew around gold mining: sexual exploitation, child and forced labor, smuggling, bribery of state officials, and transnational money laundering, among others⁹.

5 Arellano 2011; Bebbington 2013

6 Durand 2006

7 Dargent et al. 2017

8 Cremers et al. 2013

9 Ashe 2012; Wells 2013; Amazon Conservation Association 2014; Mujica 2014; SPDA 2015

As discussed above, countries with broadly similar state capacities responded to this challenge in different ways. The growing literature on comparative politics shows that the responses of emerging states are determined not only –nor even fundamentally– by their capabilities, but also by how other social, economic, and political actors affect their choices¹⁰. As discussed in the state-in-society literature, states are frequently “pushed” into action by powerful actors that demand enforcement of regulations, and even support such action¹¹. Moreover, other works highlight how state inaction is not just a consequence of state weakness; it can also be evidence of the purposive decision of bureaucratic actors or politicians not to act¹².

But this inaction can reflect various motivations, with very different consequences for polities. Building on previous works, we divide such instances of state inaction into two types of response: standoff and forbearance. Slater and Kim¹³ present the concept of standoff to argue that in several instances, states prefer to “intentionally eschew the [...] routinised administration [...] of considerable portions of their subject population”¹⁴. According to these authors, states in South-East Asia opt not to directly govern areas of their territories occupied by violent groups despite having the capacity to do so, since not acting proves less costly given the peripheral nature of these regions. If states act in this manner in response to issues in which core interests are at stake, the authors expect such standoffish behavior to be even more common where the matters at play are of far less importance.

Thus, when faced with challenges to their authority, state actors (political or bureaucratic) may simply ignore these challenges, despite being aware of their existence and possessing the capacity to tackle them. Although the authors are less precise in this regard, the reasons behind such conscious inaction range from lack of interest in the issue (not prioritized by political and bureaucratic elites) to cost prevention (awareness of the problem, but opting to not intervene due to potential costs). States are selective enforcers, and new issues or duties that may divert their resources or bring new problems may be strategically ignored. It is common for states to choose standoffishness, especially while dealing with nuisance groups that lack political and economic resources to seriously affect them. However, sometimes standoff responses carry high costs. The consequences of a phenomenon may not

10 Amengual 2016; Holland 2016; Slater and Kim 2014; Boone 2012

11 Amengual Holland 2017, Slater and Kim 2014 2016; Migdal et al. 1994

12 Durand 2006

13 Slater and Kim 2015

14 Slater and Kim 2015, 37

be evident at the outset, only to escalate to the point where the costs of toleration are prohibitive, thus motivating enforcement. By that point, though, the phenomenon may already be more difficult to control. “Standoffish” is an apt description of how Latin American states frequently react to different problems: by ignoring them. And it was precisely such a hands-off approach that the Colombian (2004-2008) and Peruvian (2004 -2011) states took before responding more comprehensively to the gold rush.

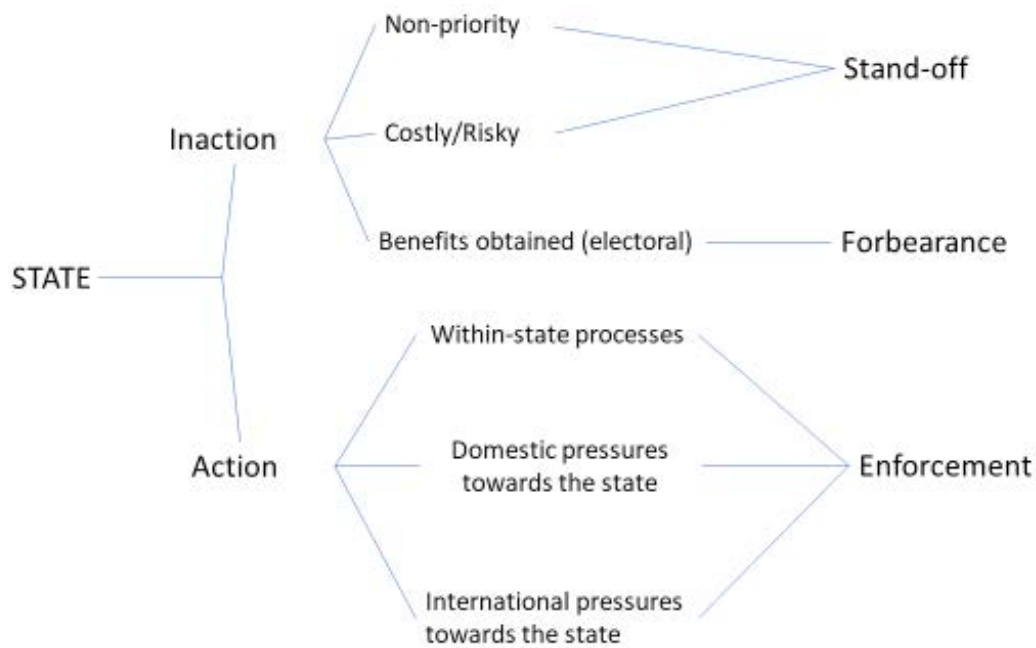
But “not acting” can also be closely linked with direct interests and political gains. Holland¹⁵ develops the concept of forbearance, defining it as “intentional and revocable government leniency toward the violations of the law”. This concept describes instances in which states opt not to enforce regulations based on political calculations. Holland illustrates these dynamics by analyzing the selective control of informal economies and land tenure in Latin America. Not acting in these cases counts as a form of *de facto* redistribution that serves to build effective political linkages with citizens and social actors. But forbearance in Holland’s typology can also be regressive, with political elites not acting in order to provide benefits to powerful actors in society. These incentives explain why politicians –the central actors in Holland’s theory– require powerful electoral incentives under particular conditions to move from forbearance to enforcement.

Holland explains the difference between standoff and forbearance mainly in terms of the revocable dimension of forbearance: clear knowledge among non-regulated actors that there is a conscious but revocable decision not to enforce. But we find another crucial element in this distinction: in standoffs, we should not expect state activity elsewhere to promote unregulated activities or limit other agencies’ timid regulatory options, while in forbearance these types of activities should be fairly common. As we will see, forbearance neatly captures the Bolivian state’s response to the phenomenon.

These characteristics of forbearance show why it is easier to pass from standoff to enforcement than vice-versa. In standoffs the state chooses inaction because the issue at hand is not considered a priority, so it follows that when the state calculates that such inaction has become too costly or when other demands and pressures put the issue under the spotlight, enforcement can happen. Conversely, in forbearance the state opts for inaction given the risk of losing political support if it were to enforce regulation over certain issues. Moving towards action would thus require a shock strong enough to mitigate the risks of losing that political support.

15 Holland 2016, 2017

Figure 1. Determinants of State Response



Our cases dialogue with and inform this literature by exploring the motivations behind observed state actions and inaction. We highlight how the presence and nature of organized social actors determine state responses to the gold rush, illustrating under what conditions inaction becomes costly and leads states to enforcement (Colombia and Peru). In the Colombian case this process was mostly internal, whereby state actors came to see gold as a pressing security issue. In Peru, a mixture of domestic and international pressures motivated enforcement. In turn, the Bolivian case illustrates how inaction can be deeply rooted in political incentives, limiting the prospects of enforcement: in this case action is what was deemed prohibitively costly for the state.

II. Three trajectories of state inaction and action

In this section we present part of the background to small-scale gold mining before the most recent commodity boom, and document the different state actions (inaction and action/enforcement) vis-a-vis this activity in Bolivia, Colombia, and Peru during the boom. We focus on what we observe rather than the motivations behind these actions, and highlight the apparent similarities between Bolivia and the other two cases during their initial stages. These state motivations, and the actors (or lack thereof) that shaped them, are the focus of our next section.

Bolivia

In Bolivia, gold mining has never been a significant state enterprise, since national mining enterprises concentrated their power and efforts on tin and zinc after the 1952 revolution. Hence, gold was exploited mainly by cooperatives and some small and medium private ventures¹⁶. However, in the past gold cooperatives were small and peripheral compared to zinc and tin ones; they only acquired importance during the current commodity boom.

Cooperatives are defined in the new Law of Cooperative Associations (2013) as “a non-profit association, or people who voluntarily form cooperatives, which are based on cooperation and solidarity in order to satisfy productivity and service needs, with democratic and autonomous structure and functioning”. Cooperatives seldom fulfill this description, with many of them operating as profit-led associations¹⁷, but in the case of current gold cooperatives the distance between law and reality is greater still; many are actually private enterprises hastily created by investors to access gold, hiring workers and/or renting out their land to other miners. These cooperatives operate in several parts of western Bolivia, but are especially active along the Madre de Dios River in the departments of La Paz, Beni and Pando, where they cause enormous environmental damage¹⁸. Nowadays these cooperatives create far more mining employment than do state and openly private mining projects put together¹⁹.

Although there is no precise data about the current number of gold cooperatives in Bolivia, calculations by experts, cooperatives, and the state estimate that the number of cooperatives in general rose from around 500 in 2007 to between 1,600

16 Francescone 2015; Salman et al. 2015, 361-363; Interviews with Córdova 2016 and Oporto 2016

17 Francescone 2015, 74

18 SPDA 2015, 42-75; Córdova 2015

19 Salman et al. 2013, 22

and 1,700 in 2014. In 2004, cooperatives had around 50,000 members, while by 2012 this number had increased to 150,000²⁰. Many of these new cooperatives and their members engage in gold extraction. Salman et al.²¹ propose that gold cooperatives account for 40% of all cooperatives.

In general, as we will see the phenomenon is much less violent than in Colombia. Cooperatives sometimes clash with other organizations (traditional miners, peasant communities) that form part of the governments' social base²², forcing the government to arbitrate. And although cooperatives are allied to the government, they keep a certain distance between one another, which sometimes proves a source of conflict. But for the most part, these disputes involve traditional cooperatives. The biggest conflicts involving gold cooperatives are with the indigenous communities, with which they frequently negotiate for access to their lands.

State efforts to control gold extraction are very limited, but not out of weakness. As discussed in the next section, Movement for Socialism's political linkages with gold cooperatives, and the mutual benefits afforded by their collaboration, explain why the state largely forbears from control of gold cooperatives. Furthermore, maintaining low state capabilities and sabotaging certain enforcement activities are common responses to political decisions that favor *cooperativas*. To conclude, it is clear that in Bolivia the state has mostly remained inactive in enforcing regulation of gold miners.

Colombia

Small-scale gold mining in Colombia is a long-established activity. During the first half of the 20th century, it was one of the fastest growing sectors of the industry, partly due to the laws that prioritized and encouraged it as a source of local employment²³. In 1970 the state approved the first comprehensive legislation to formalize the mining sector, including small-scale mining. Then, during the 1970s and 1980s a series of additional decrees were issued to supplement this new legislation.

In general, the Colombian state's attitude to gold mining before the commodity boom and during its first years was marked mainly by inaction, occasionally nuanced by promotion and small formalization efforts. In 2001, shortly before the gold rush,

20 Devisscher 2008; Cordova 2015, 64; Poveda 2015b, 58

21 Salman et al. 2013, 22

22 Anria 2013, 37; Francescone 2015; Salman et al. 2015, 363-364

23 Cárdenas and Chaparro, 2004

Colombia established a legalization program through the Mining Code (Law 685); however, this did not amount to a serious effort, especially because the last study on informal and illegal gold mining predated the program by two decades²⁴, and the law itself allowed anyone with a national ID (and the money to afford the payment) to acquire a mining concession. During the gold rush, mining slowly gained public attention as a new activity funneling resources into Colombia's decades-long conflict. Early reports showed the movement of illegal groups, including guerrilla and paramilitary actors, into gold regions, leading to an increase in homicides, extortion, and other illegal activities linked to mining. The connection between illegal armed actors and gold mining was also evidenced through the increase in gold production in departments with a strong presence of armed groups, like Chocó, where production exceeded that of traditional mining departments like Bolívar²⁵. In contrast to the other two countries, some Colombian regions even witnessed human displacement due to violence rather than internal labor migration²⁶. Though these alarms started to sound around 2005-2008, the state was largely inactive at first.

This changed from 2009-2011 onwards when we observe significant institutional reforms to confront the phenomenon. For example, in 2009, Law 133 established that the National Police must accompany the environmental authorities on visits to zones where there are security and public order concerns. The law also called for coordination between the National Police and the National Army to help identify illegal mining activities. This showed while the state now recognized the problem, it remained somewhat reluctant to display its powers of enforcement. Also in 2011, the government created the National Mining Agency (ANM) for the regulation and promotion of titles and requests for mining areas.

The strongest political actions came after January 2012, when President Santos declared war on illegal mining due to its linkages with armed actors²⁷. To this end, in 2012 the state created the Unit of Environmental Crimes within the National Attorney General's Office. From 2013-2014 the Attorney's Office denounced money laundering activities linked with illegal gold mining, provoking conflict between officials and the armed groups that led in June 2014 to the murder of a local functionary investigating these links²⁸.

24 Guiza, 2010

25 Escobedo and Guío 2015, 5

26 Idobro et al. 2014

27 El Tiempo, 2012

28 Escobedo and Guío 2015, 41

Another strong response occurred in 2014, when the state implemented the National Unit against Illegal Mining and Terrorism, under the Carabineros and Rural Security Directorate of the National Police, with the goal of studying the link between illegal gold and criminal organizations²⁹. Later, in 2015, a brigade was created within the Colombian Army to combat illegal mining. The implementation of these security units showed a clearer commitment to tackle the issue of illegal mining, in contrast to the more normative approach taken at the beginning of the boom.

The government also pursued other policies as part of this comprehensive response. On the one hand, it sought to attract private investment to gold extraction in an effort to secure gold resources for the state. And, on the other, its attempts to formalize illegal miners were more vigorous than in the past. Law 1382, enacted in 2010, established a period of two years for traditional miners' groups and associations to formalize and meet the requirements to be granted a formal mining concession contract. In addition, there were several reforms aimed at making this process easier. The law also altered the Mining Code as part of the formalization attempt. But these efforts proved insufficient: Law 1381 –which established that informal miners who declared themselves to be formalizing could continue to operate without state intervention– was repealed after many armed groups claimed to be informal miners, or used violence to occupy concessions registered by informal miners³⁰.

Not unlike the Peruvian case, these efforts met with limited success.³¹ INGEOMINAS, the institution tasked with overseeing the formalization process, failed to respond to most of the requests, so miners continued to operate without a license and could not be legally sanctioned. Also, because of the limited capacity of INGEOMINAS, many miners applied for licenses to take advantage of the amnesty, with no real intention of formalizing. As a result, and in an attempt to rectify the situation, in 2013 a new decree was issued (033) that provided for the formalization of traditional mining.

In sum, in Colombia the gold rush went from being perceived as a non-priority to becoming a security issue that moved the state into action. Even if the actions that did ensue were of limited success, the Colombian state did express clear intentions to enforce regulations and institutions and direct resources towards this goal. In other words, these reforms did reflect a change in state response, with the government

29 Romero et al. 2014

30 Ronderos 2011

31 Interviews with Cardenas 2018 and Cabrera 2018

making firmer attempts to control gold extractors and limit the flow of illegal revenues to criminal actors.

Peru

As in the previous cases, small-scale gold mining is likewise a long-established activity in Peru. The beginnings of this activity, in areas such as Amazonia, can be traced back to the middle of the last century, when state colonization policies sparked greater migration to Amazonian departments. Between 1950 and 1980, the state pursued a policy of promoting artisanal and small-scale mining. Given that most gold deposits were in or close to the Amazon River, the promotion of small-scale mining was the perfect complement to state-sponsored colonization of the region. In 1972 the state declared a monopoly on the commercialization of gold through its Mining Bank (*Banco Minero*), which became an agency for promoting small-scale mining. As well as buying gold, this agency registered miners through the granting of plots, imposed conditions on the exploitation process, and even acted as mediator in conflicts between miners and indigenous communities³². But overall, the state did little to formalize activities.

By the 1980s the informality of the miners had become a serious problem, and successive state failures to control the situation prompted an organized response from the gold miners themselves. Organized into departmental associations, such as the Madre de Dios Association of Small Gold Miner Producers, miners moved to address the issue of informality and negotiates better regulations with the state³³. Thus, although not as organized or as relevant as in Bolivia, there was some organization of artisanal gold in Peru.

Market reforms in the nineties marked a shift away from the state's interest in promoting small-scale mining, towards a focus on attracting investment by large-scale international mining interests. These enterprises had fled the country following nationalizations in the late sixties and the violence and economic crises of the eighties, and enticing them back was a primary goal of market reformers. Hence, before the boom, small-scale gold mining was a minor economic activity in some Andean departments and in the Amazonian department of Madre de Dios³⁴.

32 Romero et al 2005; Valencia 2014

33 Romero et al. 2005

34 Kuramoto 2001

This situation began to change when, during the boom, thousands of citizens moved to Madre de Dios, Puno, other central departments, and to the northern departments of La Libertad and Piura to work as miners³⁵. This gold rush gave rise to a grassroots base composed mainly of artisanal workers. Damonte³⁶ put the number of such workers at 53,600 in 2009, but the trend has continued since then. The population of Madre de Dios town grew by 2.5% per year between 2005 and 2015³⁷. Similarly, according to calculations made by the Regional Office of Energy and Mining in Puno, the small gold town of La Rinconada (above 4500 meters) soared from approximately 5,000 persons in 2005-2007 to 65,000 - 70,000 persons in 2015.

The state's response in Peru has also varied over time.³⁸ During the early years of the rush, the state largely ignored the phenomenon³⁹. From 2002 to 2009 the regulations issued by the government were mainly attempts at formalizing this growing activity, but lacked any clear direction. Moreover, in 2002 there were conflicts between the state and the newly created regional governments about where responsibility for the process lay. These initial efforts faced several obstacles that became more evident as the boom progressed, none more so than the problem of overlapping concessions for agricultural, forestry, and mining activities, making it difficult for miners to start the formalization process.

The state began dealing with illegal mining through Emergency Decree 012-2010, which formally introduced the term "illegal mining" while seeking to address the problem in the department of Madre de Dios. Some police and military actions were carried out in that department, but deficient coordination and limited resources meant that they were more symbolic than effective⁴⁰. Indeed, during these earlier stages the state was hindered by a lack of adequate legislation, specialized bureaucracy, and resources⁴¹.

35 Alvarado 2014; Damonte et al. 2013; Pachas 2013

36 Damonte 2013

37 BCR 2015, 2

38 Interestingly, in the years before the boom, artisanal miners organized themselves to demand legislation to regulate their activity (Romero et al 2005; Valencia 2014). These calls led in January 2002 to the promulgation of the Law for the Formalization and Promotion of Small-Scale Mining and Artisanal Mining (*Ley de Formalización y Promoción de la Pequeña Minería y Minería Artesanal*, Ley 27651). But the gold rush hit the country only a few months after the law was approved, making its implementation almost impossible.

39 Dargent and Urteaga 2017

40 Dargent and Urteaga 2017; Interview with Abanto 2014

41 Defensoría del Pueblo 2014; Valencia 2014; Interview with Herrera 2014; Interview with Raez 2014

It was not until the arrival of Ollanta Humala's government in 2011 that the state began to confront the issue more comprehensively and direct more resources towards it. It came as a surprise that Humala, who as a candidate has campaigned alongside associations of small miners, was the one who changed course towards a stronger and more organized stance against gold mining. The state launched a formalization plan and allocated more funds to the agencies in charge of controlling the phenomenon⁴², while introducing a distinction between illegal mining and informal mining. Illegal mining was interpreted as all mining carried out in forbidden areas (e.g. natural reserves) or that uses banned machinery; it cannot be formalized and must be dealt with criminally. In turn, informal mining is that conducted without the proper environmental permits and which can potentially be formalized. In reality, informal mining is also illegal as it does not comply with formal requirements. But this distinction allowed for a "divide and conquer" strategy, aiming at a rapprochement towards informal miners while punishing illegal ones.

Though these laws were far more comprehensive than anything that came before them, they still attained limited results. Formalization has not had the expected results, largely because the state encountered severe problems in certifying and regulating land titles⁴³. Moreover, eradication is costly and difficult to sustain over time, and sidelined miners quickly return to their activities. From 2016 onwards there was some regression in this enforcement effort after the newly elected government passed some decrees that reduced the criminalization of illegal mining,⁴⁴ and otherwise gave the issue less priority, but overall the repressive and formalization policies continue.

42 OEFA 2013

43 Interview with Abanto; Defensoría del Pueblo 2014

44 Dec. Leg 1351 of January 7, 2017

III. Determinants of state responses

To explain the contrasting state responses, we need to look back at political and institutional trajectories before the increase in gold prices. In each case we document and seek to account for how these trajectories shaped the responses of these states. In the case of Bolivia, the trajectories allowed old and new social actors with vast political influence to gain resources from gold extraction, which limited the options of the state and led to forbearance. In Colombia and Peru there were no such actors around gold mining (at least at the beginning of the rush), so in both cases the state was able to opt for standoff, choosing to ignore the issue either because it was considered unimportant or because other issues were prioritized for resource allocation. But in Colombia the presence of violent actors made standoff far more costly for security reasons, explaining the quicker and more comprehensive movement of state actors towards enforcement in that country. In Peru the main push for state action came from both external and domestic pressures, mainly international condemnation of the depredation of the Amazonian rainforest and the local demands of large mining enterprises.

Bolivia

In comparison with the other two countries, in Bolivia there was a far more stable state response: inaction. But the motivation behind such inaction is political, in that enforcement would be prohibitively costly. Indeed, although there is no active enforcement or regulations, some state actions are oriented towards easing gold extraction and limiting the few timid enforcement efforts that there are.

To understand the relevance of cooperatives during the resource boom, we need to turn our attention to the development of mining unions, state-owned enterprises, and cooperatives in Bolivia in the mid-20th century. The Trade Union Federation of Bolivian Mine Workers (FSTMB) was created in 1944, and in 1952 this powerful union became the backbone of the Bolivian Workers' Union (COB) through the reforms of the Bolivian revolution. Most miners worked for COMIBOL, the state enterprise created by the Revolutionary Nationalist Movement government to administer the nationalized tin mines. In 1958, mining cooperatives were given legal recognition through the General Cooperatives Law (Law Decree 5053)⁴⁵.

45 Rodríguez Ostría 2000; Michard 2008, 11-13; Espinoza 2010, 233-244; Francescone 2015, 747-749

Twenty-five years later, the mining industry was in crisis. In 1985 Bolivia introduced strong neoliberal reforms and dismantled COMIBOL reducing its functions. Approximately 23 000 miners were laid off and “relocated” to new positions⁴⁶. As a way to palliate social unrest, miners were permitted to form cooperatives and exploit state mines that had been abandoned or were close to closure⁴⁷. Cooperative miners joined Movement for Socialism (MAS) in the protests that eventually brought Evo Morales to power in 2005. Therefore, despite being weaker than in the past, cooperative miners were able to remain organized and gained strength by becoming part of an active opposition to neoliberal reforms. As mentioned before, gold cooperatives were not among the most important cooperatives at that time. But the commodity boom strengthened them, not only due to the increase in mineral prices but also because of their collaborative relations with the government.

Gold extractors –from old cooperatives as well as new miners– found in the cooperative structure a perfect organizational tool to start gold exploitation. These organizations quickly became enmeshed in the relationship between MAS and the more traditional cooperatives. As a result, gold cooperatives channeled the gold rush, becoming a strong pressure group with an agenda that was independent from the pre-existing cooperatives. Thus, the gold rush is primarily a political phenomenon in Bolivia.

Evidence that continued state inaction in Bolivia is a product of a conscious political calculus rather than state weakness is provided by the multiple linkages between MAS and the cooperatives, as well as the benefits the government provides for them. One seasoned analyst of Bolivian mining politics sees cooperatives as co-governing with Morales, an observation that is backed up by the many works documenting MAS’s social bases⁴⁸. Also, the Bolivian state contains many representatives of the cooperatives. For starters, there is a group of around a dozen congressmen who act on behalf of mining cooperatives in general (not only gold ones). Furthermore, another two actors who tend to be very close to cooperatives, and sometimes even former cooperative leaders, are the vice-ministers of mining development and cooperatives. In addition, cooperatives are afforded a seat in the COMIBOL, the state mining enterprise. Also, regional and national cooperative members are placed on MAS parliamentary lists and run for local elections under its banner.

46 Devisscher 2008:3; Toranzo Roca 1989

47 Anria 2013, 25-27

48 Anria 2013; 2016; Salman et al 2015, 363; 2013:22; Interview with Oporto 2016

What is surprising is that cooperatives, contrary to what one would expect in a classic corporatist agreement, do not actually receive many state perks. It is true, as mentioned below, that the government reduced taxes for cooperatives (2.5% in the new mining law, and only 1.5% if the product is sold in the local market) and, more recently, provided them with machinery and loans with which to expand their operations (SPDA 2015: 30-32). But the basic *quid pro quo* ensured by cooperative support of the government is forbearance: the cooperatives are allowed to operate without these regulations being enforced. As Salman et al.⁴⁹ put it, “they are privileged, and nobody dares to touch them”. An independent report on gold mining and cooperatives in Bolivia highlights how it is basically the lack of enforcement of criminal, environmental, and tax regulations that provides cooperatives with considerable gains. Although the state supports gold miners with “mining rights where they ask for them, and also millionaire credits and lower taxes”, the “lack of enforcement is the biggest incentive”⁵⁰. This lack of enforcement allows for multi-million profits through exploitation of areas where there are no formally recognized rights.

Additional evidence for forbearance can be found in the actions to facilitate and give incentives for gold extraction, and the instances in which timid enforcement efforts are thwarted by the state itself. This is clearly a system of “undoing with one hand what one does with the other”, which proves that the government has no intention of enforcing the law. Although gold-extraction activities that do not comply with the norms are expressly prohibited and formally punished, sometimes in quite drastic terms, at the same time the law leaves loopholes that serves to legalize these activities. The Mining Law of 2014 forbids illegal mining, but also authorizes cooperatives to continue their activities while they seek formalization. Antonio Ganderillas, an expert in illegal gold mining, highlights how the new mining law is ultimately designed to allow cooperatives to operate⁵¹.

In addition, the government has been seen to tolerate tax evasion. Cooperatives already pay royalties at lower rates than mining companies (2.5%). Nonetheless, many of them still fail to comply with the law or are allowed to declare their gold as being of lower quality in order to be subject to even less taxes⁵². Ganderillas notes that whereas tax authorities have firmly enforced collection in recent years, this has not applied to cooperative mining⁵³.

49 Salman et al. 2013, 23

50 Gandarillas et al. 2013, 3 (translated by authors)

51 Interview with Ganderillas 2016

52 SPDA 2015: 34-39; Cordova 2015

53 Interview with Ganderillas 2016

Finally, actors within the government endeavor to limit coercive actions against illegal mining. Héctor Córdova, former vice-minister of mining development (Ministry of Mining and Metallurgy), mentioned that in 2010, when he was vice-minister, there were some state initiatives against illegal mining in the frontier areas, which was responsible for considerable tax evasion. But five of the operations failed when the Vice-Ministry for Cooperatives (part of the same ministry) identified the mining organizations involved as cooperatives⁵⁴.

Is this pattern explained by MAS's leftist position and close relations with social movements? Undoubtedly, this relationship has increased collaboration between MAS and cooperatives, but there is a stronger determinant: if controlled by a government of a different ideology, the Bolivian state would still have had to accommodate the interests of powerful cooperatives. As stated earlier, Bolivian governments have accommodated cooperatives' interests for the last three decades, during which time several right-wing governments have ruled the country. Forbearance, we believe, would have been the natural institutional path during the gold rush in Bolivia even if a rightist government had ruled the country. In conclusion, the relevance of cooperatives made the gold rush a political phenomenon in Bolivia, leading to forbearance.

Colombia

Given the high prevalence of violent groups in Colombia, resources can easily prove more of a curse than a blessing. The gold rush in this country was shaped by violent actors, present in the territory since the second half of the 20th century. This led to gold extraction in Colombia being a highly violent and risky activity, controlled in many areas by criminal organizations that use their resources and accumulated know-how to extract and illegally export gold⁵⁵. Consequently, as shown in the previous section, state actors eventually had to design and implement a more comprehensive response to the gold challenge than in the other two countries. What is interesting, though, is that even under these circumstances the state still took some time to respond, opting at first for a standoff position.

At the beginning of the boom, gold quickly became another resource that could fuel illegal groups in the country. As a matter of fact, this is not the first time that these groups have competed violently among themselves and with the state for

54 Interview with Cordova 2016

55 Massé and Camargo 2012

control of resources. In the past these groups fought over other illegal resources, such as cocaine and opium, and to extort money from legal economic activities such as mining, banana plantations, and oil⁵⁶. The increase in the price of gold made this metal yet another source of income to feed these groups and the ongoing conflict⁵⁷.

Gold production is concentrated in the departments of Chocó, Antioquia and Valle del Cauca, all areas where violence and criminality have long been high⁵⁸; from very early on, illegal and criminal violent groups operating in these territories became involved in gold exploitation and included it in their portfolio of assets⁵⁹. Groups known as emerging criminal gangs (BACRIM; basically demobilized paramilitary groups), and drug traffickers not only aimed to exploit gold in territories under their control, but also moved to new territories where the metal was present. As a study from Echandía⁶⁰ shows, by 2010 one fifth of the revenues from illegal gold mining were in the hands of the FARC, and more than half of the gold-mining territories overlapped with areas where one or more criminal gangs had a strong presence. And there was clear evidence that various armed groups were active in parts of the illegal gold production chain (especially the mining or commercialization stages) in order to finance their criminal activities⁶¹. Because of the violence, in Colombia the pattern of gold rush reverts over time. While initially there was a traditional pattern of migration⁶² towards gold regions, in later years this gave way to emigration to big cities to escape the violence in these regions. As documented by Ibañez and Lavarde⁶³ the average number of forced displacements is considerably higher in gold districts than in the rest of the country. Thus, the gold rush lent fresh impetus to the armed conflict⁶⁴, which increased its depth and breadth in areas with gold deposits⁶⁵.

Hence, the gold rush fuels violent challengers that in the long term use these resources to challenge the state's control over the territory. But at first the link between illegal gold and armed groups was not clear, so the state's initial response

56 Nasi et al 2009

57 Massé and Camargo 2012

58 Giraldo 2013; Giraldo and Muñoz 2012; Giraldo and Naranjo 2012

59 Romero, 2011, Comptroller General of the Republic of Colombia, 2011; Nasi et al 2009

60 Echandía 2013

61 Rettberg and Ortiz-Rionalo 2014

62 Gómez, 1999

63 Ibañez and Lavarde 2014.

64 Idrobo et al. 2014

65 Rettberg and Ortiz-Rionalo 2014

to the gold rush was a mix of ignoring the issue and developing weak formalization policies. In other words, during the first few years of the gold boom the Colombian state adopted a standoffish response to illegal gold mining and focused resources on other pressing issues.

But as discussed in the previous section, come time the government realized that the problem had escalated from one of mere informality to one with security implications, and was compelled to act to prevent exploitation of mining resources by armed groups⁶⁶. The alarm also came from civil society and international organizations, but as the reports and state actors' involvement show, the main thrust for enforcement came from security actors in the country.

The relevance gained by illegal mining for Colombian state actors (political and bureaucratic) were clearly manifested in the Development Plans from 2010 onwards. Traditionally, Development Plans in Colombia show governments' priorities and main policy goals during their mandates. The 2010-2014 National Development Plan (established by Law 1450 in 2011), prohibited the use of heavy machinery in mining activities without titles. On this basis, in 2012, Decree 2235 established that those engaged in mining activities without a mining title or environmental license would have all their heavy machinery destroyed⁶⁷. Later, the 2014-2018 National Development Plan (Law 1753 of 2015) made it the state's obligation to deal with the environmental damage caused by illegal mining.

This change in the response of the Colombian state led to new comprehensive policies discussed in the previous section marked by the creation of new institutions and a more central role for the police and later the armed forces in enforcing the gold mining regulations. Once it became clear that illegal groups were involved in gold extraction and commerce, the state was forced to react by actually enforcing existing legislation and implementing its rule in illegal gold mining zones in an effort to reduce the flow of resources towards violent actors.

Peru

In Peru, the lack of organized actors around illegal gold mining, political or violent, explains why the state had more leeway in choosing different ways of responding to the phenomenon, and why its standoff lasted longer than in Colombia.

66 Interview with Nerza 2018

67 This change was also in accordance with Article 6 of the 774 Decision (2012) by the Andean Community of Nations.

As mentioned, illegal and informal mining in Peru is largely atomized and lacks connections between extractors. Mining unions (whether artisanal or otherwise), were by no means as extensive and strong as in Bolivia, so there were no similar patterns of organization, especially with regard to regional and national associations.

Furthermore, although gold extractors are also involved in Peruvian politics, this is mostly on a local level. Since gold emerged as an essential component of the economy in some communities, local residents have become active defenders of the activity. The influx of miners ensures supportive local candidates of a high number of votes. Candidates to the offices of mayor and even regional governor have run, and frequently won, with the backing of gold miners. There are also some cases of politicians in Congress with links to gold extraction. In general, though, this political influence is less prevalent than in Bolivia.

This lack of organization can be explained by varying phenomena that unfolded in the late eighties and early nineties. A severe economic crisis hit Peru in the former decade, weakening unions and grassroots associations. Internal violence unleashed by a ferocious Maoist guerrilla group, Shining Path, killed thousands and weakened social networks across the country. Finally, as discussed, market reforms in the early nineties were an important factor in weakening small miners' associations. And given the near complete defeat of Shining Path in the nineties, there were no significant violent actors remaining in the territory. Thus, in the absence of political actors that could have made forbearance more attractive or violent ones that may have demanded quick and more thorough enforcement, Peru was less constrained in determining a state response. Standoff seemed a more permanent option.

Nonetheless, as mentioned in the previous section, the state's standoffish attitude gradually gave way to a more comprehensive response due to external (partly international), and to a lesser degree internal, pressures. These included: (i) the need to guarantee environmental commitments established in the free trade agreement with the USA, which prompted the creation of a Ministry of the Environment in 2009 that took initial actions against gold mining in the Amazon basin⁶⁸; (ii) the growing pressure associated with the international campaign by transnational environmental networks and their domestic allies against pollution related to gold extraction⁶⁹.

68 Ruiz 2011

69 Mosquera 2009; Swenson et al. 2011; Gardner 2012

And starting in 2009-2010, an internal pressure also emerged: (iii) formal and powerful mining companies, which had gained considerable power in the preceding years, called upon the state, through press releases and declarations, to respond to the challenge⁷⁰. During the boom years, the expansion of mining activities catalyzed social conflicts. And formal mining enterprises faced repeated allegations of causing environmental damage, many of them with solid grounds. The resultant negative image spurred these enterprises to launch an emphatic public campaign between 2010 and 2011 to show that they did in fact comply with environmental regulations, and that the real polluters were illegal and informal mining groups. Various press releases attest to the deep involvement of the Confederation of Private Peruvian Enterprises (CONFIEP) and the National Mining and Petroleum Association (SNMP)⁷¹ in the ongoing efforts to induce enforcement.

Other sources point to growing alarm among external actors regarding security issues. In an interview for this study, Humala's first Head of Cabinet (*Primer Ministro*), Salomón Lerner, mentioned that it is not clear what changed the president's mind regarding small mining, but recalled that as a former soldier Humala had started to worry about the links between gold mining and transnational criminality.

What seems clear is that these cumulative pressures moved the state to enforcement. Nonetheless, the scope for reverting back from enforcement to standoff is greater than in Colombia. Recent events bear this out. The fact that politicians, most notably Keiko Fujimori –who lost the 2016 presidential runoff by a margin of less than 0.2%– promised miners greater leniency during the last campaign, and the more tolerant stance of the current government, shows that the state can change its strategy. Indeed, the cost of keeping up a repressive strategy, the limits of the formalization process, and the social protests in mining areas, added to the ebb in international interest around the topic, could take Peru back to standoff.

70 Interviews with Abanto [2014] and Galliani [2014]

71 SNMP: Minería ilegal en Perú mueve más de US\$ 900 millones que no pagan impuestos y regalías (February 22, 2011); CONFIEP: Narcotráfico “invierte”US\$ 500 millones al año en minería ilegal (February 14, 2012); SNMPE: Destaca voluntad política del gobierno para erradicar la minería ilegal en Perú (February 20, 2012); SNMPE: Gobierno no se enfrenta a minería de subsistencia sino a mafias que financian extracción ilegal de minerales (March 14, 2012); SNMPE: ni un paso atrás en la lucha contra la minería ilegal (May 16, 2012); SNMPE: Minería formal y moderna se diferencia claramente de la extracción ilegal de minerales (May 14, 2012)

IV. Conclusion

The study of the gold rush in these three Andean countries provides us with some key theoretical insights, as well as some practical lessons for policy makers. First, the findings highlight the importance of social actors for understanding the differential impact of external factors in domestic politics, and how these actors shape state responses accordingly. In the case of Bolivia and Colombia, gold invigorated particular social actors (violent groups in Colombia and miners' associations in Bolivia) that profited from the activity and strongly determined the state responses. In Peru, on the other hand, the limited presence of such actors in Peru gives the state a freer hand.

Second, the cases highlight why external and domestic pressures for enforcement are more effective in states that adopt standoff responses than states that prefer forbearance. Standoff is cost-preventive at best, while for forbearance benefits must be overcome to prompt the state into action. Moreover, states that forbear from regulations do adopt a series of formal and informal institutions to provide incentives for unregulated actors, which also constitute barriers to enforcement. These barriers may become more formidable over time as the incentives build up social power.

Finally, and related to the previous point, these cases offer some practical lessons for state reformers concerned about the costs of gold informality. Actors interested in moving forward with regulations are advised to explore the reasons behind state inaction. If forbearance is at the heart of the decision, it will be more difficult to lobby the state for change; external actors are more likely to be sympathetic to these actors' demands, and to contribute to pressurizing the state. On the contrary, standoff seems a more flexible position from which to motivate states to act.

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