



**SOCIETY FOR
THREATENED
PEOPLES**



STP-Report

The responsibility of the gold refineries in human rights violation and illegal activities in Peru

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Cover picture: Artisanal gold mining in
the Madre de Dios area, la Pampa, in Peru.

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1. Editorial

Gold sells. Until recently, it did not matter whether gold was produced legally or illegally, whether local people had lost their lives while protesting against mines where the metal is sourced, or whether the gold had been produced in a socially and environmentally manner. Following the devastation of rivers, forests and the environment, and the disregard for indigenous peoples' reserves and protected areas, few questions were asked about the production of the gold. This report demonstrates that in spite of formal pledges to change from within the gold industry, little reform has taken place. Much more, therefore, is needed to clean up the dirty gold business.

The gold industry is essentially a secretive business. But as gold prices soared, the visibility of the human rights violations and environmental destruction has increased. As a result, more and more consumers seek pledges that dirty gold does not enter the supply chain for products requiring the precious metal. The international community, too, has reacted. In 2011, the United Nations Human Rights Council endorsed the Guidelines for Business and Human Rights that solicit states to protect their peoples and that companies respect human rights by undertaking due diligence, in order to avoid involvement in human rights violations and gross environmental destruction.

Most of the Peruvian gold output is produced through large-scale industrial operations. A former joint report by Peruvian NGOs, Grufides, Derechos humanos sin Fronteras (Human rights without borders) and Coordinadora Nacional de Derechos Humanos (National coordinator for human rights) and the Society for Threatened Peoples (STP) showed that industrial raw material production was often associated to human rights violations, where protests by the local population were suppressed violently by security forces. Protests in July 2012 against expansion plans at Yanacocha, a Newmont Mining affiliate and South America's biggest gold mine, led to the death of five people in a bloody oppression. The report revealed that Yanacocha, like other mining companies, concluded a secret contract with the Peruvian National Police, in which Yanacocha provided logistical, financial and technical support to the force and paid extra bonuses to the policemen involved in security activities. The state security forces thus became active defenders of the interests of the companies, while the companies became complicit in the human rights violations by the security forces.¹

¹ Police in the Pay of Mining Companies – the responsibility of Switzerland and Peru for human rights violations in mining disputes, http://assets.gfbv.ch/downloads/report_engl_neu_def.pdf; 11.3.2014.

In response to the alarming destruction of Amazon rainforests and the disregard for indigenous and protected areas by gold miners in the south eastern Madre de Dios area of Peru, the Society for Threatened Peoples took a closer look at the facts behind the disaster. Some findings were really unexpected. The northern region of Cajamarca, home to some of the biggest gold mines including Yanacocha, is the department with the second highest rate of poverty in Peru, while the Madre de Dios area presented the lowest level of poverty. We were surprised to learn how little large-scale gold production contributed to prosperity of the local population, while the presence of mainly informal and illegal mining in the Madre de Dios area seem to contribute positively to the economic fortunes of the local population. Changes in governmental policy, which currently favours industrial mining, may be needed that would both limit the authority of large-scale operations within communities and support small and medium-sized gold miners as they formalize their activities, bringing them in line with accepted standards. All mining operations need to respect environmental criteria – including a ban on mercury, used by the artisanal miners, and cyanide, used in industrial operations – and respect human rights including the right of local populations to free, prior and informed consent.

The Society for Threatened Peoples obtained very detailed export data, based on official trade statistics. These figures allow us to gain access to specific details of Peruvian gold exports to international buyers and enable us to disclose important information on the role of the refineries.

The other startling fact we discovered is the amount of power gold buyers have. Few refineries worldwide control the demand for Peruvian gold. Approximately half of Peruvian gold production is purchased directly by the four Swiss based refineries, Valcambi, Metalor, PAMP and Argor Heraeus. Other refineries buying Peruvian gold are Canadian-based Johnson Matthey, US companies Kaloti Metals & Logistic, Republic Metals Corporation, NTR Metals and Atomic Gold and Italian processor, Italtreppiosi. Detailed information STP had access to, reveals that during the period studied, between 2012 and January 2014, Valcambi bought some 70% of the gold production of Yanacocha, while Metalor and PAMP imported metal from many sources including several questionable companies, in the Madre de Dios area. We discovered, for example, that Universal Metal Trading (UMT), a company suspected of involvement in money laundering and of buying illegal gold, sold all its gold in 2012 to PAMP. Shortly after the publication, at the end of July 2012, of incriminating

reports in a Peruvian newspaper, UMT halted all gold exports, with the exception of a final 50-kilo shipment in September 2012, to PAMP. Since then, UMT seems to not export officially any more. We are not aware whether or not they now export gold through another exporter.

Similar reactions could be seen with two other gold exporters. From 2012 to 2013, negative reports were published about exporters, AS Perú and E&M, both of which sold their gold exclusively to Metalor. In October 2013, Metalor stopped buying from E&M. Since then, however, E&M sells to a US-based refiner, Atomic Gold Incorporation. In November 2013, Metalor also stopped buying from AS Perú, but soon after, an American company, NTR Metals, jumped in as the Peruvian exporter's client. Other gold exporters in the problematic Madre de Dios area, including Menor Trading, continue to sell gold to American buyers, particularly to the refinery Kaloti and, since recently, to the Italian refiner, Italtrepreziosi. We also discovered that since recently only, new buyers from India, United Arab Emirates and South Africa appear to have become involved in the purchase of dirty gold.

While we acknowledge that Swiss refineries appear to be adopting greater caution in cases where the behaviour of suppliers has become the object of public scandal, we could not identify that those companies are actively practicing a tangible due diligence and greater transparency in Peru.

We believe that the gold refineries have the power, by the critical influence they have on the gold exports, to decide ultimately whether dirty gold continues to enter the international market. Due diligence must be achieved effectively by refiners, and full transparency regarding sources be made available to all. Voluntary approaches are insufficient, and legislation is needed to establish the conditions for responsible extraction of raw materials. Additionally, the Peruvian government needs to review its relationship with the mining sector and local populations affected by mining, and empower the formalization process for the small and medium miners. Also, by supporting responsible gold initiatives, such as the Swiss Better Gold initiative, other countries can offer greater support to small miners as they seek to formalize operations, by providing clean production methods, and establish binding due diligence and transparency clauses, for the industry.

2. The extractive industry in Peru

In recent years, Peru has benefitted from the worldwide boom in raw materials and a steadily growing demand for resources. Reflecting the increasing demand for these provisions from BRIC countries (Brazil, Russia, India and China), the Andean country's economy has been thriving due to the multitude of mineral deposits. The third largest country in South America is endowed with valuable natural resources and a long mining history. This combination of these has offered Peru a primary competitive advantage through the diversification of minerals produced.² Due to its strong mining capacity, Peru is the world's second largest producer of copper and silver and its sixth largest gold producer. Over the last decade, some of the world's largest mining activities have been located in Peru, and have contributed strongly to the country's economic development. Spiralling commodity prices have helped fill the nation's coffers, while mining activities, boosted by the higher prices of raw materials, have moved further away from some of the industry's conventional locations within the Andes and the Amazon forest. Economic success has nonetheless come at a cost.

Considering the political perspective of the Peruvian economy, the election, in 1990, of the former president Alberto Fujimori, represented a complete turnaround in economic policy. As part of an international structural adjustment program promoted by the World Bank and International Monetary Fund, Fujimori adopted economically liberal policies for national development, including support for the commercial exploitation of the country's rich mineral resources. Private sector involvement, including foreign direct investment in particular, was actively encouraged and nearly all of the state's mining assets were privatized.³ Hence, during an era known as «Fujishock»,⁴ a path was set for the subsequent expansion of the mining industry by successive presidents, with improved conditions for foreign investors. Peru experienced growing prosperity and a sharp upswing in raw material exports. Since 2011, President Ollanta Humala, who was initially considered a popular defender of the interests of rural communities, has dominated the country's mining policy. Humala had pledged to prioritise concerns over water resources ahead of the extraction of gold and other minerals. Since taking office, he has however continuously pushed

² PricewaterhouseCoopers: «2013 Mining Industry. Doing Business in Peru». S.3, 2013.

³ International Council on Mining & Metals (ICMM): «Peru Country Case Study». July 2007.

⁴ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ): «Peru, Wirtschaftspolitik und -entwicklung» in: URL: <http://liportal.giz.de/peru/wirtschaft-entwicklung/>, 06.2.2014.

for export promotion and mining activities, and has presided over the highest recorded growth rates in the Latin America in the last decade.

Between 2003 and 2014, investment in mining grew by more than 2.700 %, increasing from US\$ 305 million to US\$ 8.568 billion.⁵ Exports of all products, between January and November 2013, totalled US\$ 37.737 billion. Mineral exports represented US\$ 20.744 billion, including US\$ 8.887 billion for silver and US\$ 7.267 billion for gold.⁶ Over the same period, Peru exported to Switzerland US\$ 2.339 billion worth of products, including US\$ 2.328 billion in gold – over 99 % of the total exports.⁷

Regardless of the undeniable success of the economic policy, achievements in economic development have gone hand in hand with a high level of resentment amongst affected populations, particularly indigenous communities, which experience a growing shortage of land and access to water and increasingly polluted environments. By December 2013, concessions had been awarded for the extraction of natural resources in 26 million hectares of land, representing nearly 21.20% of the country's entire land surface area.⁸ Competing interests between local inhabitants and mining companies have also led to violent conflicts in recent years.

Two principal methods of production are employed in the extraction of gold in Peru. Roughly 80% of the production is achieved through large-scale mining, with multinational companies mainly investing in major operations such as Yanacocha, a majority Newmont Mining-owned mine, and Minera Barrick Misquichilca. An estimated 20% of the gold production comes from artisanal and small-scale gold mining (ASGM), common in the Madre de Dios and Puno areas.

The Peruvian government argues that gold production brings benefits to the local population. Interestingly, the Cajamarca department, home to Latin America's biggest industrial gold mine, Yanacocha, is the second poorest department in Peru with

5 PricewaterhouseCoopers: «2013 Mining Industry. Doing Business in Peru», S. 3, 2013.

6 Ministerio de Comercio Exterior y Turismo: «Evolución de las Exportaciones – Noviembre 2013» in: URL: www.mincetur.gob.pe/newweb/Portals/0/documentos/comercio/RM_Expo_Noviembre_2013.pdf, 06.2.2014.

7 Ministerio de Comercio Exterior y Turismo: «Reporte de Comercio Bilateral Perú-Suiza». In: URL: www.acuerdoscomerciales.gob.pe/images/stories/Reporte_bilateral/europa/suiza_iii.pdf, 06.2.2014.

8 CooperAcción: «El gobierno de Humala apuesta por ma minería como motor de desarrollo» in URL: www.cooperacion.org.pe/noticias/10-noticias/1175-el-gobierno-de-humala-apuesta-por-la-mineria-como-motor-de-desarrollo, 07.2.2014.

a poverty level of 54.2%, while the Department Madre de Dios in the Peruvian Amazon area has the lowest poverty level in Peru, at 2.4%. Since gold is an important product in both departments, one can assume that the industrial gold production contributes far less to the economic wellbeing of the affected local population than artisanal and small-scale mining.⁹

Indigenous peoples and *campesinos*,¹⁰ who are also of indigenous origin, are often involuntary victims of mining projects. In September 2011, a law enabling prior consultation with indigenous peoples before mining projects are granted was enacted. The law however represents only a small step towards improving a situation, where the extraction of raw materials poses a threat to local communities and the environment.¹¹

An issue of great concern is the often illegal and informal gold production in the Madre de Dios area. It is presumed that over 20 percent of Peru's gold is produced illegally, using techniques that destroy forests and pollute rivers.¹² The origin of gold from illegal or informal sources is often falsified, and makes its way into Peru's exports and the global supply chain.¹³

Mining and security policies, economic regulations and laws aimed at protecting indigenous populations and preventing environmental pollution and water contamination, become key matters for Peru.

9 www.rpp.com.pe/inei-peru-departamentos-pobreza-noticia_592847.html; 9.3.2014

10 The term «campesinos» is used to describe the descendants of indigenous peoples who remain close to their origins, conserving their cultural and religious traditions and a close relationship with nature and their own living space. As part of the 1969 agrarian reform program in Peru, there was a change of terminology: the pejorative term «indio» was re-placed by what was considered a more respectful term, «campesinos» (STP (2013): «Police in the Pay of Mining Companies», Switzerland, p. 4).

11 MISEREOR: «Menschenrechtliche Probleme im peruanischen Rohstoffsektor und die deutsche Mitverantwortung». S. 16, November 2013.

12 InSight Crime (2013): «Breaking down the chain of illegal gold in Peru» in: URL: www.insightcrime.org/news-analysis/breaking-down-the-chain-of-illegal-peruvian-gold, 13.2.2014.

13 Verité: «Risk Analysis of Indicators of Forced Labor and Human Trafficking in Illegal Gold Minin in Peru». In: URL: www.verite.org/sites/default/files/images/Indicators%20of%20Forced%20Labor%20in%20Gold%20Mining%20in%20Peru_0.pdf, 06.2.2014.

3. Social conflicts, criminalization and militarisation

Peru's promotion of investment in mining has led to growing concerns within affected local populations. Frustrated by a lack of consultation and an inability to determine their future, rural communities assemble and protest against some of the mining projects. A report published by an independent constitutional ombudsman, the independent institution «Defensoría del Pueblo» (Peoples' ombudsman) registered in January 2014, 213 social conflicts, of which 48% were based on mining issues.¹⁴

Instead of investing in mechanisms to resolve social conflicts, the Peruvian government has moved towards militarizing and criminalizing of protests. In 2009, a decree regulated the possibility of contracts being concluded between the private sector and the Peru's National Police, in order to protect private and public investments and infrastructure. These contracts enabled mining companies to order armed intervention by the police and military instead of having to peacefully resolve the sources of the conflict. In these agreements, mining companies would provide infrastructure, logistics, insurance, food and even financial bonuses to police forces and to the individual policemen involved.

A report published by the Society for Threatened Peoples together with Peruvian human rights organisations, Grufides, Derechos Humanos sin Frontera and the Coordinadora Nacional de Derechos Humanos, described the implication of such contracts. It warned of the impact of agreements, which are concluded secretly, on the human rights situation in Peru, and the mistrust that such a power distribution may provoke within the affected communities.¹⁵ The Society for Threatened Peoples worriedly observed that five people were killed in the social protest against Minera Yanacocha and three people killed in protests against Xstrata Tintaya, in 2012, alone.

In January 2014 an amendment to Peruvian criminal law provided impunity to security forces. The STP fears that such moves may lay the basis for very violent disputes leading to further casualties and political unrest.

¹⁴ Defensoría del Pueblo, Reporte de Conflictos Sociales No 119; www.defensoria.gob.pe/portal-noticias.php?n=11380; 4.3.2014.

¹⁵ Police in the Pay of Mining Companies – The Responsibility of Switzerland and Peru for human rights violations in mining disputes; http://assets.gfbv.ch/downloads/report_engL_neu_def.pdf, 4.3.2014.

As we shall describe below, conflicts have also increased within the artisanal and small-scale mining sector. An American NGO, Verité, estimates that some 20% of the Peruvian gold production originates from illegal sources.¹⁶ Verité reported an extensive use of forced labour, child labour, under aged victims of sex trafficking and other social and environmental problems present in small-scale gold mining. The Government of Peru is trying to take more control over the gold production and is using security forces to stop the informal and often illegal gold mining activities. Since 16th of March 2012, unlicensed mining is subjected to penalty. Bans on the use of heavy machinery, restrictions on the quantities of gold extracted and recent police operations in nearby settlements, in which bulldozers, trucks and other mining equipment were dynamited, have heightened tensions in the area.¹⁷ As shall be discussed below, only a holistic approach involving clear actions by gold buyers acting with due diligence and transparency may help resolve these serious issues peacefully, without new human rights violations.

4. Artisanal and Small-Scale Mining in Madre de Dios and Puno

«We knew that illegal mining was taking place, but were not aware of how fast it was moving into the forest. We now know the speed at which that is happening.» (Ernesto Ráez Luna, advisor to Peru's Ministry of the Environment, MINAM, 28 October 2013).

Broadly speaking, Artisanal and Small Scale Gold Mining (ASGM) refers to mining by small groups such as cooperatives, small companies, families or individuals, often integrated in the informal and illegal industry of mineral extraction.¹⁸ ASGM is characterized by the removal of gold manually or with the use of limited mechanization. According to Peruvian law, artisanal operations «are those which benefit from up to 1,000 hectares of land and which excavate less than 25 metric tonnes of material a day», while «small-scale» operations can hold up to 2,000 hectares of land and ex-

¹⁶ www.verite.org/sites/default/files/images/Gold%20Report%20-%20Executive%20Summary.pdf; 4.3.2014.

¹⁷ Dupraz-Dobias, Paula (2013) www.peruviantimes.com/21/on-the-ground-in-the-battle-against-illegal-mining/20434/ 21.10.2013.

¹⁸ Hentschel, Thomas et al. (2003): «Artisanal and Small-Scale Mining. Challenges and Opportunities». World Business Council for Sustainable Development, 2003, p.5.

cavate 350 tonnes of material per day».¹⁹ ASGM is present in nearly all regions of the country, though the southeastern departments of Madre de Dios and Puno deserve special attention due to the extent of this activity in those areas.

According to the Peruvian Environment Ministry, 16 to 18 tons of gold are extracted annually from Madre de Dios alone. The ministry estimates that in the region, 50,000 to 70,000 illegal miners are active.²⁰ The illicit activity is currently expanding on the surface at an annual rate of 6,145 hectares per year.²¹ Most miners working in the Madre de Dios rainforest migrated from the highlands leaving behind a life of poverty. These workers therefore often lack a personal reference to the rainforest habitat.



The devastation of uncontrolled activities in the Madre de Dios area.

19 Peru Support Group (2012): «Artisanal and Small-Scale Gold Mining in Peru: A Blessing or a Curse?» in: URL: www.perusupportgroup.org.uk/files/fckUserFiles/file/Artisanal%20and%20Small-scale%20Gold%20Mining%20in%20Peru.pdf, 11.2.2014.

20 Álvarez, José et al. (2011): «Minería aurífera en Madre de Dios y Contaminación con mercurio – Una bomba de tiempo», Lima, Ministerio del Ambiente, in: URL: <http://cdam.minam.gob.pe/novedades/mineriamadrededios.pdf>, 11.2.2014, p.15.

Yong, Ed (2013) : «Gold-Mining in Peru is much worse than anyone thought» in: URL: <http://phenomena.nationalgeographic.com/2013/10/28/gold-mining-in-peru-is-much-worse-than-anyone-thought/>, 11.2.2014.

21 Yong, Ed (2013): «Gold-Mining in Peru is much worse than anyone thought» in: URL: <http://phenomena.nationalgeographic.com/2013/10/28/gold-mining-in-peru-is-much-worse-than-anyone-thought/>, 11.2.2014.

Indeed, over the years, the geographic extent and ecological and social impacts of thousands of small mines had been underestimated. ASGM exploitations expanded and encroached deeper into the forest and higher up the foothills of the Andes to create rapidly deforested swaths amidst the lowland rainforest, often running parallel to rivers. Due to the high price of gold, mining became more attractive even in areas where gold concentration represents as little as one gram per tonne of material.

The development of ASGM in southeastern Peru has triggered two major issues for the area. On the one hand, mining is causing serious environmental damage in an area of renowned biodiversity. Secondly, the activity is having social bearings, including serious health and safety issues amongst workers and the surrounding communities. The most serious health effect of ASGM is the high rate of contamination of the environment and human beings due to mercury, used for the extraction of gold. The removal of one kilo of gold requires 2.8 kilos of mercury.²² This powerful neurotoxin contaminates not only water and soils, but also enters into the food chain. According to the Carnegie Amazon Mercury Project, the mercury concentrations in Madre de Dios were at least five times the quantities considered safe by the WHO, and therefore pose serious threat to public health.²³ Another unacceptable impact of ASGM is evident in the social vulnerability to forced labour, human trafficking, child labour and prostitution.²⁴

5. Proposals for responsible mining

Between 2012 and 2013, Peru experienced an increase in social conflicts linked to informal and illegal artisanal and small mining. While some protesters criticised serious social and environmental problems resulting from mining activities, others attempted to impede legislation prohibiting illegal mining.

Illegal and informal mining has spread rapidly where state authority is absent, and is fuelled by a shortage of employment opportunities and high international gold prices. The Peruvian government has responded to the growth of illegal mining through leg-

22 AG Friedensforschung (2013): «Fluch des Goldes» in: URL: www.ag-friedensforschung.de/regionen/Peru/bergbau14.html, 20.2.2014.

23 Dupraz-Dobias, Paula (2013): «On the ground in the battle against prohibited mining» in: URL: www.peruviantimes.com/21/on-the-ground-in-the-battle-against-illegal-mining/20434/, 13.2.2014.

24 Verité: «Risk Analysis of Indicators of Forced Labour and Human Trafficking in Illegal Gold Mining in Peru» In: URL: www.verite.org/sites/default/files/images/Indicators%20of%20Forced%20Labor%20in%20Gold%20Mining%20in%20Peru_0.pdf, 13.2.2014, S. 20-23.

isolation aimed at «formalizing» miners who respect certain norms, and by prohibiting activities that contravene such rules. But while the punishment, eradication and taxation of illegal mining appear to be both insufficient and inefficient in resolving the issue, the role that economic actors, such as gold buyers, can play, continues to be overlooked by policy makers.

In December 2013, Muqui, a Peruvian NGO, published an agenda warning of the need to apply cohesive policies in order to effectively tackle the growth of illegal and informal mining. The agenda has received approval from various social, institutional and industry groups, at regional and national levels. The following is a summary of the proposals advanced in the paper, which aims to «move towards a new form of mining». ²⁵

- ✓ A new social and environmental agreement on mining requires that democratic processes, including dialogue and cooperation, be strengthened. The government's agenda should incorporate proposals from civil society.
- ✓ The government needs to review its approach towards social and environmental conflicts in mining, which currently justifies the violation of fundamental human rights, criminalising social protest and involves the privatisation of police forces by mining companies.
- ✓ The state should allow for greater decentralization of regulatory and executive authority in favour of regional and local authorities. The latter should participate more in the granting of concessions and contracts to miners, in evaluating and approving environmental studies, and in assuring that environmental standards are met.
- ✓ It is important that free, prior and informed consent is fully recognised as an inalienable right of all indigenous peoples, following the International Labour Organisation's Convention 169 and the United Nations' Declaration on the Rights of Indigenous Peoples.
- ✓ There is a need for a strong national environmental authority. Peru is the only country in Latin America where environmental impact studies require the approval of the Energy and Mining Ministry. The Environment Ministry lacks the

²⁵ Muqui: «Pequeña minería y minería artesanal formal, informal e ilegal: diagnóstico y propuestas»; www.muqui.org/adjuntos/informe%20especial.pdf, 4.3.2014.

executive authority to implement a multi-sectorial policy. The Environment Ministry should represent the central authority within the government capable of regulating environmental policy.

- ✓ Peruvian environmental standards and impact studies should be more rigorous, and adapted to international criteria, and made more transparent. The state, and not mining companies, should be responsible for the elaboration of environmental standards.
- ✓ Legislation is needed that would define where mining may be viable in order to guarantee nature conservation, the protection of indigenous peoples and the sustainable use of natural resources.
- ✓ Existing mining concessions should be reviewed. Those which overlap areas allocated for other uses, including for agriculture, tourism or forestry, or which occupy nature conservation or culturally important areas should be immediately cancelled. The state should declare a moratorium on new concessions until land use legislation is implemented and the law of prior consultation of indigenous peoples applied.
- ✓ As informal small scale mining is widely perceived as an economic survival occupation, the state should propose alternative sources of production, which offer gainful employment and ensure descent work conditions. Child labour and sexual exploitation would thus be eradicated.
- ✓ The social and environmental effects of illegal mining cannot be resolved simply through the formalisation of miners and through their enrolment in the ranks of taxpayers. Neither can social inclusion be achieved through punishment. The state needs to assure that its institutions have the necessary technical and financial resources that would allow informal miners to adapt their operations to mandatory legal, safety and environmental standards.
- ✓ Access to environmentally sustainable technologies and promotion of good work practices to be employed in authorized areas, should be part of the formalization process.
- ✓ The human right to water, and the preservation of water ecosystems should be imbedded in the Peruvian constitution and in government policy-making. Mining should be prohibited in water catchment areas and ecosystems, which already suffer from the impact of mineral extraction and climate change.

✓ An environmental label, identifying responsibly produced gold, would avoid illegal gold from entering the supply chain. Punishing suppliers of chemical ingredients and hardware used in the production of illegal gold should also be fully enforced.

✓ Congress must approve the transparency in Extractive Industries Law, which is currently under debate. The law would allow public access to information including finances, concessions and processes engaged for approval of environmental studies.

Muqui therefore proposes that the Peruvian state, together with civil society, engage in discussions based on the proposed agenda. Such a dialogue would facilitate the elaboration of a new environmental policy concerning the extractive industry, and should consider important criteria including investment, sustainable development and social inclusion.

The end of April 2014 will mark the deadline for the formalization of informal and illegal miners in Peru. Muqui believes that this turning point offers an opportunity to generate a new national consensus on how to tackle illegal and informal mining, by considering the social, environmental and economic dimensions of the problem.

6. Affected indigenous peoples

A combination of issues ensuing from gold mining, have affected indigenous peoples in different parts of Peru. After land concessions were allocated to indigenous peoples in 2005, conflicts were further exacerbated between mining prospectors and the various communities. One notable example is the on-going violent conflict at Minera Yanacocha in the northern regional department of Cajamarca. The company had been looking for another site, as resources at the old location were being depleted. The plan for a new mine, the Conga project, involves grazing a vast area including four mountain lakes, which supply water to the region. Water in this area is already scarce and shortages are expected to intensify. After indefinite strike action was called in July 2012, violent clashes broke out and five people were killed and several dozen more injured by the police.²⁶ Arrests were made and many people were

²⁶ OCMAL (2012): «Noticias sobre conflictos mineros» 20.2.2014.

detained. A contract between Yanacocha and the Peruvian National Police had been in force at the time, placing co-responsibility on the company for the violence deriving from the state forces. In February 2014, a new protest by farmers and villagers was ruthlessly suppressed by hundreds of security agents from a specialized unit belonging to national police forces. Civilians were attacked by tear gas and pellets, resulting in an unknown number of injuries and arrests.²⁷

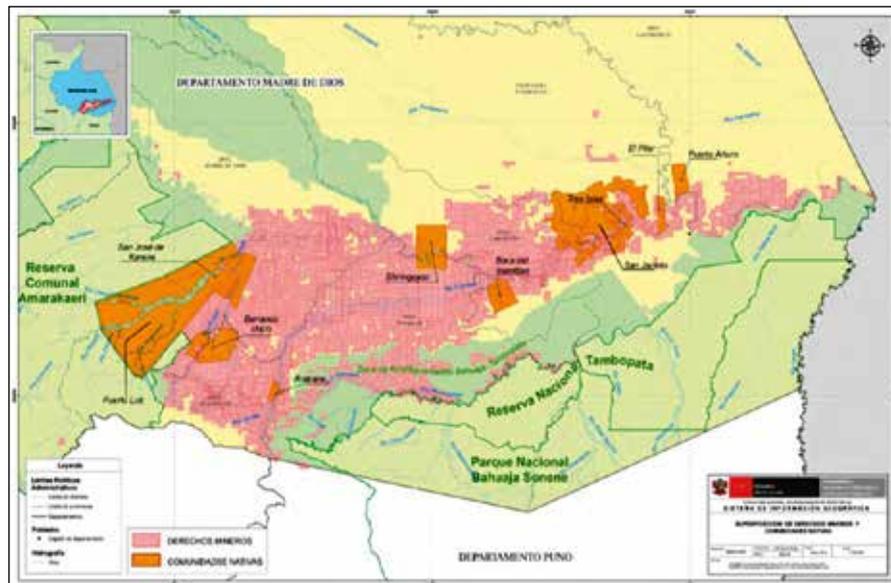
Depending on the areas affected, excessive deforestation and environmental pollution, an increasing number of illegal miners, corruption and the lack of alternatives in peoples' choices of livelihood, have constricted relations between parties, and lead to an aggravation of living conditions for indigenous peoples.

Meanwhile, more than 20 percent of land concessions assigned to indigenous peoples overlap with the concessions awarded to prospectors and miners. In Madre de Dios alone, ten municipalities in five zones are affected.²⁸ 49.63 percent of the territory of the rural and indigenous communities are overlapped by mining concessions.²⁹ The following figure of the department of Madre de Dios shows one area with overlapping claims.

²⁷ Servindi (2014): «Ultimo minuto! Denuncian fuerte represión a comuneros en Cajamarca» in: URL: http://servindi.org/actualidad/101457?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Servindi+%28Servicio+de+Informaci%C3%B3n+Indigena%29, 21.2.2014.

²⁸ Bonn International Center for Conversation (BICC) (2012): «brief 46. Auf der Suche nach dem sauberen Gold» in: URL: www.bicc.de/uploads/tx_bicctools/BICC_brief_46_d.pdf, 13.2.2014, S. 31 – 32.

²⁹ Hoetmer, Raphael et al.: (2013): «Minería y movimientos sociales en el Perú», Perú.



Land concessions and indigenous territories overlapping in Madre de Dios.³⁰

The devastation of lands, mining concessions and the lack of respect of human rights have been the focus of protests by Peruvian indigenous peoples. A number of existing international human rights agreements guarantee the rights of indigenous peoples and assure the protection of the environment they inhabit. The two most significant of these are the 1989 ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples, established in 2007. An element that features prominently in both sets of legislation is «free, prior and informed consent» (FPIC), which should be granted to indigenous peoples. This particular right signifies that indigenous peoples must give their free assent based on detailed information before a third party can become active in their region. UN Special Rapporteur on Indigenous Peoples, James Anaya emphasized that mining within indigenous peoples' territories must not take place without their free, prior and informed consent.³¹

30 Ministerio del Ambiente (2011): «Minería Aurífera en Madre de Dios y Contaminación con Mercurio» in: URL: <http://cdam.minam.gob.pe/novedades/mineriamadrededios.pdf>, 20.2.2014, p. 71.

31 UN-OHCHR (2013): «Report of the Special Rapporteur on the Rights of Indigenous Peoples» in: URL: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A-HRC-24-41_en.pdf, 20.2.2014.

Peru adopted the UN Declaration on the Rights of Indigenous Peoples and passed a law concerning the right to prior consultation for indigenous peoples. Finally, in March 2012, the government introduced the regulations with associated rules regarding implementation.³²

The regulations enabled the creation of a database³³ for public access that would determine which communities should be considered indigenous and hence have the right to prior consultation. The government however launched a debate on whether *campesinos* should have the right to gain the status of «indigenous people». The term «*campesino*» was established after many people of indigenous origin began to use it, as they wished to distance themselves from the often negatively connoted term, «indio». Even though many people belonging to this group no longer speak indigenous languages, such as Quechua or Aymara, they identify with their native cultures and see themselves as descendants of the original inhabitants the Peruvian Andes. On 25 October 2013, the Peruvian Ministry of Culture published the database. It contains a list of 52 indigenous peoples, including 48 from the Amazonas and only four from the Andes. *Campesinos* were not included in the database, even though Peruvian legislations states that *campesinos* are indigenous people.³⁴ Patricia Balbuena, the vice-minister for intercultural affairs, suggested that the farming communities could not be considered indigenous groups and would therefore have no right to prior consultation.³⁵ This will have a devastating impact on the *campesinos*.

Another contentious point is the question of whether indigenous communities will have the right to veto a project. The Peruvian government interprets the right of consultation in such a way that indigenous communities may in most cases only be «informed» (consulted). FPIC as articulated in international conventions, however

32 Ministerio de Cultura (2013): «Derecho a la consulta previa» in: URL: <http://consultaprevia.cultura.gob.pe/compendio-normativo.pdf>, 20.2.2014.

33 Ministerio de Cultura (2013): «Base de Datos de Pueblos Indígenas u Originarios» in: URL: <http://bdpi.cultura.gob.pe/>, 25.2.2014.

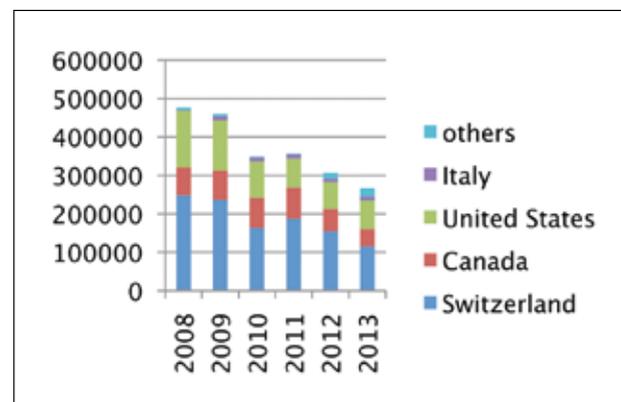
34 Servindi (2013): «Base de datos sobre pueblos indígenas es referencial. Se incrementará «poco a poco» in: URL: http://servindi.org/actualidad/95452?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Servindi+%28Servicio+de+Informaci%C3%B3n+Indígena%29, 25.2.2014.

35 LaRepublica.pe: «Viceministra de Interculturalidad: La base de datos contiene 52 pueblos amazónicos y 4 andinos» in: URL: www.larepublica.pe/26-10-2013/viceministra-de-interculturalidad-la-base-de-datos-contiene-52-pueblos-amazonicos-y-4-andinos, 25.2.2014.

implies more than just consultation. FPIC gives the right of self-determination to the affected people, and represents the ideal instrument to resolve conflicts with communities. The current interpretation of the international norm within the Peruvian legal setting is therefore far below the expectations of indigenous peoples.

7. Gold Business in Peru

Peru is the sixth biggest gold producer of the world.³⁶ According to available data, a steadily decline of gold exports from Peru can be observed, as shown in the following figure. Exports by the two biggest industrial gold producers, Yanacocha, and to a lesser extent, Barrick Misquichilca, have continuously fallen. Yanacocha claims that the mine's resources will soon be exhausted, which is the reason for extending operations to the new Conga site. Smaller businesses also saw a fall in their exports. This may be due to an improved control system, an increasing consumer awareness or restrictions imposed by the Peruvian government on the trade of illicit gold, which may be yielding its first results.



Decline of the gold exports from Peru in kilograms (STP data based on SUNAT-Statistics of the years 2008 – 2013).

³⁶ The countries: «Top 10 Gold Producing countries in the world» in: URL: www.thecountriesof.com/top-10-gold-producing-countries-in-the-world/, 25.2.2014.

As in other mineral-rich countries, gold is extracted in two different ways in Peru. The largest share comes from large-scale industrial mining operations such as Minera Yanacocha, a Newmont Mining majority-owned mine and Canadian-owned Barrick Misquichilca.

A much smaller portion of Peruvian gold production comes from artisanal and small-scale gold mining (ASGM). On a global level, ASGM produces some 15% of gold production, yet employs more than 80% of the industry's workforce.³⁷

Official statistics on poverty in Peru show that Cajamarca, home to some of the largest mining operations, has the second highest poverty rate, at 54.2% of the population. On the other hand, in Madre de Dios, where ASGM is very present, Peru's lowest rate of poverty, 2.4%, was recorded. Theoretically, ASGM could play a positive role for local development and bring about a more just distribution of income. Unfortunately, however, much of the prosperity in Madre de Dios comes from illegally mined gold, which is sold to Swiss, American, Canadian and Italian refineries, according to our data. Many of the export companies based in Madre de Dios buy gold from sources whose production has led to the destruction of forests, the contamination of rivers and sub soils with mercury, and the creation of multiple social problems. Furthermore, these export firms, often comprise criminal structures, involved in money laundering activities, which support the illegal and informal extraction of gold.

7.1. Companies under investigation or involved in destructive activities

All companies mentioned below have a presence in the contested mining zones of Madre de Dios and Puno. The Peruvian daily, El Comercio, reported legal actions against several companies and compiled a list of those enterprises based on reports from the State Prosecutor responsible for money laundering (*Procuraduría de lavado de activos*), the National Fiscal Administration (Sunat) and the Financial Intelligence Unit (*Unidad de Inteligencia Financiera* or UIF). Some of these companies became a reputation risk for buyers, especially the foreign gold refineries.

³⁷ SDC experiences with Formalization and Responsible Environmental Practices in Artisanal and Small-scale Gold Mining in Latin America and Asia, Swiss Agency for Development and Cooperation, 2011.

Of the 120 registered Peruvian metal export companies, 60 were investigated for alleged offenses of financing illegal mining, tax fraud and money laundering.³⁸ The absence of the state and independent supervising agencies make it impossible to get a complete overview on the performance of the companies – many rumours suggest a greater crisis. Only those companies reported on by the Peruvian press, especially El Comercio, are listed below, but it can be assumed that most, if not all, gold exploited from Madre de Dios is still rooted in illegal, informal or destructive activities.

7.1.1. Minerales del Sur

Minerales del Sur S.R.L. is officially registered as being engaged in the exploration, exploitation, production and export of metals, particularly of gold in the region of Puno and has an agency in Madre de Dios. The business is one of the main gold exporting companies in Puno. According to a report in the Swiss weekly, *Le Matin Dimanche*, Minerales del Sur shipped presumably illegal gold to the refinery Metalor in Neuchâtel, Switzerland.³⁹ Between 2012 and January 2014, 7700 kilos of gold was shipped to Metalor in total, according to the lists STP has access to.

7.1.2. Minera Tambopata SAC

According to the National Fiscal Administration (*Superintendencia Nacional de Administración Tributaria or Sunat*), Minera Tambopata SAC belongs to the export companies buying gold mainly from ASGM.⁴⁰ According to the German NGO, Informationsstelle Peru e.V. Minera Tambopata SAC are also known as the biggest gold buyer from the high plateau of Puno.⁴¹ The company is located in the national park Tambopata in Madre de Dios. Export data used by STP showed that between 2012 and 2013, Metalor was the only buyer of its gold.

38 El Comercio (2014): «Compañía en paraíso fiscal del Caribe es investigada por nexos con minería ilegal», 12.2.2014.

39 Le Matin Dimanche (2012): «La Suisse raffine l'or illégal de Madre de Dios» in: URL: www.terredes-hommessuisse.ch/sites/default/files/matin_dimanche_23sept2012.pdf, 20.2.2014.

40 El comercio (2012): «Exportadoras de oro a Suiza financiaron a clanes de minería ilegal en Madre de Dios» in: URL: http://assets.gfbv.ch/downloads/artikel_gold_comercio.pdf, 16.2.2014.

41 Informationsstelle Peru e.V. (2012): «Illegales Gold aus Peru geht in die Schweiz» in: URL: www.infostelle-peru.de/web/illegales-gold-aus-peru-geht-in-die-schweiz/, 22.01.2014.

7.1.3. E&M Company SAC

In 2011, E&M, together with several other export companies, was reported to have exported 25 tons of allegedly illicit gold worth US\$ 900 Million to Switzerland and to have financially supported illegal mining clans.⁴² According to the newspaper, El Comercio, E&M Company was one of the seven biggest export companies, selling gold to Switzerland. Miguel Zinanyuca, the company's owner, was involved in a police control in 2011, when unlicensed arms were discovered in a car he was travelling in. He claimed they belonged to an associate who had travelled to Lima with 12 kilos of gold to be shipped to Switzerland. In 2013 the company exported 670 kilos of gold amounting to US\$ 30 million.⁴³ The superior of the gold export from E&M Company also act as account adviser for Gregoria Casas, the main intermediaries in Madre de Dios. Moreover, E&M Company SAC has being investigated due to export and intervened gold that origin from suspicious sources, according to El Comercio. According to our data, E&M exported over 1800 kilos gold between 2012 and January 2014. The trade data show that until October 5 of 2013, the exclusive buyer of E&M Company was Metalor, while since then, all gold exports of that company goes to the US refinery Atomic Gold Inc. According to our data, Metalor stopped buying from this company while Atomic Gold jumped in.

7.1.4. AS Perú & CIA SAC

AS Perú & CIA SAC, another exporter, was also engaged in the case, when 25 tons of gold were exported to Switzerland in 2011, together with E&M.⁴⁴ AS Perú was investigated for money laundering, relating to gold, which it sourced in Madre de Dios. Moreover, AS Perú was accused of having purchased gold from the Russian gold trader Oleg Lipin, owner of a mining company, Empresa Minera y de Servicios Suwit S.A.C.,

42 Info región (2012): «Madre de Dios: exportadoras de oro a Suiza financiaron a clanes de minería ilegal» in: URL: www.inforegion.pe/portada/139648/exportadoras-de-oro-a-suiza-financiaron-a-clanes-de-mineria-ilegal-en-madre-de-dios/, 15.2.2014.

43 El Comercio (2013): «Fiscalía investiga por lavado a empresas que reciben oro extraído por Goya Casas» in: URL: http://elcomercio.pe/peru/lima/fiscalia-investiga-lavado-empresas-que-reciben-oro-extraido-goya-casas_1-noticia-1642345, 16.2.2014.

44 El comercio (2012): «Exportadoras de oro a Suiza financiaron a clanes de minería ilegal en Madre de Dios» in: URL: http://assets.gfbv.ch/downloads/artikel_gold_comercio.pdf, 16.2.2014.

founded in 2006. During the five following years, Lipin's company did not declare any gold production until 2012, when it suddenly appeared as a major gold producer in Madre de Dios, allegedly producing 207 kilos. Oleg Lipin has been accused as one of the sources of illicit gold exported to Switzerland via AS Perú and Universal Metal Trading. According to the police, gold sold by Empresa Minera y de Servicios Suwit S.A.C. originated from illegal mining operations, as the company's mining concessions did not appear to be active. Oleg Lipin disappeared following the investigation and confiscation of several kilos of gold by the police at the end of 2013.⁴⁵

Between 2012 and 2013, AS Perú exported more than three tons of gold to Swiss refinery Metalor. Recently however, it appears that the buyer has changed its approach towards sourcing from AS Perú. Although the company only sold to the Swiss refinery in 2012, a year later a drop in sales to Metalor was observed, with an American buyer stepping in with a smaller amount of imports from the Peruvian exporter. According to our data, the last shipment of gold from AS Perú to Metalor occurred on 6 November 2013, since then, all of the exporter's gold was sold to the Miami-based refinery NTR Metals.



An AS Perú's agency along the Inter-Oceanic Highway.

⁴⁵ El Comercio (2013): «Investigan a ruso por lavar dinero de la extracción ilegal de oro en Tambopata» in: URL: http://elcomercio.pe/mundo/actualidad/investigan-ruso-lavar-dinero-extraccion-ilegal-oro-tambopata_1-noticia-1668340, 5.3.2014.

7.1.5. Universal Metal Trading (UMT)

Universal Metal Trading was called International Metal Trading (ITM) until 1999, when the company was renamed by its director, Luis Zavaleta Vargas. Simultaneously, Zavaleta Vargas held a high-level position at the Ministry of Energy and Mines as director general of the hydrocarbons sector. UMT represented one of the biggest companies in Peru involved in gold extraction and export.⁴⁶ In 2011, UMT exported some 19 tonnes of gold worth US\$ 901 million. In 2012, exports dropped to six tonnes, while in 2013, UMT no longer appeared active as an exporter. UMT's last export shipment was recorded in September 2012.

In 2012, UMT appeared at the center of a big scandal in the Peruvian press. The newspaper, El Comercio, faulted UMT of its involvement in alleged money laundering and illegal gold mining.⁴⁷ Moreover, according to the daily, UMT was also involved in buying gold from the aforementioned Russian gold trader, Oleg Lipin.⁴⁸

The data, which we consulted, confirm that Universal Metal Trade sold its gold until September 2012 exclusively to the Swiss firm MKS, owner of refiner, PAMP.⁴⁹

7.1.6. Menor Gold Trading

Menor Gold Trading, which has agencies in Madre de Dios, Huepetuh and Manu, is another exporter involved in the sale of gold coming from mostly illegal and informal sources, and which exported gold solely to the USA in 2012 and to Italy as well, in 2013. The quantities of gold exported by Menor Gold Trading decreased over the period we studied, which may possibly be due to the efforts of the Peruvian Government to control the illegal gold production of the area.

⁴⁶ El Comercio (2012): «Los exportadores de oro cuentan con sucursales en zonas de minería ilegal» in: URL: www.spda.org.pe/_data/archivos/20120329134233_9.pdf, 16.2.2014.

⁴⁷ El Comercio (2012): «Exportadoras de oro a Suiza financiaron a clanes de minería ilegal en Madre de Dios», in http://assets.gfbv.ch/downloads/artikel_gold_comercio.pdf
SonntagsZeitung (2012): «Die Schweiz profitiert von blutigem Gold aus Peru» in: URL: www.sonntagszeitung.ch/wirtschaft/artikel-detailseite/?newsid=230165, 6.3.2014.

⁴⁸ El Comercio (2013): „Investigan a ruso por lavar dinero de la extracción ilegal de oro en Tambopata» in: URL: http://elcomercio.pe/mundo/actualidad/investigan-ruso-lavar-dinero-extraccion-ilegal-oro-tambopata_1-noticia-1668340, 10.2.2014.

⁴⁹ MKS: «Welcome to the world of MKS» in: URL: <http://www.mks.ch/index.php?id=5>, 7.3.2014.



A Menor Gold agency in Huetpetuhe.

7.1.7. Los Poderosos, Royal Gold and Oro Fino

According to reports in *El Comercio*, three other gold trading companies with agencies located in Madre de Dios were involved, in 2011, of selling 25 tons of allegedly illegal gold to Switzerland.⁵⁰ Los Poderosos, located in Cusco, and Royal Gold and Oro Fino, both based in Madre de Dios, which acted as intermediaries, were investigated for money laundering, tax fraud, dealing with illegal gold and the illegal transportation of money. Miguel Zinanyuca, a former employee at Oro Fino and ex-representative at AS Perú & CIA, created E&M Company in 2009. Zinanyuca's company was registered at the same address as a hotel, El Principe, located in Puerto Maldonado, the capital of Madre de Dios, that was owned by Cecilio Baca, the husband

50 *El Comercio* (2012): „Exportadoras de oro a Suiza financiaron a clanes de minería ilegal en Madre de Dios» in: URL: www.inforegion.pe/portada/139648/exportadoras-de-oro-a-suiza-financiaron-a-clanes-de-mineria-ilegal-en-madre-de-dios/, 5.3.2014.

El Comercio (2013): «Fiscalía investiga por lavado a empresas que reciben oro extraído por Goya Casas» in: URL: http://elcomercio.pe/peru/lima/fiscalia-investiga-lavado-empresas-que-reciben-oro-extraido-goya-casas_1-noticia-1642345, 5.3.2014.

of Gregoria Casas, allegedly one of the leading producers of illegal gold in the region (see below). Royal Gold shipped gold to US-based buyers, NTR Metals, Kaloti Metals and Atomic Gold, and to Italy.

7.1.8. The Casas-Baca clan

The Casas Baca family has been operating in Madre de Dios since the 1970s and is considered a main player in gold production in the department, and responsible for much ecological and social ruin. As in other parts of Madre de Dios, heavy machinery is used in the family's mining operations in Huetpetuhe. The family clan is headed by Gregoria Casas, and includes her husband, Cecilio Baca and other family members. It controls 7500 hectares of land and hold titles to 17 government concessions.⁵¹ According to *El Comercio*, the Casas Baca clan sold 470 kilos of gold between 2008 and 2013 to Oro Fino, Los Poderosos, Royal Gold and E&M Company, before it being exported. Gregoria Casas and E&M are additionally intertwined, as Vargas Garzón, an administrator at E&M, was the gold miners bookkeeper.⁵² The family and its business were investigated, accused «for allegedly having medium- and large-scale mining activities without holding the appropriate environmental certification».⁵³ The family is enlisted in the Peruvian government's formalization process in hope of gaining legal status to continue to operate.⁵⁴

7.1.9. Others

The gold rush in Peru has also attracted foreign adventurers. Aside from the aforementioned Russian gold trader, Oleg Lipin, two other foreign nationals were recently accused of illegal gold mining. A Chinese citizen, Yi Yuanguang, falsely claimed that

51 *El Comercio* (2013): Los gobiernos regionales defienden la formalización de las mafias del oro» in: URL: www.cepes.org.pe/notiagro/node/18979, 5.3.2014.

52 *El Comercio* (2013): «Fiscalía investiga por lavado a empresas que reciben oro extraído por Goya Casas» in: URL: http://elcomercio.pe/peru/lima/fiscalia-investiga-lavado-empresas-que-reciben-oro-extraido-goya-casas_1-noticia-1642345, 5.3.2014.

53 *Peruvian Times* (2013): „On the Ground in the Battle against prohibited mining» in: URL: www.peruviantimes.com/21/on-the-ground-in-the-battle-against-illegal-mining/20434/, 3.3.2014.

54 *CEPES* (2013): „Los gobiernos regionales defienden la formalización de las mafias del oro» in: URL: www.cepes.org.pe/notiagro/node/18979, 6.3.2014.

he had permission to work in the gold business. He was accused of selling restricted chemicals and heavy machinery to be used in illegal mining.⁵⁵ Another case concerns an American citizen, David Ebenezer George Boisson, who had been mining gold illegally in forested area in Puno, for over 12 years, before authorities became aware of his activities.⁵⁶

8. The role of the refineries

Only a limited number of refineries worldwide dominate the processing of mined gold. With growing public awareness of environmental destruction and human rights abuses in the gold supply chain, refineries need to assume greater responsibility for the sourcing of the precious mineral. Refineries retain the leverage capacity to transform the ongoing trade in illegally sourced gold into a more responsible and dignified commerce. The refineries represent the interface between mines and consumers and therefore can possess a significant influence upon the demand side of the gold trade.

This report focuses particularly on refineries located in Switzerland, Italy, Canada and the US, where most of Peruvian gold exports are processed.

8.1. refineries based in Switzerland

In 2011, the four major Swiss based gold refineries (Argor Heraeus SA, Metalor Group, PAMP SA and Valcambi SA) processed 2600 tons of the precious metal sourced internationally, representing about 70 percent of the global total.⁵⁷ According to the news web portal, Mining, Swiss «refineries are working around the clock at full capacity to handle the enormous gold flow», particularly as they are «the only ones in the world that have the capacity to transform the massive volume of standardized and globally recognized London Good Delivery 400-ounce bars into the smaller bullion products, such as the one-kilo bar [...]», frequently used in Asian markets.⁵⁸

55 <http://peru.iagua.es/noticias/peru/13/11/14/dos-ciudadanos-chinos-acusados-de-mineria-illegal-en-peru-40181>

56 Correo (2014): „Estadounidense practica minería informal en selva puneña» in: URL: <http://diario.correo.pe/ultimas/noticias/8157963/estadounidense-practica-mineria-informal-en>, 13.3.2014.

57 Finews.ch (2013): «Neue Konkurrenz für Schweizer Gold-Raffinerien» in: URL: www.finews.ch/news/finanzplatz/11508-neue-konkurrenz-fuer-schweizer-gold-raffinerien, 13.3.2014.

58 Mining.com (2013): «A giant sucking sound from the East – Gold Miners Weekly» in: URL: www.mining.com/web/a-giant-sucking-sound-from-the-east-gold-miners-weekly/, 10.3.2014.

With four of the nine largest refineries located in Switzerland,⁵⁹ the country should hold a special responsibility in the struggle against dirty gold. The following figure shows the 10 world biggest refineries.

Companies	Country	Capacity per year in t
1. Valcambi	Switzerland	1400
2. Metalor-Group	Switzerland	650
3. Rand Refinery	South Africa	600
4. Tanaka Kikinzoku Kogyo	Japan	540
5. Heraeus-Group	Germany	500
6. Pamp	Switzerland	> than 450
7. Argor-Heraeus	Switzerland	400
9. The Perth Mint	Australia	> than 300
10. Royal Canadian Mint	Canada	300

The biggest gold refineries worldwide (source: NZZ⁶⁰)

The following sections provide a brief overview of Swiss refineries and their Peruvian gold suppliers. This compilation however is not complete. We omitted descriptions of Swiss transport and logistic companies, S&P Trading SAS, and Valimpex SA, both based in Switzerland, which imports gold from J.E.D. Metales S.A.C, while Rhenus Freight Logistics AG, imports gold from Barrick Misquichilca – in 2013 alone more than 50 tons – to Switzerland. STP believes Argor-Heraeus and/or Pamp were the final recipients of shipments from these two Peruvian sources.

8.1.1. Argor-Heraeus SA

Argor-Heraeus is one of the world's largest processors of precious metals and a leading international gold refiner and gold bar manufacturer. Its headquarters are located in Mendrisio, in the Swiss canton of Ticino. The company is registered as a

59 Goldbarsworldwide (2014): „Supplements – Major gold refiners & brands« in: URL: www.goldbarsworldwide.com/section03/HTML_2_MajorGoldRefiners.html, 10.3.2014.

60 www.nzz.ch/wirtschaft/wirtschafts-und-finanzportal/jedes-goldkorn-zaehlt-1.18257743#image:zoom_1-18257748; 14.3.2013.

private company, it has affiliates in Germany, Italy and Chile. Shareholders include Commerzbank, the Austrian Mint, Argor-Heraeus Management and Heraeus, a German engineering group. Founded in 1951, Argor-Heraeus doubled its production by 2012 and maintains a gold refining capacity of approximately 400 tons of fine gold a year.⁶¹ According to our analysis, the refinery procures its gold from the producer SOTRAMI, Sociedad de Trabajadores Mineros SA, a collective on the way of a cleaner gold production.

In November 2013, TRIAL, a Swiss NGO fighting impunity, filed a criminal denunciation against Argor-Heraeus SA, which it says «may have laundered pillaged gold» between 2004 and 2005. Trial claims the company may have refined almost three tonnes of the precious metal originating from «an unlawful armed group that financed its operations by trafficking in gold» in the Democratic Republic of the Congo (DRC). It says the refinery «should have known or assumed that the gold was associated with pillage, a war crime».⁶² Argor-Heraeus rejects the accusation made by TRIAL and denies charges of alleged laundering of pillaged gold from the DRC.⁶³

8.1.2. Metalor

Metalor Technologies SA was founded in Le Locle, in the canton of Neuchâtel, in 1852 and is thus the oldest refinery in Switzerland. It owns subsidiaries in 17 countries (in South America, Asia, Europe and the United States) and is a leading actor in the field of precious metals and advanced materials. A processing factory was inaugurated in Singapore in summer 2013, and is expected to reach the capacity of approximately three tonnes per week for refining and four tonnes per week for recasting.⁶⁴

61 Goldbarsworldwide (2014): „Argor-Heraeus SA« in: URL: www.goldbarsworldwide.com/PDF/RB_2_ArgorHeraeusGoldBars.pdf, 10.3.2014.

62 TRIAL (2013): „TRIAL files a criminal denunciation to the Swiss Federal Prosecutor against a Swiss refinery company suspected of laundering looted gold from the Democratic Republic of the Congo» in: URL: www.trial-ch.org/en/about-trial/trial-acts/details/article/trial-denonce-au-ministere-public-de-la-confederation-une-entreprise-suspectee-de-blanchiment-dor-p.html?tx_ttnews%5BbackPid%5D=1188&cHash=fc4c226a928ed245b4c54617df675c4e, 11.3.2014.

63 Argor-Heraeus (2011): „Argor firmly refuses any accusation« in: URL: www.argor.com/var/ezwebin_site/storage/original/application/ba149dafb34503613d1a688ccaa89cab.pdf, 12.3.2014.

64 Metalor (2013): „Metalor casts the first gold bar at its new Singapore refinery» in: URL: www.metalor.com/en/node_59/News/Metalor-casts-the-first-gold-bar-at-its-new-Singapore-refinery, 12.3.2014.

In 2004, Human Rights Watch investigated the refinery in connection to gold imports worth US\$13 million from northeastern Congo, purchased in Uganda. It claims that Metalor had purchased gold originating allegedly from an armed group in Congo responsible for human rights abuses.⁶⁵

According to detailed export data, Metalor was the sole buyer from gold exporter AS Peru (almost three tonnes), and from E&M (nearly one tonne) in 2012. The same year, the Swiss gold refiner was also the only buyer from Minerales del Sur, from which it imported more than five tonnes. All three companies have been identified with the dirty gold business, as described above.

Metalor, however, appears to have taken a first step towards adopting a more responsible purchasing policy. The trade list accessed by STP shows that in October 2013, Metalor stopped buying from E&M, and in November 2013, from AS Peru.

According to the same detailed trade list, Metalor imported from the following Peruvian gold suppliers and exporters between 2012 until 2014:

- ✓ AS Peru & CIA SAC (until 6.11.2013)
- ✓ Caja Municipal de Credito Popular de Lima (in 2012)
- ✓ Comercializadora de Minerales Rivero SAC
- ✓ Comercializadora Tambo Real SAC
- ✓ Compañía Minera Caraveli SAC
- ✓ Compañía Minera Chuvilca S.A.
- ✓ Compañía Minera Nueva California S.A.
- ✓ Corporacion Minera Ananea S.A.
- ✓ Corporacion Minera Centauro SAC
- ✓ E&M Company SAC (until 5.10.2013)
- ✓ Famy Group EIRL
- ✓ Grupo Ccori SA
- ✓ Inka Cash S.A.C.
- ✓ J.E.D. Metales SAC
- ✓ La Arena S.A.
- ✓ Minera Confianza SAC
- ✓ Minera IRL SA
- ✓ Minera Laytaruma SA
- ✓ Minera Tambopata SAC (only 11.1.2013)
- ✓ Minerales del Sur SRL
- ✓ Neometal Inversiones SAC
- ✓ Nyrstar Coricancha SA
- ✓ Sociedad de Trabajadores Mineros SA (SOTRAMI)
- ✓ Sociedad Minera Rinconada SAC
- ✓ Solucion Facil de Peru SAC
- ✓ Solucion Facil de Sudamerica SAC
- ✓ Titan Contratistas Generales SAC
- ✓ Tulin Gold Co SAC

65 Human Rights Watch (2005): «D.R. Congo: Gold Fuels Massive Human Rights Atrocities» in: URL: www.hrw.org/news/2005/06/01/dr-congo-gold-fuels-massive-human-rights-atrocities, 13.3.2014.



An agency in Puerto Maldonado using the name of Metalor, 2011. STP has no indications that this agency is controlled by Swiss Metalor.

8.1.3. PAMP SA

PAMP SA is a leading international gold refiner and the world's largest manufacturer of minted bars, headquartered in the Swiss canton of Ticino. PAMP was established in 1977 and acts as a subsidiary of MKS, a private precious metals trading company based in Geneva.⁶⁶ According to our list, MKS was the only gold importer from the contested gold exporter, UMT, in 2012.⁶⁷ PAMP has been present in Peru for more than twenty years. PAMP's head of refining, Jay Schnyder, told the press at the Peruvian launch of the Swiss Better Gold Initiative in November 2013, that the company

66 Goldbarsworldwide (2013): „PAMP SA« in: URL: www.goldbarsworldwide.com/PDF/RB_6_PAMPGoldBars.pdf, 11.3.2014.

67 SonntagsZeitung (2012): «Die Schweiz profitiert von blutigem Gold aus Peru» in: URL: www.sonntagszeitung.ch/wirtschaft/artikel-detailseite/?newsid=230165, 10.3.2014.

MKS: „Welcome to the world of MKS« in: URL: www.mks.ch/index.php, 11.3.2014.

was «confronted with the question of a growing awareness in the public, who wanted to know where things are coming from». He admitted that «refiners have a heavy responsibility and are an interface between producers and the consumer market».⁶⁸

8.1.4. Valcambi

Founded in 1961, Valcambi became a subsidiary, in 2003, of European Gold Refineries Holding SA, in which Newmont Mining holds more than 60% of the shares. Valcambi sources its Peruvian gold only from the country's biggest gold mine, Minera Yanacocha, in Cajamarca, which is majority-owned by Newmont Mining. This mine has been at the centre of an unresolved social conflict that led to violent protests in 2012, which left five people dead. Many observers fear renewed confrontation might arise if construction is started at the new Conga mine.

8.2. Refineries from other countries than Switzerland

8.2.1. Italian gold refiner Italtrepreziosi S.p.A.

Italtrepreziosi S.p.A. is a newcomer as a metals importer from Peru. Active since 1984, the company is registered with the Bank of Italy «as a professional operator in the gold market». In recent years, its presence has grown significantly within the sector. The company's website says «it has dedicated itself together with a strong logistical and financial commitment, towards an upstream integration into the global market,» and sources «directly through partnerships with companies devoted to collecting gold from local miners».⁶⁹ According to our research, Italtrepreziosi imported at least 14 tonnes of gold in 2013, also from suppliers active in Madre de Dios such as Menor Gold Trading. Peruvian customs officials recently seized a record 508 kilos of illegally sourced gold, of which a portion was to be shipped to Italtrepreziosi.⁷⁰

68 PeruvianTimes (2013): „Responsible Gold Plan Promoted in Peru by Major Swiss Refiners» in: URL: www.peruviantimes.com/25/responsible-gold-plan-promoted-in-peru-by-major-swiss-refiners/20765/, 12.3.2014.

69 Italtrepreziosi (2011): „Company« in: URL: www.italtrepreziosi.it/en/pageChild/Companies-of-the-Group.html, 13.3.2014.

70 <http://elcomercio.pe/lima/sucesos/aduanas-incauto-media-tonelada-oro-ilegal-us18-millones-noticia-1683890>

8.2.2. North American refineries

American refineries also play an important role in the purchase of dirty gold from Peru. In December 2013, the Peruvian daily, El Comercio, reported that American refineries Kaloti Metals & Logistic, NTR Metals and Akam Asset, as well as Italpreziosi, appeared on a list of buyers of 508 kilos of contentious gold from six export companies, known to source their gold in Madre de Dios and Puno. Customs officials seized the gold prior to its shipment, from a storage facility near Lima's international airport. The Peruvian exporters accused of trading illegal gold in this case were Comercializadora de Minerales Rivero, C.G., Koenig, Mining & Energy Solutions, Giovanni Gold, Holding Minero del Perú and Ares Gold.

Kaloti Metals & Logistics was founded in the 1990's and is associated with the Dubai-based Kaloti Jewellery Group, which has offices around the world including in Hong Kong, Istanbul and Singapore.⁷¹ According to our data, the American refinery purchased more than 14 tons of gold from Peru between 2012 and 2013.

In February 2014, international NGO Global Witness accused the group's Dubai affiliates, Kaloti Jewellery International, of having:

- ✓ Failed to report possibly suspicious cash transactions worth over US\$5.2bn;
- ✓ Knowingly accepted tonnes of gold bars painted in silver, which had been imported from Morocco by suppliers, using falsified paperwork; and
- ✓ Failed to execute adequate checks on gold purchased from high-risk suppliers.

According to Global Witness, «these failures pointed to an increased risk, both of money laundering, and of dirty gold from the Democratic Republic of Congo and other conflict zones entering the refiner's supply chain during 2012».⁷²

NTR Metals operates in more than 75 locations worldwide and has rapidly become one of the largest refineries in the United States.⁷³ In 2012 and 2013, NTR Metals purchased over 12 tons of gold from Peruvian export businesses, some of them were investigated for money laundering and illegal gold mining.

⁷¹ Kaloti: „About us«: in: URL: www.kalotimetals.com/lang/en/about-us, 13.3.2014.

⁷² www.globalwitness.org/library/revealed-why-dubai%E2%80%99s-first-conflict-gold-audit-never-saw-light-day

⁷³ NTR Metals (2014): „Defining new standards« in: URL: www.ntrmetals.com/Commercial-Precious-Metal-Refining, 13.3.2014.

Republic Metals Corporation, describes itself on its website as «one of the largest full service primary precious metals refineries in North America». The company's main refinery is located in Miami, and the firm has additional offices in New York, Los Angeles, and Toronto.⁷⁴ Between 2012 and 2013, the refinery purchased over 700 kilos gold from Menor Gold Trading.

Atomic Gold Incorporation, a wholesale jeweller in Miami, also bought gold from Menor Gold Trading and substituted the Swiss buyer Metalor at the end of 2013, as a buyer from E&M.

Canadian refinery Johnson Matthey

Johnson Matthey, a multinational chemicals and precious metals company, has operations in over 30 countries, including gold refineries in Canada, Hong Kong and Australia. The company's Canadian and US refineries both purchased gold from Peru. In 2012, Johnson Matthey's subsidiary in Canada bought over eight tonnes of gold from Minera Barrick Misquichilca SA, the mining operation owned by the Canadian mining giant Barrick, and in total more than 57 tons only in the year 2012. Moreover, the refinery purchased over 171 tons between 2012 and January 2014 from several Peruvian exporters.

9. Conclusions and Demands

The Government of Peru and the gold sector both need to adopt a genuine approach to resolve the conflicts and destruction that is caused by gold production. Both actors play a crucial role in how gold is produced and thus share the responsibility for assuring compliance on human rights and environmental issues.

The government should focus on the protection of populations affected by mining, especially by guaranteeing their right to the free, prior and informed consent. It should also support, improve and control the artisanal and small-scale mining, in its respect of the human rights and create the basis for reducing the adverse impact of activities on the environment.

⁷⁴ Republic Metals Corporation: „Location« in: URL: www.republicmetalscorp.com/English_index/about_us/location.html, 14.3.2014.

Mining companies should also fully respect human rights and not act before the free, prior and informed consent of the affected populations is achieved. Companies should stop using toxic materials such as cyanide and mercury, and adopt best practices in all of their activities. Gold buyers, especially the refineries, should assure comprehensive due diligence and avoid buying from companies that cannot guarantee gold production free from conflicts, human rights violations or destruction of the environment. Furthermore, refineries should publish an assessment of the gold mining companies and sources they are purchasing from, and provide transparent information about producers.

STP essentially calls for the following actions to be taken:

The government of Peru shall:

- ✓ Protect affected populations as stipulated by the Guiding Principles on Business and Human Rights (State Duty to Protect), especially the rights to the free, prior and informed consent;
- ✓ Create a Truth Commission to review human rights violations linked to natural resources exploitation, as has been called for by the National Congress;
- ✓ Provide sufficient resources and authority to the Ministry of Environment to guarantee the control over the mining sector and limit its environmental impacts;
- ✓ Enhance and advance the formalization process without human rights violations;
- ✓ Enable capacity-building for people and companies involved in the ASGM;
- ✓ Seek peaceful solutions regarding conflicts between mining companies and the local population;
- ✓ Revoke laws that criminalize demonstrations or provide security forces immunity and stop the judicial proceedings against the leaders of social and environmental groups;
- ✓ Publish all contracts between mining companies and the National Police for security reasons and initiate a process to cancel such agreements;
- ✓ Invest in a democratic and participative process with the civil society and affected population to seek long-lasting solutions to the problems caused by the mining industry.

The mining companies shall:

- ✓ Respect human rights as stipulated by the Guiding Principles on Business and Human Rights (Corporate Duty to Respect), provide the right to free, prior and informed consent, and invest in peaceful negotiations when conflicts appear;
- ✓ Perform in line with national and international legislation and use best mining practices to avoid environmental destruction;
- ✓ Develop processes and contract third party inspection to guarantee that no illegal gold or gold from destructive sources enters their own chain of custody.

The refineries shall:

- ✓ Adhere to the UN Guiding Principles on Business and Human Rights (Corporate Duty to Respect);
- ✓ Undertake a genuine due diligence process for all its activities, especially in relation to their gold suppliers;
- ✓ Guarantee the traceability of gold that is purchased, publish the names of gold providers and publish the due diligence assessments of mining companies they purchase gold from;
- ✓ Avoid purchasing gold from mining companies and operations involved in conflicts, illicit activities and environmental destruction;
- ✓ Support and promote small companies, which consider and comply with human rights and environmental standards;
- ✓ Support and adhere to credible certification initiatives that aim at resolving the problems related to gold mining.



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