

# Mining Conflict and the Politics of Obtaining a Social License: Insight from Guatemala

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**Summary.** — Mining as a development strategy has become ubiquitous throughout the developing world. However, if mining firms want to take advantage of the most mineral-rich terrain in developing countries, they must engage with the communities living near projected mining operations. Firms may sometimes use violence to quiet local opposition, but increasingly, they will seek a “social license to operate.” This term refers not to the legal requirements firm must obtain, such as governmental and environmental clearances, but rather the elusive support of the affected local population that will help a firm avoid project delays, maintain a positive public image, and prevent further regulation of the mining industry. There is a lack of research on how firms pursue a social license to operate. Through a qualitative case study of a mining conflict in Guatemala, this article addresses two questions: First, how do mining firms obtain a social license to operate, in practice? Second, what results from this process? Using a mix of qualitative data collected in 2009–2011, the article analyzes how a large Guatemalan construction materials firm, Cementos Progreso, sought a social license to operate in the indigenous municipality of San Juan Sacatepéquez, Guatemala, and with what results. An alliance of firm and state constructed new institutions for citizen participation in local governance, promoted from within them the idea that mining was complementary with development, and backed up this discourse with tangible results. Government transparency and accountability improved, as did provision of basic services. The findings suggest that the local state, especially institutions designed to encourage citizen participation in local governance, can play a crucial role in determining whether and how mining firms can operate.

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## 1. INTRODUCTION

Mining as a development strategy has become ubiquitous throughout the developing world, particularly in Latin America and Guatemala (Bebbington ed, 2012; Bebbington, Hinojosa, Humphreys Bebbington, Burneo, & Warnaars, 2008; Sawyer & Gomez, 2012; Solano, 2005; Thorpe, Battistelli, Guichaoua, Orihuela, & Paredes, 2012). Mining projects often generate intense, politically destabilizing social conflict, as affected people protest threats not only to their environment and ways of life, but also to their ability to control what they perceive as their own collective property (Bebbington, Humphreys Bebbington, Bury, Langan, & Muñoz, 2008; Collins, 2009; Coumans, 2011; Da Silva, Costa, & Veiga, 2011; Dougherty, 2011a, 2011b; Fulmer, Snodgrass Godoy, & Neff, 2008; Holden & Jacobson, 2009; Hurley & Ari, 2011; Nolin & Stephens, 2010; Urkidi, 2011; Yagenova & García, 2009).

To pursue controversial mining projects, firms and states must deal with local resistance. On the one hand, they may use violence to quiet opposition; a second strategy is to win the consent of those who may be affected by mining operations, or seek what the extractive industry calls a “social license” to operate. In many developing world contexts, both strategies may be deployed simultaneously. This article critically examines the tenuous relationship between mining firms and communities, focusing on two key questions: First, how do mining firms obtain a social license to operate, in practice? Second, what results from this process? These questions are addressed through a qualitative case study of a mining conflict in an indigenous municipality in Guatemala.

Increasingly, both developing country governments and mining firms recognize the need to improve how mining projects impact local populations (Arrellano-Yanguas, 2011). By the late 1990s, managing “social risk” had arguably become firms’ most significant challenge, something to strategize about

and budget for (Joyce & Thomson, 2000; Prno, 2013). This challenge emerges from multiple factors, including increased global awareness of the negative impacts of mining and consequent consumer and shareholder pressure to improve practices; incorporation of social and environmental safeguards into World Bank/International Finance Corporation lending policies; and the surge of social activism in the wake of the Third Wave of democracy in the developing world, where citizens (and in Latin America especially, indigenous peoples) are staking a claim to rights over natural resources (Joyce & Thomson, 2000; Laplante & Spears, 2008, pp. 79–80). The last factor can be disastrous for firms and, indirectly, for the states that support them. Protests, roadblocks, and other acts of resistance may slow down or stop operations and harm a firm’s reputation, impacting profitability (Coumans, 2011, p. 117; Laplante & Spears, 2008; Prno & Slocumbe, 2012, p. 346). When local resistance spills into the media and human rights activist networks, shareholders and the general public in firms’ home countries may demand greater regulation of the mining industry.

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The industry has responded by promoting “a positive association between mining and development” (Coumans, 2011, p. 117) at the global level and in the specific localities of firms’ operations. This is done discursively and through actions, as firms now actively seek to obtain a “social license to operate” (SLO), a concept that has become ubiquitous in the mining industry since the late 1990s but has only begun to attract scholarly attention (Prno, 2013). The SLO differs from environmental and other legal permits because it is a *de facto* rather than *de jure* requirement for the successful operation of mining projects. It refers not to a firm’s legality, but to its social legitimacy (Parsons, Lacey, & Moffat, 2014, p. 88). Though there is disagreement over specifics (e.g., see Owen & Kemp, 2013; Parsons *et al.*, 2014), most industry insiders and scholars broadly conceptualize “social license to operate” as a metaphor to describe when a firm has “the broad, ongoing approval and acceptance of society to conduct its activities” (Prno & Slocombe, 2012, p. 346; Joyce & Thomson, 2000; Thomson & Boutilier, 2011). “Society” here may encompass all relevant stakeholders in a project, but especially important are local communities, who tend to be a “key arbiter in the process” of securing a SLO “by virtue of their proximity to projects, sensitivity to effects, and ability to affect project outcomes” (Prno & Slocombe, 2012, p. 347). Obtaining a SLO is a primary goal for most mining firms today (Owen & Kemp, 2013).

There is a dearth of research on the process by which firms seek an SLO and the factors that lead communities to grant or refuse a SLO (Moffat & Zhang, 2014; Prno, 2013). Resource development firms use a variety of strategies to secure local acceptance, and these strategies may vary depending on industry—for instance, mining, hydroelectric, wind, or others (Hall, Lacey, Carr-Cornish, & Dowd, 2015). For most firms, the SLO is a way of operationalizing commitments to corporate social responsibility (Bice, 2014, p. 63), in that it requires attention to the social, environmental, and economic impacts of a project on its host communities. Ideally, mining firms will engage with local communities in a transparent participatory process to determine what these impacts are likely to be, and how the benefits of the mining project can be emphasized and the costs mitigated. Engagement may result in a mutual, written agreement; in most cases, however, active and participatory engagement must continue through the lifetime of the project (Luning, 2012; Parsons *et al.*, 2014; Prno & Slocombe, 2012, p. 349).

A multitude of factors might influence whether a firm successfully obtains a SLO for a given project, some that can be controlled (e.g., when and how firms engage with communities), and others that cannot (e.g., national socio-economic context) (Prno, 2013, p. 584; Prno & Slocombe, 2014). Most simply, to maintain a SLO, firms must build trust with local communities (Moffat & Zhang, 2014; Parsons *et al.*, 2014). This is of particular importance in developing countries where citizens cannot count on the state to effectively enforce environmental and tax regulations. A firm might increase its chances of gaining the communities’ trust by establishing and maintaining communication with communities, ideally before mineral exploration begins; by respecting local customs; and by acting transparently (Prno, 2013, p. 585). Additionally, communities may be more likely to agree to mining when a firm’s activities align with local understandings of sustainable development, and when a firm provides benefits to the local community such as tax payments, donations, business development opportunities, and employment (Prno, 2013, pp. 586–587).

Just as explanations for how firms can successfully obtain an SLO are tentative, criteria for determining when a SLO exists

are “murky” as no scholarly consensus yet exists (Bice, 2014, p. 63). Broadly, a SLO is said to exist when local populations consent to a mining project, but since consent will never be unanimous, it is unclear how much consent there needs to be in order to affirm a SLO exists (Prno, 2013, p. 588). Further, consent may ebb and flow over the life of a project. Unlike a legal permit, which the state either issues or denies, a SLO is not a “binary concept” (Parsons *et al.*, 2014, p. 86) and can be gained, lost, and regained. It must “be continually renewed” through the ongoing engagement of the firm in the host communities (Parsons *et al.*, 2014, p. 86).

This article contributes to our understanding of how firms seek a SLO by showing with fine-grained detail the measures one firm took to elicit approval and acceptance—in a word, consent—from the local communities who would be affected by the firm’s operations. It follows Prno (2013) by considering a SLO to exist when a majority of the local population appears to consent to the project. Recognizing that consent is never unanimous, the article examines the limitations to this consent.

Empirically, the article analyzes how a historically powerful Guatemalan firm, Cementos Progreso, sought a social license to operate in an indigenous municipality in Guatemala, through an approach heretofore undocumented in the literature on mining conflict: participatory democracy. In concert with local and national state officials, Cementos Progreso captured the construction and operation of new institutions for citizen participation, and donated the necessary funds to make participation produce results, thereby building support for mining, redirecting social protest into institutionalized channels, and marginalizing oppositional voices. The analysis reveals that the local state can play a crucial role in determining whether and how mineral extraction firms can operate. Specifically, it shows how state-sanctioned spaces for citizen participation in local government, a key facet of Guatemala’s recent decentralization process, are fertile ground for promoting powerful ideas about what mining constitutes, and whether it can foster local development. Within those spaces, Cementos Progreso and state officials promoted a “depoliticized” vision of development—an idea of development as a collection of static, isolated technical problems that can be solved by experts and with sufficient financing—resources that a mining firm could provide. Despite these efforts, the firm achieved only limited success in obtaining a SLO.

This case study suggests that securing a SLO, while primarily a goal of mining firms, can also be a goal of the state (local and national), especially in developing countries where state actors may be closely networked with the owners of private capital. By highlighting the role of the *local* state, the article also departs from most research on mining conflict, which primarily focuses on multinational resource extraction firms, local opposition movements, and the national state (e.g., Bebbington *et al.*, 2012; Bebbington, 2012; Da Silva *et al.*, 2011; Sawyer & Gomez, 2012). In most countries, including Guatemala, the local state lacks legal authority over sub-soil resources, potentially rendering it unimportant as a target of protest or subject of research in mining conflicts.<sup>1</sup> However, in Guatemala, it became a key actor in mining conflicts after a recent decentralization process shifted resources and authority from the national to municipal governments. Especially where the country’s majority indigenous population lives, it has become a key site where debate over the role of natural resources and development takes place: since 2005, thousands of indigenous communities in over 78 municipalities have held referendums to protest natural resource extraction projects, often using local state institutions to do so (Costanza, 2015;

Dougherty, 2011b; LaPlante & Nolin, 2014). This article demonstrates that those institutions can also facilitate compliance with mining.

Section 2 of this article discusses the research methods employed. Section 3 reviews theory on decentralization and citizen participation and explains how these phenomena manifest in the Guatemalan context, establishing local institutions through which the state and Cementos Progreso sought to elicit consent to mining. Section 4 presents the case study, San Juan Sacatepéquez, and examines how Cementos Progreso, working with local and national government officials, sought a SLO by improving citizen participation, governance, and development, and discursively framing development and mining as inherently complementary. Section 5 analyzes the limitations of this strategy. The conclusion suggests theoretical and practical lessons for scholars of natural resource conflict and local democracy.

## 2. METHODS

This article is a case study, a research strategy that is particularly effective for addressing socio-political processes and contemporary phenomena (Yin, 2014). San Juan Sacatepéquez was selected for study because it is a case where anti-mining protest appears to exist among only a minority of the population, in contrast to the many municipalities in Guatemala where significant majorities have actively opposed large natural resource extraction projects. This makes the case informative for exploring how a mining firm can successfully secure local consent to its activities. This case is also informative because the mining firm involved is domestic, whereas most studies on mining in Central America examine cases of transnational firms.

Consistent with a qualitative case study approach, the article relies on data including ethnographic observation, semi-structured interviews, and primary documents collected in Guatemala over eighteen months, from 2009 to 2011, four months of which were spent in San Juan Sacatepéquez. This approach allowed for identifying the precise actions that the mining firm and state officials took to obtain a SLO, and for exploring the degree to which consent developed among local residents. In San Juan Sacatepéquez, specific data included observation at regular meetings of participatory democratic institutions; meetings of indigenous and non-indigenous communities; meetings and other events of the indigenous communities who actively protested mining; and meetings of local civil society organizations that were involved in an effort to increase citizen engagement with the state.

The author lived in the municipality's town center and became embedded in its social fabric, often attending social events and engaging in informal conversations about mining and local governance. These conversations helped the author interpret findings from formal interviews and observation, while participation in community life provided access to interview subjects. The author gained access to the communities protesting the mine, and established trust with those community leaders, through personal contacts in indigenous activist networks. Semi-structured interviews were conducted with local and national government officials, representatives of non-government organizations who were involved in promoting Guatemala's citizen participation process, indigenous activists who were involved in the national anti-mining social movement, leaders and residents of indigenous and non-indigenous communities in San Juan Sacatepéquez, and leaders and residents of the communities opposed to the mine.

In San Juan Sacatepéquez, forty-three formal interviews were conducted with local government officials, rights activists, and leaders and residents from communities both opposed to and supportive of the mine. Twenty-one of the interviews were with groups of five to ten or more leaders from a given community, and twenty-two were with individuals, some of whom were interviewed on multiple occasions; additional informal interviews took place during meetings and other public and private events. More than half of interview subjects were men, because they were more likely to hold positions of leadership in both community and municipal governance. All interviews were conducted in Spanish. Names and identifying details of all participants except government officials have been omitted, to protect confidentiality. Data also included documents obtained from the local government, from the organized opposition movement, and from the mining company, Cementos Progreso. Background information on state decentralization and citizen participation in Guatemala (discussed in Section 3) draws from a larger project in which the present case forms a part (Costanza, 2013).<sup>2</sup>

As is common with qualitative case studies, data analysis was an ongoing process that began during the process of data collection. Analyzing data in this way allowed the author to adjust interview questions as needed and explore possible "inconvenient phenomena" (Duneier, 2011)—for example, interviewing actors who took very different positions on the mine. Collecting and analyzing data in this way ensured the case analysis a high degree of internal validity (Maxwell, 2013, Chapter 6).

## 3. INSTITUTIONAL CONTEXT: DECENTRALIZATION AND CITIZEN PARTICIPATION IN GUATEMALA

### (a) *Theoretical context*

In the mid-1980s, decentralization of fiscal, administrative, and political competencies from the central to lower levels of government became common in the developing world.<sup>3</sup> Decentralization was viewed as a way to promote economic development, increase government transparency and accountability, and even grow democracy (Crook & Manor, 1998). It is said to make governments more responsive to citizen needs, and more efficient in delivering basic services, by bringing the state closer to citizens and partially stripping power from rent-seeking central governments. An additional way to bring the state closer to citizens is through participation. Especially since the mid-1990s, decentralization processes have often been accompanied by initiatives to promote citizen engagement with the local state (Hickey & Mohan, 2004). These new opportunities often take the form of participatory democratic councils—spaces for citizens to meet together with members of elected government, gain access to information about local problems, debate those problems, make collective decisions about local governance and development, and ultimately hold their elected officials accountable for implementing those decisions.

New opportunities for citizen participation can make citizenship more meaningful, depending on how much real decision-making power citizens hold (Arnstein, 1969). Citizens are more likely to gain real governing power when the impetus to participate emerges organically from grassroots social movements. However, participatory spaces can also weaken citizens' voices, when captured by local elites (Bardhan, 2002, p. 192; Cornwall & Coelho, 2007; Gaventa & Barrett, 2012; Hickey & Seligson, 2003; Platteau, 2004; Ribot, 2004).



Equipped with greater education and information, elites may dominate discussion in these spaces and manipulate elected authorities in order to influence political decisions. When citizens have the necessary information and opportunities to hold public officials accountable, elite capture may be less likely (Agrawal & Ribot, 1999; Blair, 2000; Ribot, 2004, p. 8). However in developing countries local government institutions and accountability mechanisms are often quite weak, and citizens are often weakly organized, increasing the risk of elite capture (Bardhan, 2002, p. 192; Bardhan & Mookherjee, 2006).

Elite capture is most likely when citizen participation is invited, or “promoted through policy actions of the state and implemented by bureaucracies” on a large number of communities at the same time (Mansuri & Rao, 2013, p. 32). Citizens who are invited to participate often cannot form a counterweight to state and elite actors because invited spaces are rarely free from the power relations that pervade other areas of social and political life and “may be discursively bounded to permit only limited citizen influence, colonizing interaction and stifling dissent” (Cornwall, 2002, p. 8). The power elites exert within these spaces might be tacit or overt, and have the effect of silencing and even excluding certain actors (Cornwall & Coelho, 2007, p. 11). In general, “the key characteristic of these [invited] spaces is that external resource-bearing agents bring them into being and provide a frame for participation within them” (Cornwall, 2002, p. 17).

These observations have led scholars to ask if citizen participation might be the new “tyranny,” rather than a grassroots remediation to top-down development schemes and unresponsive local governments (Cooke & Kothari, 2001), or in the present context, to super-imposed mining projects. Cooke and Kothari (2001, p. 4) question if participation might facilitate the “illegitimate and/or unjust exercise of power,” rather than counteract it. Critics further argue that participation, especially the invited variety, “stresses personal reform over political struggle” (Williams, 2004, p. 92), and by “uncritically boosting ‘the local’ as the site for action... [it] deflects attention away from wider power relationships that frame the construction of local development problems” (Williams, 2004, p. 93). The marginalized may be “given” rights and invited to participate, but barely recognized when they voice disagreement (Williams, 2004). These critiques come to life in San Juan Sacatepéquez, where elites (a mining firm and state officials) created and controlled new participatory spaces, rendering citizens virtually powerless to discuss or impact a large mining project.

#### (b) *The local state and citizen participation in Guatemala*

In Guatemala, decentralization reforms were first proposed in the 1980s, and later at the conclusion of peace talks ending a 36-year civil war that included acts of genocide against indigenous people, who comprise roughly half the population (Commission for Historical Clarification, 1999). As in other ethnically diverse countries (Bardhan, 2002; Crawford & Hartmann, 2008), decentralization was proposed here not only as a way to improve governance and service delivery, but also to grant indigenous municipalities and villages more local autonomy, and increase citizen participation, especially among indigenous people.

Decentralization legislation was approved by Congress in 2002, and included measures to induce citizen participation in local government by establishing community-level and municipal-level “Development Councils.”<sup>4</sup> That is, citizen participation was “invited” in Guatemala, though since the

central state is both weak and mostly uninterested in actively implementing the decentralization legislation, local populations have nearly full control over how the laws will be put to work in their communities and municipalities, opening up the very process of constructing citizen participation institutions to either elite (or non-elite) capture.<sup>5</sup>

Guatemala comprises 333 municipalities, to which financial resources are devolved and administered by a mayor and town councilors who are democratically elected every four years.<sup>6</sup> A typical municipality consists of a town center and anywhere from twenty to 100 or more self-identifying “communities,” which can range from a small rural village to an urban neighborhood, with a population from 250 to 2500. Often, communities are located hours from both the town center and each other. According to the Development Council Law (Congress of Guatemala 2002a, 2002b), every community can legally establish a Community Development Council (COCODE). A group of community members must initiate the process by holding an open meeting for all residents and democratically electing a President, Vice President, Secretary, Treasurer, and three to nine additional board members. The results of the election are recorded in a book of minutes, signed by all residents who voted, and presented to the municipal government for approval and legal recognition of the COCODE. By law, COCODE leaders should hold meetings at least monthly, and all community residents should have the right to participate and make collective decisions.

The President of each COCODE attends meetings of the Municipal Development Council (COMUDE), which the Mayor oversees, and which the law dictates should occur monthly. As of November 2009, 295 of Guatemala’s 333 municipalities had a functioning COMUDE.<sup>7</sup> At COMUDE meetings, all COCODE representatives, along with representatives of civil society organizations and public institutions, are to work collectively with local government officials on the tasks of prioritizing the municipality’s development needs and constructing plans, policies and projects for meeting those needs. Most generally, the COCODE and COMUDE are described in the law as spaces where all citizens can have a voice and vote in deciding their “development” priorities. Since “development” is not defined in the law, this raises the question of what conception of “development” will be discussed and specifically, whether mining, and more broadly the control of natural resources, might be included in discussions over development, especially within the COMUDE, where the Mayor and town councilors hold important positions of leadership and exert political influence.

The next section analyzes how local and central government officials, allied with Cementos Progreso, captured both the process of constructing the COCODES and COMUDE as well as the discussion that would take place in the latter, in the municipality of San Juan Sacatepéquez. It is primarily through these new institutions that Cementos Progreso would seek a SLO, by eliciting the consent of the population to a large mining project.

#### 4. SECURING A SOCIAL LICENSE

San Juan Sacatepéquez is a large, sprawling municipality of roughly 153,000 residents, 65% of who are Kaqchikel (indigenous).<sup>8</sup> The proportion of non-indigenous residents is growing as Guatemalans from other areas of the country migrate to the neighborhoods of the municipality that border on the Guatemala City metropolitan zone. The town center is only thirty-two kilometers from Guatemala City, though most of

the municipality is rural, and the vast majority of this rural population is indigenous. Small family-owned furniture workshops and small businesses line the streets in the center of town, and moving out into the rural villages, rolling mountains are carpeted in plastic greenhouses filled with flowers to be sold in the local, national, and international markets. The proximity to Guatemala City gives residents access to a variety of educational and other resources, as well as employment opportunities. Combined with local economic activity, this makes San Juan Sacatepéquez better off than many other municipalities in Guatemala.<sup>9</sup> However, significant inequality exists within the municipality. In the rural, arid region in the north of the municipality, located more than two hours from Guatemala City, villages are populated mostly by landless Kaqchikeles who cultivate subsistence crops on small rented plots.<sup>10</sup> Many spend half the year away from home, working as agricultural day laborers during the sugar harvest on plantations on the Pacific coast. While the center of town enjoys access to all basic services, villages here suffer staggering poverty and lack most basic services. By contrast, the communities in the southwestern section of the municipality are comparatively better off. There, commercial flower cultivation is a staple of the economy, along with subsistence agriculture; here many families benefited from the 1950s land reform, and thus own rather than rent their small land tracts. It was on land bordering these communities that a new mining project was proposed.

Cementos Progreso, a Guatemalan construction materials firm, had purchased from large landholders an extensive piece of land in the rural, mountainous, and forest-covered southwestern region of the municipality, where minerals used in cement production were discovered beneath the rich soil. This purchase took place in 2005, though the details surrounding it are murky. Cementos Progreso's plan was to construct a mineral quarry (open-pit mine requiring extensive forest clear-cutting) and a cement production plant, widen the dirt roads linking the center of town to the project site, and build a new highway to connect the town and project site with the Pan-American Highway, a major transportation artery that runs from the country's southeastern Salvadoran border to the northwestern Mexican one.<sup>11</sup> In the eyes of all interviewees, and suggested in the project's environmental impact report, these plans would directly impact the indigenous communities directly surrounding the project site, if not the whole municipality.<sup>12</sup> What was not clear was the qualitative nature of that impact.

Conflict over the proposed project began in 2006, when residents of the communities nearest the project site encountered Cementos Progreso employees trespassing on their properties without permission. Soon after, community residents approached the Mayor and Town Council to seek information and to secure the authorities' support in relation to Cementos Progreso's activities. However, they were unsuccessful in securing clear information or government support, since the Mayor and Town Council were already helping pave the way for Cementos Progreso to operate in the municipality. Securing a SLO requires demonstrating respect for and establishing trust with local communities in the early stages of a project's development. These initial hostile interactions with Cementos Progreso employees, and the local government and firm's unwillingness to inform the communities near the proposed mine site, led most of those communities' residents to distrust both the local government and the firm. Securing a SLO from this point would prove challenging.

When the roughly 30,000 residents of these communities eventually learned about Cementos Progreso's plans, many

of them became networked with local indigenous rights activists and national indigenous rights social movement organizations in an effort to block the mining project. They worried that the project would deforest the land, dry up water sources, create unmanageable dust, and ruin their primarily agricultural livelihoods. They also worried that they would eventually be expropriated of their small plots of land. They began meeting regularly, staging protests and marches, and in May 2007 held a series of community referendums to assert their right to free and prior consultation over development initiatives that would impact their territory and livelihoods (as per International Labour Organization Convention No. 169 on the Rights of Indigenous People, which Guatemala ratified in 1996; see Costanza, 2015; International Labour Organization, 1989). Most residents voted to reject the project; yet a minority who supported the project, often because they had been offered employment at the mine, did not participate. This underscores the importance of offering benefits, such as employment, in order to secure a SLO. However, Cementos Progreso could not offer enough jobs to make securing a SLO easy.

At the same time, community leaders were meeting regularly with government officials and representatives of Cementos Progreso to negotiate a compromise. The firm's own documentation illustrates that securing a SLO has always been a goal, and this appeared an important early effort to do so by engaging the participation of the local communities.<sup>13</sup> However, an agreement never materialized, and the national state responded to the protest movement with violence. In 2007 armed forces were sent to occupy a select few of the indigenous communities that opposed the mine, and remained for months. In interviews conducted in 2009 and 2010, villagers told stories of terrorism in their communities at the hands of para-military gangs that, they claimed, Cementos Progreso had sponsored. Numerous community leaders have suffered assassination threats, some have been killed, and many have been imprisoned for questionable reasons and denied their right to due process.<sup>14</sup> Figure 1 illustrates the location of the mine site in relation to communities nearby whose residents opposed the mining project.

It is clear that the protest movement, which has never relented, posed a threat to Cementos Progreso's mining plans and to the local and national state. Though confined to only a few rural indigenous communities in 2007, the movement could have easily spread to the rest of the municipality if not contained, making mining difficult if not impossible. Further, protesters sometimes blocked major roadways into Guatemala City, causing traffic problems and heightening concerns about security. Violence and intimidation against the communities involved in the protest movement has continued on and off over time. In the past, this would have been the primary (or only) method of dealing with such protest. However, perhaps because Guatemala is now formally a democracy, or because large firms like Cementos Progreso face public pressure to be good corporate citizens, repression has only been one strategy, and arguably not the primary one, for establishing a favorable operating climate. Thus in 2008, Cementos Progreso, working with the support of the local and national states, began to more actively seek a SLO—the local population's consent. The remainder of this section analyzes how this was done, using new participatory spaces to control public discussion over mining and elicit broad consent.

#### (a) *Constructing participatory spaces*

Most research on invited participation shows how elites capture discussion in participatory spaces, directing projects and





mining firm, and helps explain why the new participatory spaces never allowed for open debate about mining, instead helping construct consent to mining, as will be seen.

By law, the central government cannot obligate mayors to establish a COMUDE, and has rarely assisted municipal governments in constructing the COMUDE or COCODES.<sup>18</sup> It was therefore surprising that the SCEP helped construct participatory institutions in San Juan Sacatepéquez.<sup>19</sup> This was one of only seven municipalities where the central government (under President Alvaro Colom, 2008–12) intervened. Another of those seven, San Miguel Ixtahuacán, was also embroiled in a mining conflict, suggesting the government saw capturing participatory spaces as a strategy for dealing with mining opposition.<sup>20</sup>

It is not entirely clear whether the central government imposed, or the local government requested, assistance in establishing the COMUDE and COCODEs. However, it is certain that neither pressures from foreign donors nor electoral incentives played a role, as they often do in government decisions to invite participation (Mansuri & Rao, 2013, p. 38). Rather, this was a case of proactive collaboration between the central and local state and Cementos Progreso. According to a high-ranking national government official, the Mayor elected in the late 2007 elections, Marta Sicán de Coronado, asked for assistance; but it was also at then-President Alvaro Colom's request that the SCEP prioritize San Juan Sacatepéquez.<sup>21</sup> By early 2008, conflict over the proposed mine had grown significantly. Because this municipality is located less than forty kilometers from Guatemala City, conflict there could easily spill into the metropolitan zone, becoming unmanageable and, during protests, block key highways. It therefore was beneficial to both the local and central government, and Cementos Progreso, that the central government assist Mayor Coronado in an effort to win, rather than simply force, the population's consent.

The SCEP began coordinating with Mayor Coronado's Administration in early 2008. SCEP Secretary Luis Velásquez personally helped the mayor collaborate with citizens through the COMUDE and improve the "governability" of the municipality. Normally, individuals who facilitate participatory interventions are poorly paid temporary government employees (Mansuri & Rao, 2013, p. 108). It is therefore striking that such a powerful official played a leading role in San Juan Sacatepéquez, underscoring the importance that the central government placed on quelling the conflict there and helping Cementos Progreso secure a SLO. Jesus Gómez Gómez, a newly contracted employee of the SCEP, led the process of organizing the municipality into COCODEs and a COMUDE. Like Velásquez, he, too, was not typical of the functionaries normally charged with this task. Gómez was Quiche-Maya (indigenous), a Mayan spiritual guide (*aj'qij'*) and a university-educated professional with deep knowledge of the law, three characteristics that lent him particular legitimacy in his role as organizer of citizen participation among San Juan Sacatepéquez's indigenous population. By executing the central and local government's plan to both create and control spaces for citizen participation, he also played the role of what Hale and Millamán (2006) term the *indio permitido*, or "allowed indian": an indigenous activist who advocates for identity-based rights within limits, which in the realm of local governance means eschewing protests in favor of proposals and dialog. To Gómez, the indigenous movement in Guatemala, by opposing nearly all large natural resource development projects, had devolved into "fanaticism."<sup>22</sup> He argued that the communities opposing the mine fell into this category and generally "lacked governability."<sup>23</sup> Carefully introducing

formal mechanisms for citizen-state engagement appeared a way to insert governability into those communities and the municipality at large, channeling radical activism into institutionalized spaces for rational political debate.

The first steps in organizing citizen participation involved forming COCODES throughout the municipality. Interviews with residents, community leaders, and local government officials suggest that prior to 2008, most residents of San Juan Sacatepéquez had little knowledge about what a COCODE was and how it should operate, and most communities had no functioning COCODE. This characterized many (though not all) places in Guatemala, because the national government had done little to disseminate information about the Development Council Law.<sup>24</sup> If anything, communities may have had an "Improvement Committee" (*Comité Pro-Mejoramiento*), an organization, often formed in an ad-hoc manner, which existed in much of rural Guatemala for years before the decentralization process began in 2002. These Committees dealt with specific problems, like fixing roads or securing water provision. In San Juan Sacatepéquez, most Committees were first established to deal with reconstruction after a devastating earthquake in 1976. But the Committees had no legal status ("*personería jurídica*"), no formal relationship with the official state, and therefore no right to a voice or vote in municipal governance. A COCODE carried these benefits.

A team led by Gómez, and including other local government and SCEP officials, visited nearly all the rural villages in the municipality. "We told them the advantages, why they should have a COCODE, and proposed to help them strengthen or form their COCODE, basically in order to promote development in their community," Gómez said.<sup>25</sup> By December 2009, most of San Juan Sacatepéquez was organized into eighty-two COCODES (Gómez, 2009). Gómez and the local government further divided the municipality into four geographic regions, each of which was to meet regularly and, as soon as possible, elect five of their COCODEs' Presidents to participate in the COMUDE (for a total of twenty COCODE representatives in the COMUDE). The SCEP team also helped Mayor Coronado bring together civic organizations in the municipality, to send delegates to the COMUDE. In all, five joined the COMUDE, representing various sectors of civil society including women, health, culture, commerce, and the Catholic Church. The *Alcaldía Indígena* (Indigenous Mayorship), a traditional indigenous authority that holds mostly symbolic value in San Juan Sacatepéquez, was also given voice and vote in the COMUDE. By late 2008, the COMUDE was meeting regularly, establishing a new mode of citizen engagement with the local state, and determining the municipality's development priorities—which, we will see, were complementary with mining.

After one year of organizing and meetings, in late 2009, many residents of San Juan Sacatepéquez and central government officials considered this municipality to be the most successful case of citizen participation in the country, and they celebrated it with a press conference at the National Palace (in November 2009) and a short, professionally produced documentary that was uploaded to YouTube.<sup>26</sup> The film boasted that the COMUDE had "emerged as a solution" and "the backbone of development and governability" in San Juan Sacatepéquez. On numerous occasions, Luis Velásquez discussed San Juan Sacatepéquez's success story on his popular weekly television show, "Investment and Development."<sup>27</sup>

Yet, these celebrations obscured notable exclusions in the process of inviting participation. Two categories of people were omitted: urban neighborhoods in the center of the town, and the rural indigenous communities located closest to the

mining site, the majority of whose residents were part of the opposition movement. In terms of the urban neighborhoods, Gómez—who had led the organization process—argued they were not well-organized communities, the residents “weren’t interested” in participating, and it was not even necessary to include them because the local government already attended well to the urban neighborhoods, whereas the rural areas had been neglected for years. Since the urban residents, like most Guatemalans, had little knowledge of citizen rights under the new decentralization laws, they did not take steps to form COCODEs on their own. Though it was true that the rural communities had been neglected over the urban ones in the past, the fact that no effort was made to include the latter in the organizing process suggested that the “development” that the COMUDE was invited to discuss would deal mostly with basic service provision—which was already adequate in the urban neighborhoods—and less with issues that transcend the municipality, such as natural resource management and mining.

Similarly, excluding the communities near the mining site appeared an effort to control public discussion over mining. As described above, by 2008, most residents in these communities had already become part of a movement to oppose the mine. Were they included in the COMUDE, they would likely have made critically discussing the mine their priority. Leaders of these communities claimed that they were never visited by Gómez and his team nor invited to form COCODEs or participate in the COMUDE. Nonetheless, they eventually learned of the decentralization laws through activist networks, and some communities formed their own COCODEs, most of which the municipal government refused to recognize based on legal technicalities. As a consequence, those communities could neither hold the government accountable for providing basic services nor participate in the COMUDE.

The local government’s only effort at including these communities in the citizen participation organization process appeared to be a veiled strategy to further redirect protest. They visited some of the communities in order to form alternate COCODEs composed of the minority of residents who had been offered a job by Cementos Progreso, had family members who worked for the company, or who otherwise supported the mine. For example, leaders of one community bordering the mine site recounted that during a military occupation of their village in 2008, local and central government officials helped them elect new COCODE leaders. However, most residents were locked inside their homes during this military siege, and thus most of the new COCODE leaders were community residents who had been given jobs by Cementos Progreso. When the occupation ceased, the original community leaders returned to their posts with most of the community’s support but without legal recognition. This suggests that participation in the COMUDE was tacitly conditioned on consent to the mine.

Many leaders and residents of the communities surrounding the mine had reached this same conclusion, and viewed the COMUDE as a tool to control them. More than one of the communities’ leaders asserted that “Jesus Gómez is with the company,” Cementos Progreso, and reasoned that was why they were never included in any of the new citizen participation initiatives. They further argued, as one leader put it, “This COMUDE, someone that works here in the cement company came to form it, Luis Velásquez. He is part of the government but he is very concerned that this company get settled in.” Indeed, as noted above, Velásquez was a former public relations contractor for Cementos Progreso and now occupied a

high-ranking position in the national government. These community leaders were not the only ones to notice this. Frequently, in informal conversations, residents of San Juan Sacatepéquez, upon hearing of the author’s research, would remark that Cementos Progreso had constructed the COMUDE, or that the COMUDE was a tool for getting the townspeople to support Cementos Progreso—a tool for securing a SLO.

In sum, by capturing the process of constructing spaces for citizen-state engagement, elites limited who would have a voice and what would be considered valid for discussion. Creating barriers to participation for both the urban neighborhoods and the communities near the mine made it easier to control the content of discussion within the COMUDE. If securing broad consent to the mine was in part a battle of ideas, then the elite-constructed participatory spaces laid the groundwork for that battle.

(b) *Securing a social license through participation, governance, and development*

Cementos Progreso, together with the local and national state, made citizen participation function well and bear tangible results in the form of improved community development. This arguably established a material basis for securing a SLO, the people’s consent to the mine.

Decentralization and citizen participation initiatives are often promoted under the assumption that they will improve local governance by increasing transparency and accountability and ensuring that basic public goods are delivered to the most needy (Crook & Manor, 1998; Hickey & Mohan, 2004). In San Juan Sacatepéquez, these assumptions were realized, at least in part. The COCODEs and COMUDE allowed included citizens to influence decisions about San Juan Sacatepéquez’s development and governance, obtain funding for projects to improve their communities’ access to basic services like water and education, and receive information about the local government’s finances. As in the rest of Guatemala, citizens had little to no voice in local governance before the COCODEs and COMUDE were established, nor had there previously existed much communication between the local government and the rural communities. Citizen engagement with the local state was unprecedented in San Juan Sacatepéquez.

Many COCODE leaders and COMUDE members in San Juan Sacatepéquez said they were happy to finally have a voice in local governance. Development projects for communities now had to pass through a formal, transparent process of discussion and prioritization before they could be approved. A COCODE leader explained, “when there was no COMUDE, if I were a friend of the Mayor, I would get a project, and other communities would be abandoned.” Now it was difficult for elected officials to reward their favored communities with projects. One town councilman tried to do this during the participatory budgeting process in late 2009, but was thwarted by the COMUDE when official budget documentation was distributed.

COCODE leaders were also glad to have greater access to their elected officials and more information about the government’s operation. Mayor Coronado regularly held meetings with COCODE leaders and COMUDE representatives, including them in the municipality’s governance and development planning. In an interview, she insisted that she and the Town Councilors “need” the COCODEs and COMUDE in order to know and respond to the municipality’s problems. COMUDE participants and COCODE leaders generally



perceived that the government had become more transparent. One COMUDE participant said:

It's a new form of organization. We see the budget now, we know the income and spending of the municipality. We never had this information before. Now we can see how the local government works. We can see income from taxes and have transparent information. Now they give us the information in written form and we never would have gotten this without the COMUDE.

The municipal government was always legally obligated to provide this information every three months but had never done so.<sup>28</sup> The new transparency increased confidence in the local government and helped communities hold the government accountable. For example, in one community, leaders sought funding for a new road for 15 years. A few years ago, the local government held a celebration to inaugurate their new road, even though nothing had been built. When the COMUDE was established, the community was finally able to hold the government accountable, and had received their new road.

Municipal governments in Guatemala tend to be resource-poor, even given the devolution of ten percent of the central government budget and the project funds available through the Development Council System, the two primary forms of fiscal decentralization that exist in Guatemala.<sup>29</sup> Therefore, the advances in local governance and development in San Juan Sacatepéquez would not have been possible without assistance from the central government. For example, the central government channeled the municipality funds for roughly 30 new school classrooms and an improved 24-hour health clinic. Cementos Progreso, too, provided assistance.

A mining firm is more likely to secure a SLO if it can offer tangible benefits to the local population. Accordingly, in San Juan Sacatepéquez, Cementos Progreso provided financial and other assistance to improve local development. To an extent, the firm compensated for the government's financial shortcomings by making citizen participation function well and making it pay to participate. Crucially, they also made it pay for citizens to support mining as a vehicle for socioeconomic development.

First, Cementos Progreso helped make citizen participation actually work. They encouraged and partly funded the local government's new budget transparency, donating funds for printing hundreds of glossy full-color copies of the local government's financial reports. These were distributed to COMUDE members and other interested parties. Financial transparency also allowed the participatory budgeting process to function smoothly.

Second, Cementos Progreso made it pay to participate by donating funds to hire four engineers who worked with COCODEs throughout the municipality. The engineers were akin to "street-level bureaucrats"—project facilitators who often have an important impact on participatory projects because they are the ones who work most closely with the affected citizens (Mansuri & Rao, 2013, p. 97). In San Juan Sacatepéquez they helped communities develop detailed proposals for their prioritized development projects. The proposals would then be used to secure funding from the local government during the participatory budgeting process, a central government agency, or a foreign non-governmental organization operating in Guatemala. Often the engineers would help communities, who were just beginning to learn how the government worked, identify these funding sources. Without a project proposal—a document that could only be researched and written by a qualified professional with technical expertise—and knowledge of where funding existed, a community's

need for water or sanitation would often go unrealized. The engineers helped communities meet their basic needs, making citizen participation a worthwhile endeavor.

Finally, Cementos Progreso made it pay to consent to their activities, not only through their support to the local government, but also by providing gifts small and large to community groups and entire communities, using the COCODEs as a way to reach out to community leaders. For example, an indigenous women's group received funding and training to improve their traditional weaving skills and market their products abroad as "fair trade." An indigenous musical group received an expensive *marimba* instrument, for playing traditional Mayan music. Numerous rural communities reported receiving bags of cement to fortify roads and buildings. And finally, Cementos Progreso offered to build schools and health clinics, widen and pave roads, reforest land, provide clean burning stoves, and provide vocational training to citizens. Accepting such gifts arguably implied a community's consent to the mining project. Some communities, aware of this, held meetings to discuss whether or not to accept such gifts. All but one of the communities nearest the mining site rejected them. In sum, many communities perceived that participation and all its associated rewards—improved governance and material development—were dependent on their acceptance and approval of Cementos Progreso's activities.

### (c) *Securing a social license through ideas*

If a SLO was sought on the one hand by providing practical and material incentives, it was sought on the other hand discursively, through the manipulation of ideas. Cornwall (2002) writes, "Who determines the form participation takes in any given space—who initiates, chooses methods or techniques, facilitates, takes part—is critical for assessing the contribution participatory initiatives can make to democratic practice and understanding their power dynamics" (p. 8). In San Juan Sacatepéquez, elites determined the form participation would take in the COMUDE, using it as a space to promote their own vision of development. Like many resource extraction firms (Coumans, 2011), Cementos Progreso framed their work in the municipality—the mine, cement plant, jobs, support to the local government, and the community project assistance—as an "initiative" to "generate development and well-being" in San Juan Sacatepéquez and Guatemala.<sup>30</sup> The COMUDE and COCODEs served as an institutional space and social network through which elites promoted this positive association between mining and development.

Citizens had little control over the terms of their participation. Almost always, COMUDE meeting agendas were locked. Controversial issues could not be added to the agenda, and issues of less importance to local and central government officials—who together presided over the meetings—were usually tacked onto the end. For instance, consideration of how certain development projects would impact the local indigenous culture, or whether indigenous people have special rights in these instances, would only be discussed around 1 pm or 2 pm (if at all), when most participants were tired and hungry after sitting since 8 am on a Sunday.

A few COMUDE members wished to discuss the relationship between indigenous culture and rights, mining, and the municipality's future development. In an interview, one COMUDE member exclaimed, "There is no development without culture. Development that kills the culture is not development!" He believed that the mine would harm the municipality's development and indigenous peoples' ways of

life. An indigenous organization that sent a representative to the COMUDE similarly believed that the local culture could be “useful for stimulating our development as a community and as a municipality” (Q’anil, 2004, p. 4). However, as often occurs when participation is invited (Williams, 2004), citizens who held these views found it impossible to bring them to the center of discussion, especially without support from those who led the COMUDE meetings.

Notably, the question of whether the proposed mine and cement plant would promote local development was never discussed in COMUDE meetings, aside from rare and vague references. Instead, when the COMUDE was first convened in 2008, SCEP Secretary Luis Velásquez tried to convince members to form a Commission to deal with the conflict that had engulfed the communities near the mine site. COMUDE members refused to participate and chose to remain “neutral,” as many described it—though, arguably, remaining neutral also meant tacitly supporting Cementos Progreso, by continuing to accept its assistance to the local population. This tacit support is key to securing a SLO.

The institutional framework for citizen participation further left COCODE leaders and COMUDE members unprepared to discuss controversial issues like mining. Communication and organization among leaders from the geographically vast municipality’s more than 80 communities was weak, and citizen participation did little to improve that. Moreover, aside from the communities opposed to the mine, residents were mostly unaware of their rights as citizens and indigenous peoples. With no autonomous form of organization in which to discuss development issues that cut across the municipality, state-society relations in San Juan Sacatepéquez exemplified what Baiocchi, Heller and Silva (2008) call “tutelage”: the state invited participation, but the continuation and quality of that participation was dependent on the state’s benevolence.

The COCODES and COMUDE thus served as spaces to publicly discuss a particular conception of development, promoted by elites, that involved solving narrowly-defined problems with concrete projects, and relying on private investment, especially from big business, as a catalyst for the medium- and long-term socio-economic progress of the municipality. This conception of development could both accommodate mining and be more easily achieved with Cementos Progreso’s assistance; promoting this limited understanding of development appeared to be a tactic for securing a SLO.

The reported outcome of debates over development are found in a policy document that the Mayor called “a participatory process of consensus generation” among the COMUDE and Municipal Government, “The Integral Strategic Plan for the Development and Governability of San Juan Sacatepéquez, 2008–2025”. The Plan was hailed as a great success at a widely attended press conference at Guatemala’s National Palace. Representatives from international NGOs and foreign development agencies were invited to the event, in the hopes that they would invest in the development of this “model” municipality, as many referred to San Juan Sacatepéquez. Yet a very narrow definition of development emerged from the Plan and was supported by many COMUDE members, and likely many residents.

The Plan identified development goals for San Juan Sacatepéquez that could best be achieved with outside assistance: providing basic services; improving illiteracy, unemployment, and infant mortality; promoting opportunities for children, families and communities; resolving differences and “social conflict” through dialog; and overall aiming for “modern and organized” development. With the special attention the

central government was paying this municipality, and with Cementos Progreso’s assistance, work on many of these goals had already begun. Most COMUDE members were satisfied that the municipality now had a plan for improving the residents’ lives, and wanted the document to be disseminated more widely.

To meet these goals, the Plan also proposed an economic development strategy based on private investment, into which Cementos Progreso neatly fit. It was arguably reasonable that private economic initiative should play such an important role in the municipality’s development plans. Many residents owned small furniture production operations, manufactured fireworks, or cultivated flowers for regional and foreign markets. There are many businesses in San Juan Sacatepéquez, Gómez explained, so the “anti-business discourse of the communities against the mine is unwelcome. It’s not just big corporations that are businesses. Even the person who sells gum on the street corner has a business.”

But the Plan’s focus on private investment as a vehicle for development was in fact more based on big business, not small businesses like street vendors or furniture workshops. For instance, the Plan proposed converting San Juan Sacatepéquez into a “Free Trade Zone” (FTZ) where firms would be able to export their goods tariff free, provided they utilized only imported materials in the production process. This formed part of a larger scheme whereby globalization was identified as a “window of opportunities for the municipality to improve the quality of its production and open up to national and international markets.” COMUDE members were treated to a weekend trip to the coastal city of Puerto Barrios, where they were given a tour of the FTZ there and treated to a Caribbean cruise. One COMUDE member described the trip as “luxurious, as if it were for the President.” COMUDE members later discovered that Cementos Progreso had at least partially funded this trip, rendering it a veiled bribe. Though Cementos Progreso would not be able to export its products from within a FTZ, supporting it was a way for them to promote job creation in the municipality, since a FTZ could encourage textile and manufacturing firms to relocate to San Juan Sacatepéquez. It was therefore an indirect way for Cementos Progreso to provide benefits to the local population, a key factor that can help a firm secure a SLO.

While some COMUDE members were critical or ignorant of the FTZ proposal, others strongly supported it, even though such a strategy would be unlikely to benefit local small businesses or construct economic linkages between new large firms and local producers.<sup>31</sup> Elites were thus partly successful in both promoting a development strategy based on big business, private investment, and mining, and preventing public discussion of alternatives to this strategy.

To further limit public discussion of mining and development, elites used the participatory spaces to demonize those who opposed mining; research on mining firms’ efforts to secure a SLO suggests that such categorizing of residents as “good” or “bad” may be common practice (Campero & Barton, 2015). In San Juan Sacatepéquez, an interview with one COMUDE member and COCODE leader was illustrative. When questioned whether the COMUDE or his COCODE had taken a position on the mine, he immediately replied, “I’m not against development.” This defensive response reflects how, for many, the very question of whether one was for or against Cementos Progreso had come to be equated with being for or against “development” itself. Similarly, another community leader argued that it was all a matter of understanding what mining is about. He said he was supportive, “but others are not, because they don’t understand that

Cementos Progreso is development for the people. They don't understand, so they reject it."

This sentiment is clearly reflected in the Plan. "The opposition of some communities to development (the installation and functioning of a *cementera* [mine and cement plant] in the municipality)" was described as a "threat" to the municipality's development (Gómez, 2009, 13).<sup>32</sup> Indeed, it was not uncommon to hear COMUDE members and COCODE leaders say that the people openly resisting the mine were "violent" and ignoring what is good for San Juan Sacatepéquez as a whole, or that the leaders of communities near the mine were manipulative—that arrogant youth had taken over the communities' traditional leadership posts and were using indigenous rights discourse to convince residents to support a radical anti-development agenda. Within the COMUDE, many supported Cementos Progreso, but those who opposed the mine could not do so publicly and still participate in the COMUDE. For example, one COMUDE member who was spotted in an anti-mining protest said that his actions caused him problems among his peers in the COMUDE who wanted to stay "neutral." In the quest for a SLO, even if it was not possible to gain the consent of the active opponents who lived near the mine, at least tacit consent could be secured from COCODE members through this sort of peer silencing.

To a large extent, simplistic and pro-mining understandings of development prevailed among COMUDE members and COCODE leaders. Most believed development was the result of concrete projects that one can easily see: electricity, water, drainage, or school classrooms. Few mentioned the structural issues that made obtaining those basic services so difficult. For instance, in Guatemala, a long history of institutionalized racism, where indigenous peoples were thrown off their land, forced to seasonally migrate to work on large plantations, and barred from participating in their own governance, only partly explains why "development" is so elusive. This history helps explain why today, in the northern communities of San Juan Sacatepéquez, most indigenous people work on plantations far away for many months each year. In their communities they own no farmable land and must purchase potable water during the dry season because natural water sources have dried up after years of over-cultivation on nearby large estates.

The lack of economic development in many of the municipality's indigenous communities was never publicly discussed in relation to "its *historical* emergence and from a recognition of the powers that produce it and contour it" (Brown, 2006, p. 15). Though land inequality was the result of historical violence toward and exclusion of indigenous peoples, this was not publicly acknowledged in COMUDE meetings nor considered a valid obstacle to development. Williams (2004) argues this is typical of participatory interventions: by "uncritically boosting 'the local' as the site for action. . . [invited participation] deflects attention away from wider power relationships that frame the construction of local development problems" (p. 93). In interviews, some COCODE leaders hinted at the power relations that, directly or indirectly, caused their poverty. Some argued that development is "when the community has all its needs met," and that "we all have the same rights. . . we should have some land to have food for our families. There are some who take everything and the poor are discriminated and treated badly." However, it was rare that COCODE leaders or residents—aside from those living in the communities surrounding the mine—would raise such issues in interviews; arguably less so in their own private conversations, and never in public.

The idea of "development" became depoliticized. In the COMUDE, it was discussed as a series of technical problems that could be solved by projects designed by experts. For instance, lack of potable water could be remedied if engineers could construct the right project and help the community find funding. Similarly, the positive connection between mining and socio-economic development was presented as fact, requiring only that citizens allow the experts to do their job and make the mine and cement plant happen. This phenomenon echoes critiques by Ferguson (1990) and Li (2006), who examined the complex ways that "development" and even "poverty" can be construed as technical problems subject to expert interventions: "questions that are rendered technical are simultaneously rendered nonpolitical" (Li, 2006, p. 7). If a "political" question requires debate among conflicting alternative projects (Mouffe, 2005, p. 10), then to call development (or mining) in San Juan Sacatepéquez a technical, non-political issue is to ignore the competing ideas about what development is and how to achieve it—or to silence those ideas, as elites did by capturing the COMUDE and COCODEs. Depoliticizing development was a crucial facet in the struggle to elicit consent and secure a SLO. It was a way to frame Cementos Progreso's activities as not only acceptable but even necessary for the municipality's development. If one could consent to a depoliticized idea of development, then one could easily consent to mining.

## 5. THE LIMITS TO CONSENT

Within the extractive industry and among the scholarly community, there is no clear consensus on how to identify when a SLO has been successfully obtained. At minimum, a social license requires consent from a significant majority of the local population. On that measure, one finds that criticism of Cementos Progreso, and alternate understandings of the relationship between mining and development, were prevalent in San Juan Sacatepéquez. Criticism flowed through private social networks, constituting what Fraser calls a subaltern counterpublic, or "parallel discursive arenas where members of subordinated social groups invent and circulate counterdiscourses, which in turn permit them to formulate oppositional interpretations of their identities, interests, and needs" (Fraser, 1990, p. 67). The counterpublic here is not a stand-in term for the opposition movement, but a way to conceptualize the flow of alternate discourses among both those who were included in as well as excluded from the COMUDE.

Residents of the communities nearest the mine, who were excluded from the COMUDE and comprised the organized opposition movement, articulated a sophisticated critique of what they called "a project of death." As one leader summed it, "Cementos Progreso came here to trick us. They said they were bringing development. But the result is no. They tricked us. And when the people realized it they rejected it." Since the communities work primarily in agriculture, and the mine and cement plant might damage the environment, they saw Cementos Progreso as very threatening. An elderly community leader explained:

They want to remove all the minerals, all kinds of them. The fear we have, as human beings. . . . What gives a human being life? It is the heart. The heart pumps blood throughout the body. And if you take out the heart, death. It is the same way with our *Madre Tierra* [Mother Earth]. When they go and rip out those minerals, then nothing will grow here anymore. They cut out its heart, they operated. That is the fear we have. That is why everyone in the community is opposed, because of our *Madre Tierra*.



Land—*Madre Tierra*—is a pillar of the culture, spirituality, and physical existence of the indigenous communities. Destroying the *Madre Tierra* could destroy the communities themselves.

For this reason, the projects and services that Cementos Progreso offered the communities were not welcomed, as they might bring “development for some, but not for all of us.” One community leader said that his community had rejected the firm’s offer of vocational training, because it is “so if the agriculture becomes contaminated, you can get other jobs. But these aren’t the jobs that we want. This isn’t training. This isn’t development.” They wanted a development strategy that would help them continue working the land for generations to come. Notwithstanding, like other communities in the municipality, they also believed basic services and even luxuries like cars and stoves to signify development. But they were equally concerned about *how* to achieve that development. They did not reject Cementos Progreso’s handouts and insisted, “as indigenous peoples, we have a *right* to a project. The law says we have a right.” They demanded the state fulfill its obligation to provide development.

These sophisticated critiques emerged partly because, in the process of organizing to oppose Cementos Progreso, they had established their own autonomous spaces through which to debate mining and development. For example, 50 to 100 women and men from the communities nearest the mine would meet weekly to discuss their struggle against the mine and plan future actions. Having inserted themselves into national indigenous activism networks, the community residents also learned about their rights as indigenous peoples, the experiences of other indigenous people in Guatemala who were resisting natural resource projects, and the possible harms that a mine and cement plant might inflict on their health, environment, and on the social fabric of their communities. The active resistance of residents from these communities is a clear limit to the SLO in San Juan Sacatepéquez.

However, anti-mining talk also circulated in the municipality at large, through social networks and in private conversations among individuals who neither lived in the communities nearest the mine nor participated in the organized opposition movement. In interviews, a minority of COCODE leaders and COMUDE members articulated critical conceptions of mining, and lamented the absence in the COMUDE of discussion about what “development” should be. One said,

The problem we have here is that [Cementos Progreso] has a different vision, and we don’t have an idea of where development is going, just about projects. We haven’t analyzed where the resources are going. There is a lot of ignorance of the meaning of development.

Another COMUDE member criticized how Cementos Progreso and the local government had framed “development”:

Even though they are giving us things, they are destroying the environment. . . . Big buildings are development, they say. Employment, too. [But] we depend on water, air, sun, land. They are cutting down all the trees. Basically, destroying the environment. With this there will be development for the short term, but not for the long term.

Such environmental and health risks were the chief concerns of the COMUDE and COCODE leaders who privately criticized Cementos Progreso. For instance, one COMUDE member believed the project would cause visual, auditory, and respiratory contamination and create a great deal of dust. Though Cementos Progreso promised to contain the dust, no one knew whether it would have the will or capacity to do so, given the high cost of such technology. The COMUDE never addressed these issues: “No one knows how a cement plant functions,” a COMUDE member complained.

Cementos Progreso was trying to mitigate environmental damage by helping some communities with small reforestation projects and planting new trees around the mining site, but many COMUDE and COCODE leaders were unconvinced these projects would make up for the mine and cement plant’s potential contamination and destruction of virgin forest. One COCODE leader said: “the communities do not like it because [Cementos Progreso] are taking everything out of the land. [People] are saying it’s *minería* [mining]. And *minería* is different than a *cementera*,” reflecting Cementos Progreso’s failure to convince people their project was distinct from “mining,” a term that carries negative connotations in Guatemala.

COMUDE members and other community and civil society leaders implicitly critiqued this lack of discussion, especially when asked how and why Cementos Progreso attained the right to operate in San Juan Sacatepéquez. The company had submitted an environmental impact study, obtained the required licenses from the Ministry of Energy and Mines, and had a license to construct the cement plant from the local government. Yet these legal requirements were insufficient for many residents. In a private conversation, a COMUDE member explained that Cementos Progreso had failed to obtain a “social license” to operate: they had pushed through their agenda without adequately consulting the communities nearest the mining site nor the municipality at large. These critiques suggest the effort to secure a SLO was only a partial success: the idea that mining is good for everyone’s development never became hegemonic.

## 6. CONCLUSIONS

If mining companies and the states that support them want to take advantage of the most mineral-rich terrain in developing countries, they must engage with people who live near projected mining sites. Engagement can take place in various ways. Historically in Guatemala, conflict over natural resources, especially land, was addressed primarily with violence. In San Juan Sacatepéquez, force did comprise part of the state’s and (some claimed) Cementos Progreso’s strategy. However, in the eyes of the extractive industry, and arguably in the context of a formal democracy, the preferred strategy for establishing a favorable mining climate is to seek a social license to operate. To that end, in San Juan Sacatepéquez Cementos Progreso employed a novel strategy for securing a SLO: constructing participatory democracy. An alliance of firm and state built spaces for citizen participation, promoted from within them the idea that mining was complementary with development, and backed up this discourse with tangible results. Government transparency and accountability improved, as did provision of basic services. These improvements depended on financial and in-kind assistance from Cementos Progreso.

This case study affirms Parsons *et al.*’s observation that “the role of a social license, from a company/industry standpoint, may be understood as being to legitimize mining activity in the minds of local community members” (Parsons *et al.*, 2014, p. 88). Establishing legitimacy is the basis for eliciting consent to mining, a SLO. More broadly, it is akin to constructing what Gramsci (1971) called “hegemony”. Gramsci theorized that states and elites maintain power in a capitalist society by establishing hegemony, the active consent of the governed. In absence of full consent, the state may force the governed to accept its rule, by the use or threat of violence; this was clearly visible in San Juan Sacatepéquez. However, hegemony—or a SLO—is preferable and therefore elites

sought to construct it through the terrain of civil society (as Gramsci would posit), specifically through the COMUDE and COCODES. Gramsci further specified that hegemony is constructed on the basis of ideology—i.e., that what is good for capitalist elites is good for all—but that ideology can only be convincing if it has a material basis. Likewise, this reflects the strategy for securing a SLO in San Juan Sacatepéquez: elites promoted the idea that mining was in everyone's best interests because it would facilitate development, and they backed up this idea with concrete improvements in governance and development.

What were the results of this strategy? Did Cementos Progreso secure a SLO—the broad acceptance and approval of the local population? Clearly, many people openly supported the mining project. However, the improvements in governance and development, and the threat of reprisal against dissidents, likely deterred some COMUDE participants and COCODE leaders from openly questioning the mine's impact on the municipality's long-term development. Instead, stinging critique of Cementos Progreso circulated through a counterpublic of social networks and alternate public spaces. Those most likely to oppose the mine—residents of the communities nearest the mining site—were excluded from participating in the COMUDE. With elites controlling the construction, membership, and operation of the COMUDE, public debate about whether mining could support environmentally and culturally sustainable development never occurred.

In any mining context, various opinions on mining can coexist within local communities (Prno, 2013, p. 578). What is unclear to researchers is how much consent must be present in order to affirm that a SLO exists. Does the counterpublic in San Juan Sacatepéquez indicate that the firm failed to secure a SLO? The answer depends on how one interprets silent opposition. As concerns a firm's profitability, silent opposition is practically equivalent to tacit consent because it poses no barrier to operations—for example, it does not protest or erect roadblocks—nor does it tarnish the firm's reputation through media and international human rights campaigns.

By contrast, vocal opposition does both. In San Juan Sacatepéquez, open and active opposition to Cementos Progreso was contained to the few communities nearest the mining site. However, the constant presence of this movement, and use of force against the communities near the mine who form the movement, suggest Cementos Progreso and the state saw it as a threat to the firm's activities. It also indicates that Cementos Progreso failed to secure a SLO. This failure manifested in years of delays. Though Cementos Progreso first started working in San Juan Sacatepéquez in 2006, it wasn't until July 2013 that they broke ground on the cement plant, reflecting the tendency among firms that fail to secure a SLO (Prno & Slocombe, 2012). Given the SLO's unwritten quality, it can theoretically evolve over time—consent may rise and fall over the course of a project. In San Juan Sacatepéquez, acceptance could eventually grow. However, at present, the organized opposition continues to be active and to face repression from the state and (allegedly) Cementos Progreso (Abbott, 2014), forcing the firm to perform public relations triage (Cementos Progreso, 2014).

Why was Cementos Progreso unable to win the consent of those residents? One possibility is that the firm failed to establish itself as trustworthy. When employees intruded upon the property of indigenous rural families, they demonstrated disrespect for basic property law. When they neglected to consult the communities and engage their active and full participation, they showed disrespect for the rights, dignity, and culture of the indigenous communities (also see Costanza, 2015). As

Luning (2012) argues, securing a SLO requires that firms establish trust and demonstrate respect and a good faith effort to engage with local populations at the earliest stages of project development. Cementos Progreso failed to do this.

Could the firm have secured broad support had they treated those community residents differently? Not necessarily. Prno and Slocombe (2012, p. 348) argue that in some mining contexts, it will be impossible to secure a SLO. This may describe San Juan Sacatepéquez and most of Guatemala. Indigenous people are a historically marginalized population that has long suffered at the hands of the state, military, and rich families who have maintained a grip on the country's government and economy. Mining thus appears threatening to them and has spurred a vibrant anti-mining protest movement that was gaining steam just around the time that Cementos Progreso began seeking a SLO. The fact that the firm and state officials discursively framed the project as a "cement plant" and not as "mining" suggests that they read this context accurately.

This case study suggests several broad theoretical and practical implications for scholars of natural resource conflict and local democracy. First, the role of the state in this case study suggests that scholars reconsider their focus on resource extraction firms as the primary or sole actors in securing the consent of the local population. Whereas firms need a SLO, states also benefit from mining. In San Juan Sacatepéquez, given the Novella family's historically powerful role in Guatemala, a state-firm alliance was unsurprising, and similar alliances might be found in other developing country contexts where the firm of interest is a domestic one.

Second, investigating natural resource conflict requires including the local state in our analysis. This is especially true in developing countries, most of which have decentralized over the last 20 years, and many of which are now devolving natural resource revenues to local governments, further making the local state a site of conflict (Arrellano-Yanguas, 2011).<sup>33</sup> Clearly, national states, firms, and opposition movements remain key actors in these conflicts. However, the local state and invited participatory institutions warrant attention because it is through them that elites can frame debates over mining and development, mitigate opposition, and help secure a SLO.

Third, this case raises questions about the impact of natural resource development on the quality of participatory democracy. Cementos Progreso's efforts to secure a SLO removed decisions about natural resource development from local democratic control. New participatory institutions gave citizens a voice and vote in local governance, but prohibited questioning what Gramsci (1971, p. 161) termed "the essential," capitalist power. The critique that emerged in the counterpublic suggests that had open and informed debate taken place within the COMUDE and throughout the municipality, many more people may have raised similar doubts about whether mining was in the best interests of the municipality.

Fourth, this case study provides new insight on the relationship between decentralization and development. Research on decentralization often aims to identify its impact on policy-relevant outcomes, especially socio-economic development indicators such as education, health, and public service provision (e.g., see Faguet, 2012, pp. 159–198). By those measures, decentralization was a qualified success in San Juan Sacatepéquez. However, residents' critique of depoliticized development and mining suggests that understanding how decentralization and participatory institutions impact development requires rethinking the meaning of "development". Following Sen (1999) and the capabilities approach,

researchers may wish to use citizens' own conceptions of development as a basis for evaluation.

Finally, this study suggests implications for how decentralization impacts local governance. Scholars often assume a positive connection between the two, but little research has investigated this relationship, prompting a recent volume of *World Development* on the topic (Faguet, 2014). The findings here suggest decentralization and invited participation initiatives can produce unexpected results. By conventional measures, participation in San Juan Sacatepéquez was a success: citizens perceived an increase in accountability and transparency, key measures of governance quality. However, this is only a partial view of how decentralization impacts governance, as spaces for citizen participation, and networks among them, can disseminate powerful ideas about development, mining, and even citizen rights.

Scholars should critically examine the motives for constructing participatory spaces, the discourses that flow within and beyond them, and the impact of these discourses on development and democratic practice. When measuring governance in the context of natural resource conflict, scholars should extend conceptions of transparency and accountability beyond budgets, to encompass the negotiations between states and resource extraction firms. Given that natural resource management is so crucial a task in developing countries, we should study the conditions under which decentralization and participation can facilitate democratic control over natural resources. Mansuri and Rao (2013) have advocated for more qualitative research on citizen participation, to unearth the complex processes that produce different outcomes. Addressing the issues raised here underscores the need for such work.

## NOTES

1. Article 121(e) of the Guatemalan Constitution (Republic of Guatemala, 1986) establishes that subsoil resources, including hydrocarbon and mineral deposits, are assets of the national state. Also see Fulmer *et al.* (2008), who show that the legal regimes that de facto govern natural resource extraction in Guatemala include national, international and corporate law, but rarely local law.

2. In a larger project (Costanza, 2013), the author interviewed actors involved in the creation and implementation of state decentralization laws, including: indigenous activists, representatives of civil society organizations, representatives of foreign government development agencies, and current and former local and national state officials.

3. By the late 1990s, most of the World Bank's client countries had decentralized to at least one level of sub-national government (World Bank, 2008, 5).

4. Decentralization was articulated in three laws: the General Law of Decentralization (Congress of Guatemala, 2002c and 2002d), the Municipal Code (Congress of Guatemala, 2002e), and the Urban and Rural Development Council Law (Congress of Guatemala, 2002a and 2002b), which established new institutions for citizen participation.

5. All contextual information about the decentralization process in Guatemala was obtained through the author's field research, including interviews with key actors who elaborated the decentralization laws and have worked to implement them. This is elaborated in Costanza (2013). Puente Alcaraz and Linares López (2004) present a dated overview of the laws intended to decentralize the state. Surprisingly little has been published on the implementation of decentralization laws at the local level (but see Spanish-language research from Barrientos, 2007, and Flores & Gómez-Sánchez, 2010). Most research has focused on the decentralization of forestry management, a process distinct from the decentralization of governance in general and incorporation of citizen participation through the Development Council Law. See, for example, Wittman and Geisler (2005), Gibson (2006), Andersson, Gibson, and Lehoucq (2006) and Larson (2008).

6. 333 was an accurate count of municipalities at the time of research (2009–11); today the number reaches 338.

7. Interview with SEGEPLAN (Secretary of Planning and Programming of the Presidency) official.

8. These numbers are from the 2002 Census. Though newer census data is available, the 2002 Census provides a more accurate description of the

population at the time of field research. Source: INE Census 2002, <http://www.ine.gob.gt/index.php/pxwebcenso2002>. (Accessed November 9, 2010; link no longer available).

9. In a study of human and socio-economic development, San Juan Sacatepéquez ranked 207 out of 333 municipalities, where a higher number indicated a higher quality of life (SEGEPLAN 2008).

10. The Gini coefficient for land inequality is .792 (Sandoval, 2009: 14).

11. Cementos Progreso's plans for the mine and cement plant were described in interviews with local government officials, community leaders, and members of civil society organizations. The main components of the project are articulated on the company website (<http://www.cempro.com/plantas/san-gabriel>, obtained online March 19, 2015) and have been reported frequently in the Guatemalan media. For example, see a report in the *Diario de Centro América* (December 15, 2008), "La construcción de una empresa cementera ha dejado marcado a un municipio, cuyos pobladores quedaron segmentados entre quienes la apoyan y quienes no" (obtained online April 1, 2010, [http://dca.gob.gt:85/archivo/081215/nacion\\_pagina\\_2.html](http://dca.gob.gt:85/archivo/081215/nacion_pagina_2.html); reproduced at <http://www.deguate.com/artman/publish/noticias-guatemala/san-juan-sacatepequez-la-cronica-de-un-pueblo-pobre-que-qued-dividido.shtml#.VQsQZFpeFUQ>, accessed online March 19, 2015).

12. See the Environmental Impact Report (Asesoría Manuel Basterrechea Asociados, 2007). The study is published in English and it is not clear whether it was made available to any residents of San Juan Sacatepéquez.

13. The Environmental Impact Report makes clear that Cementos Progreso has prioritized cooperative engagement with the communities near the mine site since at least 2006 (Asesoría Manuel Basterrechea Asociados, 2007). A previous version of the company website (no longer available) indicates that community engagement and development to meet the United Nations Millennium Goals has been a central concern, and a recent opinion piece written by Cementos Progreso S.A. (2014) indicates that fostering local development has been central to the company's work. Further, Cementos Progreso recently posted a job ad for a "Community Promoter" whose main tasks would include "maintaining a social license" ([http://progreso.com/wordpress.php/feed/view/slug/\\_41](http://progreso.com/wordpress.php/feed/view/slug/_41), obtained online March 19, 2015). Finally, a presentation given by the company's economic and social development manager explicitly addresses the importance of obtaining a social license ([http://ficem.org/boletines/boletines2014/BOLETIN\\_DE\\_RESULTADOS\\_CT\\_2014/\\_PRESENTACIONES\\_CT\\_2014/2\\_seguridad%20industrial%20y%20salud%20ocupacional/5\\_](http://ficem.org/boletines/boletines2014/BOLETIN_DE_RESULTADOS_CT_2014/_PRESENTACIONES_CT_2014/2_seguridad%20industrial%20y%20salud%20ocupacional/5_)



JORGE%20ESCOTO\_CEMENTOS%20PROGRESO/FICEM%20(JEscoto)1.pdf, obtained online March 19, 2015). Cementos Progreso recently was declared one of the world's most ethical companies, according to the Ethisphere (<http://ethisphere.com/worlds-most-ethical/wme-honorees/>, obtained online March 19, 2015).

14. Bastos and de León (2013) elaborate further on the types of repression the communities near the mine have been subjected to.

15. Exceptions include research that suggests that elites sometimes may simply “control” participatory spaces, helping direct projects to where they are most needed. See: Dasgupta and Beard (2007), Fritzen (2007).

16. Holcim sold its entire share at the end of 2012. See: <http://www.globalcement.com/news/item/1343-holcims-journey-continues> (accessed April 7, 2014).

17. On the historical role of natural resource extraction in Guatemala, see: Solano (2005). Krznaric's (2003) underscores the role a small handful of families have played in controlling Guatemala's government and economy for well over 100 years. The Novella family is among the most powerful of them.

18. In an interview, the former Director of the Development Council System claimed that since Article 253 of the Constitution ensured Municipal Autonomy, this prohibited the national government from obligating Mayors to implement the Development Council Law.

19. Initially, it was the SAEP (Secretariat of Specific Issues of the Presidency) that intervened; the project was soon passed on to the SCEP, the government institution responsible for coordinating the country's decentralization process.

20. Early in his administration, President Colom declared a moratorium on new mining licenses, largely a reaction to the social conflict that mining operations had produced in places like San Juan Sacatepéquez. The hope was that the mining sector, indigenous organizations, and the national government would negotiate new mining regulations. An agreement never materialized.

21. Interview with former Director of the Development Council System.

22. Interview, December 2, 2009.

23. Interview, December 2, 2009.

24. At the time of research (2009–11), the national government had made little effort since 2002 to educate citizens about the decentralization laws. Numerous Guatemalan non-governmental organizations, as well as the foreign development cooperation (especially the United States Agency for International Development and the European Union

through its Tinamit and Municipios Democraticos programs), assisted local governments with implementing the laws. Only some of this assistance was directed specifically at improving citizens' legal knowledge and political participation. In general, most interviewees (government, NGO, and indigenous actors) complained that the decentralization and citizen participation process was stunted, and that citizens were unaware of their rights under the new laws. Interviews with all actors in San Juan Sacatepéquez asserted that prior to 2008, few COCODES existed and residents had little understanding of the Development Council Law.

25. Interview, December 2, 2009.

26. YouTube video entitled “COMUDE San Juan Sacatepéquez.” <http://www.youtube.com/watch?v=RmJnR6yiDVE> (accessed April 7, 2014).

27. In Spanish, “Inversión y Desarrollo.” Many of these episodes were uploaded to the program's YouTube station, “InversionyDesarrollo”. For instance, an episode entitled “Inversion y Desarrollo con Luis Velasquez 28 1/1 San Juan Sacatepéquez Polo de Desarrollo” specifically discussed the success of the COMUDE. (<http://www.youtube.com/watch?v=VSDewOt-Nr4>, accessed April 7, 2014).

28. See article 135 of Municipal Code.

29. Legislative Decree 18-93 (Article 37) dictates that 10% (revised from the 8% indicated in Article 257 of the Constitution) of the national budget to be devolved to the municipalities.

30. See archived Cementos Progreso Website, [http://208.56.255.197/main\\_perfiles.php?id\\_area=245&tipo\\_portal=20](http://208.56.255.197/main_perfiles.php?id_area=245&tipo_portal=20) (accessed March 29, 2014).

31. Research on free trade zones consistently finds that such arrangements fail to establish significant economic linkages with the local economy (e.g., see Sanchez-Anchochea, 2006).

32. In the official version of The Plan, the “worsening and lack of control of social problems, such as those related to citizen security and the opposition of some communities to a cementera” is described as a “threat” to the municipality's development (my emphasis, Strategic Plan, Section 5.4).

33. Arrellano-Yanguas (2011) found that the local state in Peru had become increasingly relevant in mining conflicts, as the national state had begun redistributing natural resource revenues to local governments, which then had to decide how to spend those resources; many other countries are doing the same: Bolivia, the Democratic Republic of the Congo, Indonesia, Madagascar, Nigeria, Peru, the Philippines and South Africa.

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