

A Proposal for the Analysis of Social Conflicts in Terms of Deliberation, Agency, and Recognition. The Case of Mining in Peru¹

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1. The Real Face of the Mining Conflict: A Contradiction between Growth and Dissatisfaction

Due to growing popular opposition to extractive activities, Peruvian authorities started implementing in the early 2000s a series of strategies aimed at increasing the margin of government transfers from mining extraction. The reasoning was that this would improve the living standards of the population, thus convincing them of the benefits of mining.

The first innovation came in 2001 with the approval of Law Number 27506, which increased the transfer of the mining fee (*canon minero*) from the national government to subnational governments from 20% to 50%. Afterwards several adjustments aimed at improving the allocations of each subnational government led to a reform passed initially in July 2004 (Law Number 28332). Around this time the international price of mining commodities reached an exceptional level. As a result, between 2004 and 2007 transfers increased by thirteen times; that is, they went from 90 million to more than a billion US dollars.

Because of the high incomes of the mining companies and, furthermore, of the demands held by different actors to review the agreements for tax stability and exemption from the payment of royalties — agreements which were signed during the nineties with several companies— the government of Alan García carried out in December 2006 the second institutional innovation: the Mining Program of Solidarity with the People, better known as “mining contribution”. This instrument exempted mining companies from taxes on windfall gains in exchange for the commitment of investing in social development projects in mining regions.

Despite all this, according to a report by the Peruvian Ombudsman Agency (Defensoría del Pueblo 2009), the number of social conflicts between February 2004 and December 2008 experienced a historical increase — from 47 to 197. By October 2013 there were 220 active and latent conflicts (Defensoría del Pueblo 2013). Far from abating, conflicts multiplied and intensified. It was particularly baffling that most of them took place precisely in those regions which profited directly from the mining fee or on jurisdictions neighbouring areas of mining exploitation (as Ancash or Cajamarca). Institutional reshaping was unable to improve the indexes of social and economic wellbeing in mining regions. On the contrary, they seem (paradoxically) to be the main triggers for conflict escalation.

According to some specialists, such as Javier Arellano Yanguas, the main reason for this is the creation of an incentives structure for mining royalties which fosters the quantitative increase in conflict potential.² Arellano distinguishes three types of conflicts, two of which result from the incentives structure promoted by the institutional innovations of 2004 and 2006:

- A. Conflicts in which protest is used to negotiate a better redistribution of profit. In these conflicts, the greater success of local actors in “appearing” radically opposed to mining means a stronger negotiating position before the company.³
- B. Conflicts that use protest to achieve a more favourable redistribution of profit amongst the different levels of government and the population. This type subdivides into: (i) conflicts between the population and the local authorities due to an inefficient management of the mining

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² “These innovations neither dealt with the state’s incapacity to promote the common interest efficiently nor contributed to strengthen the state’s legitimacy in the rural areas of the country. Instead, they created incentives for different actors in the mining regions to use conflicts to maximize the advantages they might obtain from these new redistribution mechanisms.” (Arellano Yanguas 2013: 155).

³ “Local populations frequently framed their demands within discourses concerning environmental damages and the prejudices that mining entailed for their means of subsistence. However, negotiations were usually centred on employment opportunities, economic compensation, promotion of small local business, and the implementation of social-development projects.” (Arellano Yanguas 2013: 168).

fee; (ii) conflicts between government levels concerning the rules for the distribution of transfers of the mining fee and other government transfers; and (iii) conflicts between neighbouring jurisdictions and possible beneficiaries of the mining fee.

C. Finally, the most emblematic type of conflict is the one with genuine opposition to mining, usually related to the potential damage brought on the living means of the actors.

Besides quantitatively increasing conflicts, the incentives structure also produces an important qualitative transformation of the motives of protest. Protest now seeks immediate benefits, instead of reforms in the legal system, government practices (Arellano Yanguas 2011: 182) or in social structures and categories. This way the constructive potential of social conflict is strategically reduced, and it becomes narrower and distorted to the extent that the actors reduce, narrow and distort their own demands, transforming into strictly financial complaints.⁴

To sum up: although macroeconomic data speaks of growth and greater social wellbeing, the analyses at the regional level show no evidence that mining activity or the mining fee might have had a positive impact on the global social wellbeing and development of mining regions.⁵

This information is consistent with the perceptions of dissatisfaction collected by Latinobarómetro (1995-2011), as well as with the results of the National Homes' Survey (Encuesta Nacional de Hogares – Enaho) for the analysed period. For example, satisfaction with democracy in Ancash and Tacna, two of the regions with the highest government transfers from mining, goes from a level of total dissatisfaction (“not at all satisfied”) of 10,7% and 6,7% in 2006 to 20,0% and 26,7% in 2010. Similarly, the certainty of job opportunities goes from a perception of “no certainty” of 38,5% and 46,7% in 2007 to 35,0% and 53,3% in 2009. The perception of general life satisfaction as “very satisfied” goes from 16,7% and 13,3% in 2006 to 11,1% and 0,0% in 2010. The Enaho survey also shows that the perception according to which the country is ruled only for the benefit of certain powerful groups goes from 82,4% and 86,5% in 2005 to 90,5% and 100% in 2010 (INEI 2006-2010). In general terms, the results concerning dissatisfaction regarding public services, drainage, health, and education are similar.

Comparing the information given by Arellano and the perceptions sampled by Latinobarómetro and Enaho, clearly there are no concrete nor perceptual improvements. On the contrary, one might even speak of an important increase in the feeling of general dissatisfaction. Next, I will attempt to explain the paradox of increasing dissatisfaction despite the growth of policies of redistribution.

⁴ Not only this. Even though the “mining fee” factor is the main distorting element and, to a certain extent, it hides the multidimensional character that every demand originally has, the implementation of the “mining contribution” (furthermore, a good illustration of a widespread dynamic of transferring state responsibilities to private actors) contributed to the production of an anomalous understanding of the responsibilities of central government. In practice, this policy turned companies into the focus of people's rage and demands. This eroded the state's legitimacy by reinforcing the belief that the state was neither an impartial mediator nor was it willing to reach the most remote regions of the country unless it was to enforce the interest of the economic elite, usually by violent means (Arellano Yanguas 2013: 162).

On this matter, Arellano comments with a pertinent study carried out by Goldberg and others, published in 2008. This study analyses a database of different US States for the 1929-2002 period and concludes that the dependence on extractive industries leads to a lower economic growth and to a poor social development. In the specific cases of Louisiana and Texas, they discovered that the main cause was the use of profit by political authorities to keep fiscal burden low and to gain public support through clientelist strategies, thus increasing their possibilities of remaining in power, reducing political opposition, and damaging the quality of public policy. Caselli and Michaels reach similar conclusions in the case of Brazilian municipalities and point at corruption as the most likely cause (Arellano Yanguas 2011: 190).

⁵ To this end, Arellano checks six annual change indexes at a regional level: yearly growth rate of regional GDP, excluding mining activities; yearly poverty variation; yearly variation in percentage of population with access to drinking water; yearly variation in percentage of population with access to public drainage system; yearly variation in the school attendance rate for children ages 3 to 5; and yearly variation in the school attendance rate for children ages 12 to 16. These indexes are combined with other variables in a random effects panel data regression model (verifiable in Arellano Yanguas 2011: 198-201). The author concludes that mining, in general terms, and mining fee transfers, in particular, have had a minimal impact on population neighbouring mining activities (improved school attendance is the only index on which the mining fee seems to have a positive effect). Analysis at a local scale reaches the same conclusions: “those municipalities which received larger mining fee transfers between 2001 and 2007 did not improve their well-being indexes for the period 1993-2007 more than the rest of municipalities in the country with similar characteristics” (Arellano Yanguas 2011: 213).

2. Alternatives to the Redistributive Interpretation. Proposal for a Conceptual Framework

The present analysis proposal aims at interpreting conflicts from a different perspective. To begin with, my hypothesis is that the central problem has nothing to do with redistribution. Thus, I present successively three models showing by way of comparison the advantages and limitations of each one, as well as the manner in which they might complement each other in order to build a comprehensive conceptual framework of conflict interpretation and analysis. The results of this procedure have the status of a theoretically grounded working hypothesis whose efficiency shall be practically corroborated on the field.

2.1. The Democratic-Deliberative Model

The most important advantage of this model is that it directly questions the usual redistributive interpretation of conflict through the incorporation of an additional dimension represented by the need for public-political deliberation. This model focuses on the irreplaceable role that political participation rights have in citizenship (Rawls 1996: 318-319). Deliberation is the space where social problems are resolved and where the needs of conflicting parties are collectively interpreted. This prevents the unilateral imposition of certain notions of development and well-being. Thus, for instance, in the case of mining, the deliberative model would prevent development notions associated with wealth accumulation later distributed through taxation from being presented as the only possible interpretation. The fact that issues of basic justice are decided without the participation of all parties implies that annulment of communicative freedom. Only deliberation makes it possible to express, interpret, discuss, and resolve discontent and demands (Elster 1997; Habermas 1992). According to this understanding, power — understood here essentially as communicative power — is something intrinsically positive that should be safeguarded by guaranteeing the exercise of political liberties. In this sense, it is claimed that these liberties cannot be expendable since they secure an essential human trait: the need for action and discourse. Contrary to what happens in a purely instrumental (or redistributive) view, in this model political liberties cannot be replaced by or exchanged for other goods. The instrumental-utilitarian conception lies under the assistentialist⁶ and populist tendencies, according to which what matters is a previously determined outcome. Therefore, from this view, the means are utterly irrelevant if the desired result is achieved, i.e. deliberation is irrelevant.

As we have already seen, it is precisely this last perspective that seems to lead current debates on mining. By presupposing that there are clearly defined interests' struggles among the parties, it is unilaterally assumed that the so-called “anti-mining” groups exclusively demand control over resources or territories, as well as the possession of other similar scarce and quantifiable goods. Therefore, it is assumed that the achievement of a certain degree of material well-being which satisfied such demands would make dialogue and the exercise of political rights unnecessary and even superfluous. Indeed, as discussed, from the first negotiations between the state and mining companies during the Fujimori administration to this day, recommended strategies to solve the problem of social discontent have implied the progressive increase of taxes and a state effort to raise the mining fee. This way, the responsibility for satisfying the demands of the population falls entirely on regional governments, which — it is claimed — are unable to administrate the substantial resources obtained. Thus, the illusion is created that the problem is merely one of deficiency in the redistribution of resources and in the planning and application of public policies. According to the deliberative model, inclusion means nothing else but the possibility of equally taking part in discursive processes once a disagreement has ensued. That is, inclusion means being able to “enter” the spheres that the political system should make available to everyone so that they may manifest their discomfort and deliberate on any issue affecting them.

Thus, conflict would emerge when parties perceive that these mechanisms are not working. That is, when actors have a demand that they expect to express and handle publicly, but they do not find the

⁶ In the Latin American context, “assistentialism” refers to the dependency relationship that arises between individuals and the state. It is paradigmatically characterized by social programs oriented to the exchange of essential goods for electoral support.

adequate means to enable this, to make their voices heard and their contributions be considered significant. A social conflict is, hence, not a mere symptom that a group perceives a given situation as unjustified or lacking validity. This is the normal case in a healthy society. Conflict ensues rather — and this is precisely so in the case of mining — where there is the perception that the mechanisms which should channel demands do not exist, are hindered, or deformed. For this reason, social conflicts are usually interpreted as complaints before the state and not simply as confrontations between opposing parties. Naturally this situation worsens when one of the parties considers this dysfunction to be intentional and aimed at benefiting the other party. In the case of mining, this happens when the state — who should have a neutral role concerning procedure guarantees and should protect fairness — is identified with the mining companies.

Despite all its virtues, this model has an important limitation: for deliberation to function properly and for it to lead to improvements in the quality of people's lives, a series of considerable material, social and cultural conditions are required, as well as a minimal degree of development of certain argumentative capacities. However, it turns out that many of these conditions are precisely what must be generated through deliberation. Without these conditions, deliberation cannot take place, which leads to the conservation or aggravation of the previous situation of disadvantage.⁷

Disclosing these limits does not imply simply rejecting political deliberation as a means to the resolution of problems. It is rather an attempt to show the need to be completely consequent with political deliberation and thus develop a complex analysis of the conditions that allow its correct realization. The two next models permit this precisely.

2.2. The Model of Human Development and the Capability Approach

According to Amartya Sen, power is a person's capacity to fulfil herself fully throughout her life following the parameters she considers valuable. This fulfilment implies different forms of social agency (i.e., carrying out several "functions" in different social contexts). According to Sen's definition, a "capability" is "a kind of power" which operates as a sort of individual catalyst that transforms "multipurpose" resources into actual well-being (Sen 2009: 19). Here, "resource" means everything which can be "distributed" or delivered in some way (ranging from basic opportunities or liberties to material resources like money, consumer goods or even infrastructure, schools, etc.). These "multipurpose goods", which advocates of a redistributive solution consider the central aim of state policies, are not, so to speak, valuable "in themselves". Their value is not intrinsic, but determined by the way in which they are used by the people who receive them. However, for them to be used, there must be what Sen calls a conversion "capability", something which may vary notably from group to group and from person to person. Advocates of redistribution do not take this into consideration, since they are influenced by a criterion of development and progress which is established *a priori*, barely open to deliberation and, therefore, blind to difference.

Concerning the democratic process, Sen shares the basic notion of deliberative democracy according to which the public use of reason is essential to the idea of human development, since it is an irreplaceable element in the constitution of identity and in the expression of the real-life experiences and demands of people. In other words, without deliberation about problems it is impossible to know what ought to be (re)distributed and how to do it, since without such processes of "discussion and collective formation of opinion and will" (Habermas 1992) it is impossible to become aware of the true needs, demands and potential significant contributions of others. This is clear in the case at hand. Hence, this model could offer a convincing explanation of the apparent contradiction implied in the simultaneous perception of a high dissatisfaction rate among the population and the extraordinarily positive state income indexes of mining activities.

But although in a modern political community human development is unthinkable without the exercise of deliberation, it also entails many other forms of interaction which do not necessarily depend on nor are reduced to the politic-argumentative praxis. Democracy, understood as a process which takes place throughout life, refers, thus, to the set of practices and institutions that secure full development. This way, the success of a society can only be measured by the full development of

⁷ On the problem of the "circularity" or the "vicious circle" of deliberative theories of democracy, see: Bohman (1996: 123 ff); Forst (2007: 294-297); Fraser (2007: 328-235).

the individuals who make it up. This is only possible considering all the social contexts in which this development takes place (Sen 2009: 9).

In any case, this position allows us to think exclusion in a wider sense than the first model, since exclusion refers now to the obstacles in social life which not only block access to deliberative spheres, but, more generally, prevent the full exercise of power conceived as the capability to develop oneself in all the relevant spheres of socialization. This possibility of realization (this “inclusion”, we might say), however, is not understood merely in terms of the possession of goods (i.e., of what can be distributed, measured, quantified), but specially in terms of the effective exercise of freedom and of the real capability to achieve well-being and to pursue that which one has good reasons to consider valuable. To this extent, public policies which concentrate exclusively on the redistributive aspect of goods or resources would not suffice to establish when authentic human development can be guaranteed, since they usually ignore existing inequalities concerning the rate of conversion of those resources into actual functioning.

Despite its multidimensional approach to the problem of development, this model does not offer a satisfactory explanation of the problem of how discontent and social conflict emerge. And this is simply because it does not clearly establish what are the normative expectations that the agents could consider as harm and with respect to which they might eventually demand compensation. In other words, although this approach establishes what is it that people may legitimately wish for as requirements for the fulfilment of their life plans, it is not equally clear why and under which criteria they could legitimately ask “someone” (may this “someone” be a group of persons, institutions, businesses, or the state itself) to promote (or at least not to hinder) such realization. Thus, due to the lack of justification of this demand, there would be no convincing ground for social demands and claims.

I will now present the third model, which brings together important elements of analysis in order to overcome the above-mentioned deficiencies of the approach of capability, especially those concerning the interpretation of the motivations of social conflicts and the articulation of the diverse forms of recognition required by a holistic understanding of human development. This model manages, furthermore, to establish an organic bond between the perspective of common goods and a conception of social power which distances itself from premises originating both from rational choice theories and the tradition of the social contract.

2.3. The Model of Recognition and Constructive Social Power

This model concentrates on the diverse forms of social participation required for the full development of personality and identity. Regarding its information basis, this perspective is not far away from Sen’s proposal, since it also acknowledges that freedom and development require a multidimensional set of spheres of interaction. One of the advantages of this model over Sen’s is, nonetheless, the historic-genealogical reconstruction of the normative bases on which capitalist societies have constituted their different fields of participation. This reconstruction aims at offering a realistic approximation to the “grammar” of social demands and struggles as they exist in everyday contexts of interaction (Honneth 1992).

The notion of power commonly associated with this approach has a wider scope than that of the first model. Both conceptions resemble each other to the extent that they attribute an essentially intersubjective function to power. Unlike the notion of power of the first model, however, power here is not necessarily synonymous with consensus nor its direct cause.

Foucault (1997) has captured better than anyone the original sense of this notion of constructive social power. For him, power exists halfway between violence and consensus. Power, thus, does not act directly on the conduct of another, forcing their actions, nor does it necessarily promote normative and rational agreement. Power rather acts on the structures that condition possible behaviour. And it can carry out this “pastoral” function, guiding conduct, precisely because it configures the social space in which subjects act, a space which on principle belongs not to this nor that individual, but is common. Thus, it could be said that power is the capability to name, categorize, and establish meanings and values for the concepts with which we represent the world. Therefore, only those who have participated in its constitution — those who have enough “symbolic capital” — can be considered autonomous beings, to the extent that they are not “subjected” by an

order in which they do not recognise themselves and at the face of which they are nothing but simple spectators without influence (Bourdieu 1985; Rancière 1998).

According to this, the democratic process — in charge of legitimately guaranteeing that people take part in the creation of the social world — is in this model identical to the exercise of social power. This process implies that all parties participate in the symbolic capital that allows to categorize the common world and to establish social meanings and values. Because the way in which the social is constituted conditions the real opportunities of individuals and also influences the way in which political liberties are exercised, the primary problem is not the redesign of political-deliberative mechanisms in order to allow a smoother “entrance” (in the manner of the formation of “roundtables” for the conflicting parties), but rather the redesign of the way in which power relationships take place in real practices and institutions (Fraser 2007). Inclusion, thus, has to do with the possibility of being able to contribute to the creation of the common world and being able to define what is considered valuable or relevant, reasonable, or meaningful. The symmetric exercise of this form of social power is possible through intersubjective relationships of recognition within different spheres of participation and interdependence. These forms of recognition allow people to fulfil themselves autonomously, recognising themselves as co-authors of common social reality.

This way, conflict can be explained through the struggles for recognition in each one of the spheres of interaction in which individuals legitimately expect some type of consideration (Honneth 1992). We speak properly of conflict when these claims are brought forward within a given institutional order that serves as the material support for some kind of practice identified by the actors themselves as unfair or not justified. In this sense, these struggles can lead to demands for transformation of certain structures that block full and autonomous development of identity, in whose creation — it is assumed — the plaintiffs have not participated and, therefore, do not recognise themselves.

This model allows a better explanation of the case of mining since it focuses on the matter of multiple moral and normative motivations of social demands, struggles and conflicts from the perspective of the actors themselves. It considers the following questions: What do individuals perceive as harmed? Concerning which expectations do they feel betrayed to the extent that they are willing to confront current orders and structures? To what extent can these claims be considered justified? (Honneth 2003). The answer that this model suggests — which is based on empirical evidence — is that discontent leading to conflict is produced when certain recognition expectations, which people believe they legitimately deserve, are betrayed. Although these demands originate from different sources — which correspond to the different spheres in which some kind of social recognition can be expected —, it is the normative force implied by the need for “retribution” or “damage reparation” (not only for redistribution) what enables us to describe all these demands as “moral”. The normativity of the demands ensues, furthermore, from the normativity inherent in the institutions of the society in which social actors live, institutions which are some way — tacitly or explicitly — accepted as universally binding (Honneth 2003).

Thus, the question of the motivational basis and its legitimacy is perfectly pertinent in the case of the conflicts we have been discussing, since we seek to understand exactly what it is that the “anti-mining” opposition demands. In other words, can the complaints be explained exclusively in terms of a larger distribution of goods? The question behind certain scepticism in this regard is: Why, faced with the promise of larger resources and total well-being, no conformity arises, but the contrary? On these grounds and considering reality, it seems sound to claim that the complaints do not simply refer to the strategically motivated demand for the individual possession of greater goods or resources; it is not merely an issue of fairer recollection and redistribution of wealth through the mediation of the state. The complaints — as polls show — usually refer to many other forms of social participation. They are caused by multiple reasons since reciprocal recognition is to be expected in multidimensional spheres of interaction.

Consequently, freedom is understood in this model as the possibility to develop personality without obstacles and fully through participation in all the spheres of interaction which are normatively recognised and acknowledged in a given society. In other words, as the capacity to act towards the constitution of identity and to autonomously pursue what one has reasons to consider valuable (Sen 2000: chaps. 2, 3). As we have seen, conflict would emerge when individuals experience the existence of obstacles — manifest in the form of certain social practices, institutions or structures,

but also as utilitarian state measures or policies — that make their full realization as free beings difficult; that is, when something blocks without justification their capacity of agency in the above-mentioned sense.

3. Final Considerations

Considering my previous exposition, I am now able to draw some conclusions that may contribute to an alternate interpretation of the demands and conflicts instead of the traditional redistributive one. This alternate interpretation shares — I think — the basic intuition of the perspective of common goods. The obvious contradiction between, on the one side, the increase in redistribution economic policies and the construction of structures based on the same principles, and, on the other side, the increase in conflicts and the growing dissatisfaction, as well as the sustained social malaise and the perception of state inefficiency and partiality, seem to show, indeed, the limits of the current interpretative framework.

As we have seen, the demands usually underlying social conflicts have a more complex nature, since they refer to the dissatisfaction of certain expectations in several dimensions of social interaction and participation that are necessary for the constitution of identity and for the unhindered development of personality. Therefore, it is counterintuitive to reduce these demands to a mere demand for redistribution. The lack of recognition, opportunities, and capabilities necessary for multidimensional development is interpreted by the actors themselves as a moral affront expressed as suffering, malaise and outrage when experiencing the unfulfillment of a long series of normative commitments tacitly or explicitly made by the state.

Interpreting these deficiencies merely as the need for material resources which might be satisfied through the application of certain redistribution policies represents, as we have seen, a categorial imposition that contradicts the elemental principles of democratic deliberation and autonomous self-understanding. Thus, taking such a unidimensional perspective as a starting point solves no problem at all. Such imposition shapes a reality in which the affected party acts unilaterally, and deforms tendentially what people might legitimately expect of and demand from society and state. This produces, as noted above, a concealment of many other factors relevant for the self-realization of social actors.

Demands and conflicts multiply because of the belief that the actors are demanding the satisfaction of a need which has already been interpreted as the only possible one,⁸ when actually the real causes of malaise and dissatisfaction have not been yet identified, because they have been conveniently concealed, deformed or inauthentically interpreted. It is no surprise that fighting for something which is thought to be legitimate, when actually it is not, leads to no reduction in the feeling of dissatisfaction, but to an increase. This expresses itself in conflicts of growing intensity, whose nature seems, at first sight, unexplainable, so that there is nothing left but to officially declare them “irrational” or, at best, ideologically “politicized”.

As I already mentioned, these notes are speculations to the extent that they are only a working hypothesis that ought to be verified against specific cases. For that purpose, empirical analyses are required. However, this surpasses the scope of the present research. The merit of this paper, if any, is to present an interpretative framework which may guide such empirical analysis in order to not only validate itself, but to guide the design of public policies more adequate to channel and solve social conflicts.

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⁸ That is, the pursuit of concrete and immediate material benefits and not a structural transformation in the sense implied by the models discussed previously.

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