

## Original article

# Opposition Tactics on the Implementation of Advocacy-Driven Institutional Reforms: A Study of Mining Environmental Assessment in Peru

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## ABSTRACT

Between 2008 and 2015, Peru underwent significant institutional reforms to enhance state autonomy in regulating the environmental impact of mining. Advocacy Coalition Networks (ACNs), comprising grassroots organizations, NGOs, academics, and state actors, played a crucial role in advocating for these reforms and shifting public opinion both nationally and internationally. However, the implementation of the reforms fell short of meeting the initial objectives and demands of the ACNs and local communities. During the formulation and implementation phase, the powerful opposition from mining stakeholders employed tactics such as revolving doors, minimal changes, delays, and passing the buck, undermining the intended outcomes. This study highlights the challenges faced by ACNs in influencing environmental reforms during the transition from approval to formulation and implementation stages. It emphasizes the role of the political economy and the importance of forming alliances with influential institutional actors to counterbalance opposition.

## 1. Introduction

Between 2008 and 2015, environmental assessment institutions in Peru underwent a significant transformation in response to mounting criticism over the lack of state autonomy in regulating environmental externalities caused by major industries, such as mining. Mining has long been the driving force behind Peru's celebrated economic cycles of growth,<sup>1</sup> and during the recent commodity boom cycle, mining underwent rapid expansion. Over the past 20 years, it has consistently accounted for nearly 70% of all exports and approximately 10% of GDP (Dargent et al., 2017). However, this expansion triggered strong resistance and significant demands from the communities and populations where mining companies established their operations (Arellano-Yanguas, 2011; Jaskoski, 2014; Paredes, 2016).

While many Latin American countries had already established environmental assessment institutions led by their respective environmental ministries to enhance state independence from sectors like mining, agriculture, and manufacturing, the Peruvian state resisted this institutional trend until the very end. Instead, it chose to maintain self-regulating control of environmental assessment within these productive sectors (Orihuela and Paredes, 2017). The eventual reforms entailed the

creation of the Ministry of the Environment (MINAM) and the Agency for Environmental Assessment and Enforcement (OEFA) in 2008, and the subsequent transfer of responsibility for Environmental Impact Assessments (EIAs) from producing ministries, such as the Ministry of Energy and Mines (MINEM), to the National Environmental Certification Service for Sustainable Investments (SENACE) in 2015.

These reforms emerged from a contentious process involving the mining sector and advocacy coalition networks (ACNs), which consisted of grassroots organizations, agricultural producer associations, national and international NGOs, journalists, academics, and some state actors (Urquidí and Walter, 2011; Paredes, 2017). The ACN campaigns played a pivotal role in advocating for environmental policy reform by amplifying the struggles and concerns of affected communities. These demands encompassed issues such as the prohibition of mining in vulnerable areas, land compensation, improved safeguards, and disagreements over environmental regulations (Paredes, 2022; Arce, 2014). These advocacy efforts involved diverse and coordinated campaigns that spanned multiple scales, supported by civil society actors and strategic institutional alliances (Kirsch, 2014; Silva, 2015; Delamaza, 2019; Delamaza et al., 2017). Furthermore, these multiscale ACN campaigns played a significant role in creating opportunities for

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<sup>1</sup> But also busts, the vulnerability of Peruvian extractive model has been well studied (Thorpe et al., 2012)

environmental reforms to take shape (Orihuela and Paredes, 2017). The transformative shifts in public opinion at both national and international levels produced the 'boomerang effect' on national governments, as described by Keck and Sikkink (1998).

In the long run, these reforms present an intriguing paradox that warrants examination. Peru stands out for having one of the highest concentrations of mining mobilization globally (OCMAL, 2023). Additionally, this mobilization was accompanied by extensive national and international alliances (Paredes, 2016; Dargent et al., 2017) organized in ACNs. The ACN campaigns aimed to establish a unified, more autonomous, and rigorous environmental assessment system through institutional reforms (Pulgar-Vidal, 2008; Lanegra, 2015a). Nevertheless, the literature suggests that, upon reflecting on these reforms two decades later, it becomes evident that institutional change has not fully aligned with the initial objectives or met the demands of the ACNs, as well as the local and marginalized mining communities associated with them (Gustafsson and Scurrah, 2019; Valencia, 2022; Barrantes, 2020; Merino, 2020; CooperAcción, 2021a; Schilling-Vacaflor et al., 2018).

The issue of the lack of alignment between resulting institutional change and the initial objectives of reforms is commonly referred to as the "implementation gap" in institutional reforms (Brinks et al., 2020, p. 27). This concept underscores the intricate interplay between advocacy efforts and the challenges and opportunities encountered during the transition from approving reforms to implementing them (Biggs and Andrews, 2015). How do ACNs navigate the transformative processes as they progress from shaping the public agenda to exerting influence over the formulation and eventual implementation of institutional reforms? What contextual factors, alliances, and tactics are crucial in the reform efforts undertaken by activists and their opponents, sustaining their influence as the process moves from one stage to the next?

The main argument of this article asserts that the influence of local community mobilization and their Advocacy Campaign Networks (ACNs) has an indirect impact on achieving institutional reform, but this influence becomes further diluted during the formulation and implementation stages. The article proposes that opponents of these reforms employ specific tactics that undermine the intended outcomes. The article identifies four tactics employed by opponents: 1) revolving doors, 2) minimal substantive changes, 3) delaying change, and 4) passing the buck.

The Peruvian case sheds light on the utilization of these tactics by influential opponents within an economic context dominated by large-scale mining (Thorp et al., 2012). Given the historical significance of mining in the Peruvian economy, enduring alliances have been established between industry representatives and aligned state actors (Paredes and Figueroa, 2022; Orihuela et al., 2021; Merino, 2020; Bebbington et al., 2018), granting them significant access and influence during the formulation and implementation stages of reforms, ultimately diluting their impact. In contrast, Peru's weak political system presents challenges for ACN members in forging new alliances with influential institutional actors who can possess decision-making power in these phases.

The article provides both theoretical and empirical contributions to the literature on the outcomes of social movements in democracies with fragile institutions (Brinks et al., 2020). Within this context, the article illuminates the dynamics of political economy and the tactics employed in the ongoing struggle for change even after a reform has been approved, focusing on the formulation and final stages. It examines the interactions between social movements and their powerful adversaries, shedding light on these critical aspects.

The study utilizes an in-depth case study design to examine the long-term process of reforming environmental impact assessment in Peru. It specifically focuses on the contentious dynamics involving the mining sector, environmental activists, and ACNs that are actively engaged in campaigns centered around protests by local communities affected by mining operations. The four campaigns selected, Tambogrande, Conga, Tia María and Espinar are crucial as they have a substantial

impact on the reform process. This impact is evidenced by the significant media coverage they receive and the attention they attract from transnational actors who play a pivotal role in the approval of new institutions related to environmental assessment.

Two methodological strategies are employed in the analysis. Firstly, a combination of primary and secondary sources is utilized to capture the different stages of the reform process. This includes conducting 15 interviews with key actors at the national and local levels, such as state bureaucrats and NGO representatives, who are involved in the coalition advocating for environmental reforms. Secondary sources, including local and national press, state legislation and reports, and online reports from activist organizations, are also consulted.

Secondly, the study builds upon previous fieldwork and adopts an approach known as ethnographic reanalysis (Burawoy, 2003, p. 646). This approach entails revisiting existing ethnographic data without conducting additional fieldwork. Consequently, we thoroughly analyze our data from these four cases, including fieldnotes, interviews, and newspaper accounts, to uncover the claims, strategies, and alliances employed in advocating for environmental assessment reforms. The utilization of these cases allows for a comprehensive analysis of the intricate dynamics and challenges associated with mobilization and their influence on the reform process.

The article is organized as follows: Section 2 discusses the literature, and Section 3 explains the two-stage struggle for reform. Section 4 explains temporal and multilevel connections between the formulation and implementation phases that further weakened the initial reforms. Finally, Section 5 presents some concluding remarks.

## 2. Extractive sector, opposition tactics and implementation gap

The expansion of extractive industries and the subsequent establishment of an economy based on natural resources have significantly accelerated economic growth in Latin America. However, this growth has also led to profound transformations and the mobilization of numerous local and rural communities. While there is a vast body of literature discussing the origins and demands of these communities' protests (Martinez-Alier, 2021; Conde, 2017), fewer studies have focused on the consequences of this mobilization or have examined the relationship between the development of social and environmental institutional innovations in the extractive sector and these social dynamics (Silva et al., 2018; Delamaza, 2019).

Various countries have introduced new norms and regulations to address the environmental and social impacts associated with extractive industries. Chile, for example, implemented glacier legislation to manage these concerns (Cortez and Maillet, 2018; Haslam, 2018), while El Salvador enforced a mining ban (Spalding, 2018). Peru established the Ministry of the Environment and The Agency for Environmental Assessment and Enforcement (OEFA) (Orihuela and Paredes, 2017), and many other countries have undertaken reforms related to Indigenous free, prior, and informed consent (Schilling-Vacaflor et al., 2018; Wright and Tomaselli, 2019).

Nonetheless, the existing literature on the consequences of social movements tends to have a pessimistic outlook regarding the direct impact of mobilization on social or political change (Amenta et al., 2010; Biggs and Andrews, 2015). Instead, scholars argue that political outcomes are influenced by the actions of other actors who interact with and respond to collective action (Bosi et al., 2016). Therefore, even when social movements initiate political change, they do not necessarily have control over the resulting consequences (Andrews, 2001). At best, the influence of social movements is mediated by the political context (Amenta et al., 2010; Tatagiba and Teixeira, 2016) and their alliances with institutional actors, which may include political actors, bureaucrats, members of the press, or a combination thereof (Giugni, 1998; Andrews and Caren, 2010).

In a similar vein, researchers investigating resistance to mega projects by extractive industries in Latin America have delved into the

cumulative effects (Silva, 2016, p. 10) and the combined impact resulting from the formation of Advocacy Campaign Networks (ACN). These networks consist of elite organizations and grassroots groups collaborating in advocacy campaigns (Alcañiz and Gutierrez, 2022; Paredes, 2023), addressing shared problems and goals (Bebbington et al., 2011; Hochstetler and Keck, 2007; Svampa, 2012). These networks often involve political actors and regulatory bureaucrats (Haslam, 2018; Spalding, 2018; Cisneros, 2016; Urkidi and Walter, 2011; Walter and Urkidi, 2017; Paredes, 2023), as well as economic actors such as local rural producers (Cisneros, 2016; Urkidi and Walter, 2011), or local business sectors (Christel, 2020; Walter and Martinez-Alier, 2010).

Thus, we have a substantial understanding of how social movements and ANCs exert indirect pressure and influence the policy agenda and approval of reforms. However, we possess limited knowledge about their concrete effects on the formulation or implementation of these reforms. This knowledge shortage is significant because, in democracies with weak institutions, the process of institutional transformation extends beyond achieving legislative victories. Such democracies often encounter an implementation gap, wherein there exists a disparity between the formal reforms and their actual implementation (Brinks et al., 2020; Levitsky and Murillo, 2009).

Scholars have noted that institutional reforms are not typically achieved through isolated episodes of contention (Bidegain and Maillet, 2021) but rather involve cumulative effects and gains over the time (Silva, 2015, p.28). In line with this perspective, we adopt a broader time frame approach (Amenta et al., 2010; Bosi et al., 2016; Bosi and Uba, 2009) that enables us to explore the intertemporal relationships between different mobilization periods. By doing so, we can not only examine the processes of accumulation and gains that contribute to the outcomes of social movements but also account for losses and rollbacks (Bebbington et al., 2018) that occur throughout the various stages of the reform process.

We find that the already indirect impact of ANCs campaigns on the approval of reforms can be further diluted during the subsequent formulation and implementation phases by the use of watering down tactics employed by the opposition reluctant to embrace the reform and privileged access to these phases. These tactics are explained in Table 1.

These tactics reveal the intersection of the implementation gap with the political economy at play (Hochstetler, 2020; Milmanda and Garay, 2019; Orihuela et al., 2021). They demonstrate that the mere passage of a norm does not deter corporate power from obstructing institutional change (Fairfield, 2015). These tactics reflect a clear bias towards preserving the status quo, with persistent institutional veto powers and vested interests undermining or reversing reforms during implementation (Bebbington et al., 2018; Madariaga and Allain, 2020). Moreover, these tactics rely on collaboration between corporate players and like-minded public partners. In Peru, these alliances involve MINEM technocrats, productive sectors, and the Ministry of Economy and Finance (MEF), reflecting the historical importance of mining in the country's economy (Paredes and Figueroa, 2021; Merino, 2020; Bebbington et al., 2018). They have been further strengthened by the emergence of a bureaucratic "political ideology" since the 1990s, which prioritizes mining investments over preventive measures (Orihuela et al., 2021, p. 3).

The Peruvian case illustrates how environmental policy dynamics transition from a public arena to a confined administrative space once a norm is approved. Within this space, corporate actors exploit their historical access and influence to impede progressive environmental reforms, employing the tactics examined. Meanwhile, members of ANCs face challenges in forming alliances due to a fragile representation system. Peru's weak political class failed to channel these mobilizations effectively, inadvertently creating opportunities for reform. The collapse of political parties in the late 1980s further eroded the relationship between politicians and constituents, resulting in coalitions of independent politicians lacking programmatic consistency, experience, and

**Table 1**  
Opposition tactics in the phases of formulation and implementation.

Tactic	Definition	Related references
Revolving door	This refers to the movement of personnel between private and public sectors, placing individuals aligned with private interests in key bureaucratic positions. It allows influential sectors to capture and exert influence over the state. In newly established environmental institutions, the extractive sector's influence on bureaucratic appointments grants privileged access for defending their own interests.	Baker, 2010; Johnson and Kwak, 2010; Durand, 2016.
Minimal substantive changes	This strategy is often referred to as "insignificant institutions," which involves the implementation of norms or rules without a genuine intention to bring about substantial change, even when enforced. It is characterized by the prevalence of tokenistic measures that create the illusion of addressing environmental concerns but ultimately fail to promote significant change.	Brinks et al., 2020
Delaying change	This strategy uses the passage of time to undermine reforms, taking advantage of fading momentum and creating challenges for sustaining pressure during bureaucratic processes. Delaying movement proposals can temporarily pacify conflicts, as seen in social movement literature, while in legal studies, delay is used to prolong proceedings and hinder progress. This deliberate strategy obstructs effective changes, benefiting opposing sectors and maintaining the status quo in environmental reform.	Amenta, 2006; Rosenberg, 1991
Passing the buck	It involves transferring responsibility between state agencies, especially when there is ambiguity or overlap in accountability. Complex grievances, such as the need for significant participation, often lead different state institutions to evade responsibility by claiming it falls under the jurisdiction of another institution.	Harrison, 1996; Glover and Touboulic, 2020

plagued by corruption scandals (Levitsky and Zavaleta, 2019). Additionally, the weakened political system witnessed the emergence of non-elected technocratic cadres, particularly in economy-oriented sectors such as mining, economy, and finance (Vergara and Encinas, 2016). These technocrats, alongside economic elites, wielded veto power during the implementation of reforms.

### 3. The creation of a unified environmental authority

#### 3.1. Partial autonomy and delayed EIA office

During the 90s, Peru experienced an economic recovery alongside an authoritarian regime and the restructuring of its mining sector. This transformation involved privatization, a focus on private investment, and efforts to address international environmental concerns. As a result, environmental impact assessments (EIAs) were introduced for mining projects in 1991, but it was not until Fujimori's self-coup in 1992 that regulations were enacted. The implementation of Fujimori's General Mining Law (DS-014-92) granted mining concessions to private entities and made Environmental Impact Assessments (EIAs) mandatory. The

Ministry of Energy and Mines (MINEM), specifically the General Office for Environmental Affairs (DGAA), was tasked with evaluating EIAs and issuing permits. Private firms authorized by the government were contracted to prepare the EIAs, and the mining companies bore the associated costs.

After democracy and press freedom were restored, increased attention was given to environmental impact assessments (EIAs). In 2001, the National Environmental Impact Assessment System Law (SEIA) (No-27446) was passed, requiring EIA approval prior to starting investment projects. However, the underlying structure of the previous legislation remained unchanged, with sector-specific ministries like MINEM retaining responsibility for environmental regulation, particularly in mining. As mining concessions expanded due to soaring international prices, there was a corresponding increase in socio-environmental unrest related to mining. Graph 1 shows a peak in protests by 2009, with 67% of these conflicts attributed to the mining sector (Defensoría del Pueblo, 2014).

Between 2000 and 2008, several incidents involving local communities emerged as powerful manifestations of opposition and criticism towards the country's mining environmental institutions. Firstly, in 2000, the mobilization sparked by a mercury spill caused by the Yanacocha project in Choropampa, Cajamarca, challenged the prevailing narrative of "new mining" with zero environmental impacts (Li, 2015). Secondly, the case of La Oroya, an old privatized smelter, raised serious concerns about the effectiveness of existing environmental institutions in addressing pre-existing contamination issues and enforcing a viable remediation plan (Orihuela and Paredes, 2017). Lastly, in 2003, the local population in Tambogrande, Piura, rejected a project led by the Manhattan Minerals Corporation. Collaborating with national and international NGOs, they emphasized deficiencies in the Environmental Impact Assessment (EIA) through the technical opinion of an international expert (Paredes, 2016; Moran, 2001). This campaign drew attention to the project's adverse effects on the valley, agriculture, and the exclusion of local voices.

Emerging from these conflicts, an ACN comprising grassroots organizations, NGOs, and experts from Peru and abroad began advocating for enhanced environmental regulation within the mining sector. In 2006, the Dialogue Group on Mining and Sustainable Development was formed, bringing together 50 specialists, including members of the ACN and industry representatives. They produced a report criticizing the regulatory model of the General Office for Environmental Affairs (DGAA) (Granados, 2016). Furthermore, Jaime Quijandria, a progressive Mining Minister appointed during the Toledo government (2002–2006), invited a World Bank team to assess the quality of environmental regulation in the sector. The delegation's final report highlighted significant staffing issues within the DGAA and their lack of environmental expertise (World Bank, 2005). In response to mounting criticism, MINEM established the Supervisory Agency for Investment in Energy and Mining (OSINERMIN) in 2006 (see Graph 2), granting it

greater autonomy to inspect post-impact effects within the industry, particularly addressing pollution issues stemming from the La Oroya smelter (Paredes and Figueroa, 2021). However, the challenges surrounding the Environmental Impact Assessments (EIAs) remained unaddressed.

In the late 2000s, the growing collaboration between local movements and activists from national and international NGOs began to have an impact on public opinion in Peru and internationally. The primary focus of this activism was the need to reform environmental regulation, specifically addressing the constraints affecting the sector's autonomy (Pulgar-Vidal, 2008; Lanegra, 2008). The Tambogrande conflict, for instance, underscored the necessity for changes in meaningful participation during the Environmental Impact Assessment (EIA) process (Paredes, 2016). Similarly, the Conga campaign raised concerns about the quality of the EIA and the lack of independence of the approving authorities (Macassi, 2022). Like in the Tambogrande case, the ACN provided alternative expertise to challenge the official EIA findings. The central argument of these campaigns was that the mining sector held unchecked power, acting as "judge and party," eroding trust within local communities and fueling significant conflicts. A significant turning point in public opinion occurred when *El Comercio*, Peru's most conservative newspaper and a staunch supporter of the extractive model, published an opinion piece asserting that Peru was facing an "environmental mess" that necessitated substantial reforms.<sup>2</sup>

Thus, paradoxically, during Alan Garcia's pro-business second government (2006–2011), the Ministry of the Environment (MINAM) was created (see Graph 2), albeit with social mobilization indirectly influencing the decision. Garcia was particularly enthusiastic about exploiting natural resources to boost economic growth.<sup>3</sup> Despite his opposition to the reform, mounting protests during this period shaped opinions in favor of a reform among national and international actors. The support of external actors was crucial to Garcia's administration, especially in relation to Peru's free trade agreement (FTA) with the US, which required stricter environmental legislation. Notably, the IADB was a key creditor during the Camisea Gas Project, Peru's largest gas exploitation initiative. Given these circumstances, the Camisea negotiators convinced Garcia that establishing an environmental ministry would be viewed positively by Washington, which considered Peru lagging behind regional environmental standards at the time (Lanegra, 2015a).

The approval of MINAM marked a significant milestone in granting autonomy to environmental assessment institutions. However, during the formulation phase of the law, the extractive sector vehemently opposed the reform and utilized their political influence to weaken its provisions.<sup>4</sup> The task of formulating the law was entrusted to the Brack Commission, composed of 12 environmental specialists.<sup>5</sup> Unfortunately, there was limited representation from environmental NGOs associated with ACNs, despite their active advocacy for reforms. Furthermore, these experts faced challenges in exerting political influence in Congress and the executive branch, which limited their leverage. Despite enjoying favorable public opinion and international support, they had to navigate compromises to achieve the broader objective of passing the final approved law (DL1013–2008).

The commission effectively circumvented MINEM's proposal to exclude mining and energy sector from the overall reform, thanks to the

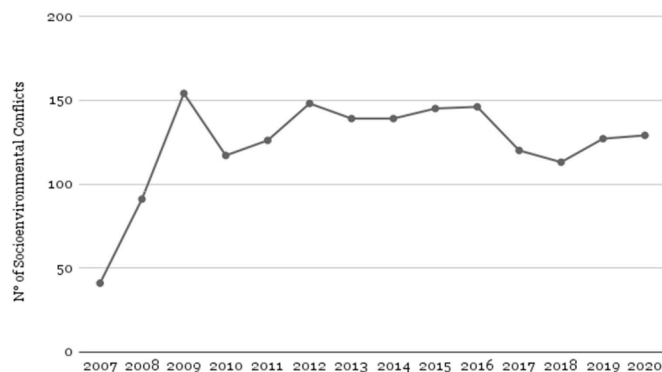


Fig. 1. Evolution of social and socio-environmental protest, Peru, 2007–2020. Own elaboration. Source: Defensoría del Pueblo 2007–2020.

<sup>2</sup> *El Comercio* July 10, 2007.

<sup>3</sup> García, A. (28 de octubre 2007). El síndrome del perro del hortelano. *El Comercio*. <https://elcomercio.pe/bicentenario/2007-l-el-sindrome-del-perro-del-hortelano-l-bicentenario-noticia/>

<sup>4</sup> The National Society of Mining, Petroleum and Energy (Sociedad Nacional de Minería, Petróleo y Energía, SNMPE) and the MINEM together became the main opposition to this commission.

<sup>5</sup> Ministerial Resolution 025–2008-PCM, January 30, 2008



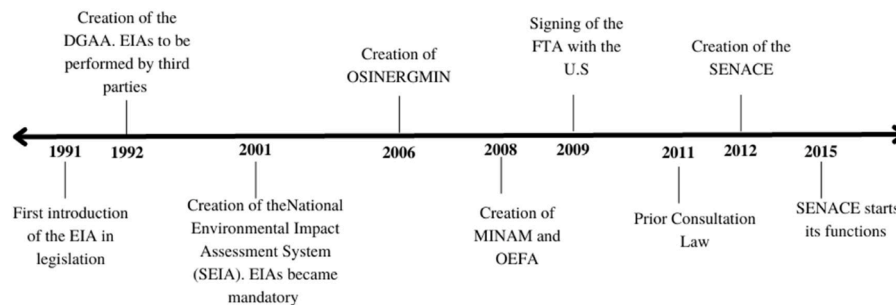


Fig. 2. Evolution of the environmental assessment system in Peru. Own elaboration.

pivotal role played by local communities and their ACNs in advocating for greater autonomy in environmental decision-making.<sup>6</sup> However, MINEM insisted by employing a *delaying tactic*, resulting in the abandonment of the commission's proposal for a unified environmental inspection and supervision body covering both pre- and post-assessment (Paredes and Figueroa, 2021). Despite this setback, the creation of OEFA, in conjunction with MINAM, was approved with a specific focus on post-assessment inspections. As a result, the desired changes concerning pre-assessment elements, such as EIAs and industry machinery supervision, remained under the control of MINEM, the DGAA, and OSINERMIN, respectively, as the opposition's tactic impeded timely progress in a unified authority.

### 3.2. ACNs' campaigns and creation of a centralized EIAs office

In this subsection, we examine the impact of local communities' protests and their associated ACNs in driving environmental assessment reforms that had been undermined in the previous period. We focus on the Tía María (Arequipa), Conga (Cajamarca), and Antapacay (Cusco) campaigns, which collectively contributed to putting the EIA back on the reform agenda. The Tía María copper project, operated by Southern Peru Copper Corporation, faced strong local opposition due to concerns about the EIA's inadequate assessment of project risks, particularly regarding water quantity and quality for local agriculture. The protests prompted a detailed analysis of the EIA by the United Nations Office for Project Services (UNOPS), which identified 134 observations highlighting institutional shortcomings in water management protection (Jaskoski, 2014). Furthermore, the DGAA approved Southern's EIA without conducting mandatory participatory hearings (Macassi, 2022). These decisions sparked a campaign in Arequipa, Lima, and abroad, resulting in the temporary suspension of the project.

Similarly, the Conga project, an expansion proposal by Newmont Corporation's Yanacocha gold mine, faced opposition that quickly escalated at multiple levels following the mobilizations against Tía María. This further tarnished the reputation of EIAs. Similar to Tía María, the Conga EIA failed to adequately address concerns raised by local farmers regarding water issues, as the project aimed to drain two nearby lakes, potentially depriving farmers and residents of their water supply (OEFA, 2016). As seen in Tambogrande in 2003, the involvement of international experts brought in by ACNs highlighted the flaws in the EIA, and residents, echoing Tía María, raised questions about the flawed practices in the participatory stages of the EIA (Jaskoski, 2014).

Regarding Antapacay, it involved the expansion of the Xstrata Tin-taya copper mine in Espinar, Cusco. The approval of this expansion raised concerns among the local population regarding the potential exacerbation of existing pollution in the area. The EIA for the new project failed to address the environmental damage and health issues

caused by previous mining activities. Since EIAs focus on individual projects or expansions, the cumulative impacts of previous projects are often overlooked (CooperAcción 2021a). In response, the local population demanded greater economic benefits, environmental remediation, and more robust evaluation of mining impacts (Paredes, 2022). The conflict, which erupted in 2012, led to the government's establishment of a roundtable to assess environmental damage and determine reparations.

These mobilization campaigns, particularly the Conga campaign, had significant consequences for President Ollanta Humala (2011–2016). Within a year, they led to the fall of two cabinets and the departure of government officials who had previously been supportive of advocacy campaigns, albeit indirectly. Among them were Humala's Environment Minister, Ricardo Gieseke, and Vice Minister of Environmental Management, José De Echave. Both were actively involved in criticizing the Conga EIA and the Espinar operation. They provided a crucial counterbalance to MINEM Minister Herrera Descalzi, who dismissed the residents' concerns as mere "beliefs" and insisted that there were no issues with the EIA.<sup>7</sup>

With a new environment minister in place and mounting international expert criticism of Conga's EIA amplified by major media outlets,<sup>8</sup> Humala responded by announcing the formation of a multisectoral roundtable to propose improvements to environmental legislation in the extractive industries, especially mining. Despite opposition from MINEM and its allies, who argued against the need for an independent body for EIAs, Humala proceeded with the creation of the National Environmental Certification Service for Sustainable Investments (SENACE) in 2012. This autonomous entity, operating under MINAM, would be responsible for overseeing EIAs and symbolized a departure from the approaches of previous administrations (Ugaz, 2019). However, during the inauguration of SENACE, Humala struck a moderate tone, prioritizing the role of SENACE in facilitating investments while emphasizing the need to address concerns of autonomy and prevent the perception of the state as aligned with extractive companies.<sup>9</sup>

## 4. Opponents' tactics in reform implementation

Both actors from the public and private mining sector posed significant opposition to the reform and significant influence on the economic and productive sectors of the government. On the contrary, ACNs faced difficulties in building government "insiders" allies to oversee the

<sup>7</sup> See <https://archivo.elcomercio.pe/economia/peru/ministerio-ambiente-critica-estudio-impacto-proyecto-conga-noticia-1328292>; and <https://archivo.gestion.pe/noticia/1337589/gob-ierno-estudio-ambiental-conga-correcto>

<sup>8</sup> See <https://larepublica.pe/politica/615089-peritaje-alternativo-eia-de-conga-no-ofrece-datos-ni-mediciones-de-calidad/> and <https://archivo.elcomercio.pe/sociedad/lima/proyecto-conga-contaminaria-recursos-acuiferos-segun-peritaje-paralelo-noticia-1384656>

<sup>9</sup> President Humala's SENACE Inauguration Speech

<sup>6</sup> <https://elcomercio.pe/edicionimpresa/Html/2008-01-28/es-desproposito-que-ministerio-medio-ambiente-no-vea-mineria.html>

reform during its implementation phase. Following the Conga campaign and subsequent repression under the Humala government, key ACN sympathizers in President Humala's government, including Congresswoman Veronika Mendoza, Minister of the Environment Ricardo Giesecke, and Vice Minister of Environmental Management José De Echave, resigned from their influential positions. The fragility of Humala's party prevented the resolution of internal conflicts arising from differing viewpoints within the government.

Furthermore, Manuel Pulgar-Vidal, the Minister of the Environment and a prominent advocate for the Environmental Assessment Reform, adjusted his stance in response to the new challenging political landscape. Faced with mounting pressure, he expressed in the media a more moderate approach, emphasizing the importance of maintaining "high environmental standards under reasonable procedures."<sup>10</sup> This shift in perspective is not uncommon when activists assume government positions, as they encounter new institutional environments and are influenced by their specialized areas of expertise (Paredes, 2023). Consequently, they face the delicate task of safeguarding the progress achieved while carefully considering the risks associated with advocating for deeper changes advocated by their former allies.

Thus, leveraging their political influence in the implementation phase, the mining sector systematically undermined the reform's original goals. This subsection examines the tactics employed by opponents to dilute the newly established institutions during this critical phase.

The composition of the SENACE board heavily favored production sectors, particularly mining. This gave mining interests the upper hand in crucial decisions related to EIA guidelines and terms of reference (Lanegra, 2015b). The intention behind this composition was to address concerns raised by production sector authorities about potential loss of influence in promoting activities. As a result, the first tactic employed was the *revolving door* to maintain power within the implementation phase. Former executives from the mining sector, whether from public or private institutions, were appointed as heads of the new agency, allowing sectoral influence to permeate.

For instance, the first director of SENACE, Rosa María Ortiz Ríos, was appointed by the executive a year after the agency's creation (Lanegra, 2015b). Prior to her appointment, she had worked at MINEM, promoting investments. It is likely that her selection was a compromise between the mining and environmental ministries (Buzzi, 2015). After two years, she left SENACE to lead MINEM. Similarly, Patrick Weiland, Ortiz Ríos' successor at SENACE, had previously been involved in the development of the Environmental "paquetazo" Law (Law 30230) which simplified the environmental regulation processes to "unblock" investment, particularly in mining (Convoca, 2016). Moreover, SENACE Law 2968 allowed the Presidency of the Council of Ministers to exclude an EIA from SENACE oversight and assign it to the relevant sector instead. This tactic maintained the substantial influence of the mining sector and may have undermined the desired autonomy of the new institution.

A second tactic employed by opponents of the reform was *to delay* its implementation by postponing the commencement of SENACE's operations. The approved timeline for the transfer of functions from various sectors to SENACE resulted in a delay of three years in its initiation. As a consequence, it was only in 2015 that SENACE began overseeing new mining-related EIAs. This allowed MINEM to maintain control over all certification processes initiated before 2015, including cases such as Conga and Tía María, which were catalysts for the reform. During this

period, MINEM continued to advocate for the approval of these projects, while the demands of local communities associated with the environmental certification reform had to focus solely on securing the cancellation of these projects.<sup>11</sup> Paradoxically, although local community campaigns played a vital role in driving the reform and aiming to achieve long-term goals of the social movement, the reform failed to address their specific short-term objectives. This deliberate time delay served to distract the main proponents as the momentum behind the reform waned.

A third tactic involved *minimal substantial changes* resulting from the reform. Despite the creation of SENACE to enhance the certification process and address environmental and social impacts in EIAs, key aspects remained unchanged. The hands-off approach of third-party EIA conduct persisted, with no formal mechanisms to incorporate local participation feedback or on-site supervision of certified firms. SENACE continued to rely on environmental consultancy firms contracted by the companies, without improving requirements or supervision. This raised concerns about the relationships between mining companies and consultants, undermining the intended autonomy resolution. Despite SENACE certifying authorized EIA consultancies and reviewing their content, the review process remained desk-based, which had previously been criticized in a 2005 World Bank report. As a result, the establishment of SENACE did not lead to significant improvements in the quality of EIA information derived from fieldwork.

For instance, several problems with the baseline quality of the EIA for Glencore's new Corocochuayco expansion project in Espinar were found. For instance, information about natural water sources in the area, which is important for water management, was not specific enough (Cooperación, 2021a). Furthermore, the Corocochuayco EIA suggested low risks in relocating 126 households after failing to collect social information regarding local communities' water demand, socioeconomic activities, or infrastructure (Cooperación, 2021b). In addition, the EIA includes an inventory of local fauna without an analysis of possible impacts on biodiversity due to environmental alterations (Cooperación, 2021a). Finally, the company-appointed consultants decide what constitutes a possible risk. For example, the EIA stated that filtrations from operations could leak into groundwater. However, because the company argues these waters will not be in direct use, the impact of leakage was only assessed in the case of surface water (Cooperación, 2021a). Moreover, compliance with the guidelines is not mandatory. The aims of the guidelines for both the companies and the SENACE evaluation team are to "orientate" (SEIA, 2018) and provide "general methodological schemes" but these are of "flexible and voluntary application" (SENACE, 2016a, 2016b).

The fourth tactic employed to undermine local participation was *passing the buck*. Critics argued that the participatory EIA mechanism established in the 2000s was merely informative, led by the consulting firm without supervision of SENACE and lacked a consultative approach (Macassi, 2022; Jaskoski, 2014). The SENACE board, responsible for the reform, considered EIA changes unnecessary, citing the newly approved Prior Consultation Law under the Vice Ministry of Culture as the solution to participatory issues (Macassi, 2022, p.127). This tactic of passing the buck left the EIA without participatory improvements. The MINEM made the decision to conduct Prior Indigenous Consultation at the end of the evaluation process, even after the EIA was already approved, rendering it unable to alter the EIA content. Regrettably, this decision was not discussed by the Vice Ministry of Culture, the authority responsible for Indigenous prior consultation reform, as it was not included in the SENACE board, despite its importance in the matter.

<sup>10</sup> <https://www.minam.gob.pe/notas-de-prensa/ministro-pulgar-vidal-el-senace-busca-que-normas-ambientales-se-apliquen-bajo-plazos-y-procedimientos-razonables/>

<sup>11</sup> Despite a resolution by the Humala Government suspending operations at Conga, the movement remained vigilant in the face of ongoing rumors and threats of a restart (OCMAL, 2013). Likewise, at Tía María, collective action was intermittent due to temporary halts and the company's persistent pursuit of the project (Cooperación, 2020).

According to local residents in Espinar, communities like Pallpata, situated just three kilometers from a tailing dam, were not officially included in the designated area of influence for the Corcohuayco extension project. Consequently, they were excluded from participating in the EIA's workshops. In response, community leaders have taken proactive measures, mobilizing to demand their inclusion and expressing concerns about the approval process of the EIA. The perceived lack of legitimacy in the EIA process and opposition to the project's expansion have led local residents to withhold information from the consultants (CooperAcción 2021a). Additionally, there has been criticism regarding the omission of cumulative impacts in the EIAs, prompting residents to call for a government-developed reparation plan. Furthermore, many communities are now advocating for prior consultation to ensure their active involvement in shaping the EIA's content. It is worth noting that the separation between the EIA process in mining and the implementation of the Prior Consultation Law has been identified as a problem in the environmental evaluation system after its reform, as highlighted by the Special Commission for Sustainable Mining established by President Vizcarra in 2019.

## 5. Conclusions

In conclusion, Peru implemented significant reforms in its environmental assessment institutions between 2008 and 2015 with the aim of enhancing state autonomy in regulating extractive industries, particularly mining. ACNs played a crucial role in advocating for these reforms by amplifying the protests and concerns of affected communities, resulting in transformative shifts in public opinion at the national and international levels. However, despite these efforts, the implementation of these reforms fell short of meeting the initial objectives and demands of ACNs and local social movements.

The case of Peru highlights the challenges faced by ACNs in effectively influencing environmental reforms during the transition from approval to the formulation and implementation phases. The powerful opposition from the extractive sector, with privileged access to decision-making spaces, employed tactics such as revolving doors, minimal changes, delays, and buck-passing, which undermined the intended outcomes of the reforms in these later phases.

This study provides valuable insights into the dynamics of the political economy and the struggles encountered during the formulation and implementation phases of institutional reforms promoted by social movements. It emphasizes the importance of sustained and costly efforts, as well as the challenges faced by local social movements in forming alliances with influential institutional actors to counterbalance the privileged access of the opposition in the formulation and implementation stages. These findings are particularly relevant in countries like Peru, where political representation systems are limited.

Furthermore, the role of social wardens, which has been highlighted as essential in ensuring the implementation of reforms (Falleti, 2020), remains ambiguous as scholars have also shown that there are limits to what social movements can achieve through these institutional channels. For example, in Ecuador, it has been argued that even after being incorporated into the party system, active involvement in grassroots movements is necessary to ensure policy implementation (Becker, 2011). Similarly, in Peru, within the context of the Prior Consultation Reform for Indigenous People, it has been observed that allies within the pro-coalition may shift their objectives as reforms progress, prioritizing the protection of gained benefits (such as norms, regulations, and limited implementation) over the original transformative demands of affected communities. While coalitions boost and amplify local social movements' demands to achieve the passing of reforms, weak institutionalization poses another challenge for these movements during the formulation and implementation phases. They must confront the political economy's dynamics of access and influence over the state, as well as navigate a realignment of coalition goals in response to the changing political landscape.

## Refer declaration of generative AI and AI-assisted technologies in the writing process

During the preparation of this work, the author(s) utilized GPT-4 for proofreading the English. Following the use of this tool/service, the author(s) thoroughly reviewed and edited the content as necessary and assume(s) full responsibility for the publication's content

## Declaration of Competing Interest

Authors have no conflict of interest to declare.

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