

State Sovereignty And Mining Concessions In Peru

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Abstract

The State and sovereignty is a composite concept of high significance in the role played by the State in the use, exploitation and guarantee of the well-being of the inhabitants within its territory. This term, born in the modern age, is associated with various sociocultural, economic and political events, and is composed of certain elements, such as territory (resource), people (population), power (government) and sovereignty (rights), the latter understood as the power that the people cede to a government or authorities. The internal recognition of a delimited territory and the external distinction of other States, it can be said that it is not exclusive to the Nation-State, but also becomes an expression of the legal-political order of the same peoples

that make up the State, thus maintaining a double discourse with slight nuances in the definition of power at the local (traditional) level. The analysis of this term is very important and complex, since sovereignty gives the State the ability to directly dispose of and manage its resources. In this sense, the objective of this research is to understand the theoretical definition of the role of the State and the exercise of its sovereignty in relation to mining concessions in Peru. The research uses a mixed descriptive, non-experimental method, which was carried out through bibliographic analysis and statistical interpretation generated by state institutions, using the SPSS statistical package for this analysis. The results obtained

Keywords : Rights of indigenous peoples, Mining, Cultivation, Natural resources, Territory.

1. Introduction

The Peruvian State has the responsibility and the right to regulate and control mining activities within its territory, including the issuance of permits and concessions to carry out mining projects. Likewise, the Single Harmonized Text of the General Mining Law³ in its article II of the preliminary title, states "that all mineral resources belong to the State, whose ownership is inalienable and imprescriptible. The State evaluates and preserves natural resources, and must develop a basic information system for the promotion of investment; regulates mining activity at the national level and supervises it in accordance with the basic principle of administrative simplification" (General Mining Law, 2018, p.9). According to these clarifications, the sovereignty of the State over its natural resources is a right recognized in the Peruvian Constitution and in legal regulations.

However, in Peru, mining concessions have been the subject of controversy due to the lack of community participation in decision-making on the current and future use of natural resources and the lack of prior consultation with the indigenous peoples and local communities that inhabit these territories as constituent elements of the State and sovereignty. thus omitting the principle of subsidiarity mentioned in Article 60 of the Political

Constitution of Peru (CPP), which interprets that State intervention for the promotion and stimulation of business activity should not deprive smaller and inferior communities of their own powers for industry, nor distribute or absorb them. To all this, there are also complaints of human rights violations and negative impacts on the environment related to mining projects. The mining sector in Peru has been and continues to be one of the most important sectors of the national economy, historically contributing to its economic and social growth in recent years. However, it is a cause for concern that mining concessions in our country are concentrated in the hands of oligopolies, which, misinterpreting the figure of the social market economy, subscribed to in the CPP in its articles 58 and 59, do not consider that the exercise of freedom of work, enterprise, commerce and industry should not be harmful to morals, health, or public safety, which can limit opportunities and increase social inequalities, as well as competition and diversity in the sector in the absence of standardized mechanisms for community participation and prior consultation with indigenous peoples and local communities, who have denounced the negative impacts that mining projects bring to the environment, by violating the regulations of the environmental quality standards (Rioja Bermúdez, 2018)(ECAs), which is the means by which necessary measures are issued to guarantee the exercise of rights and compliance with obligations and responsibilities established by the national authority in the corresponding sectors, among them we can mention the following: Presidential R. No. 062-2004- CONAM-PDC, Regulation of National Environmental Quality Standards for Noise D.S. No. 085-2003-PCM, Environmental Quality Standards (ECAs) for Non-Ionizing Radiation D.S. No. 010-2005-PCM, Environmental Quality Standards (ECA) for Air and Complementary Provisions D.S. No. 003-2017-MINAM, Environmental Quality Standards (ECA) for Water and Complementary Provisions D.S. No. 004-2017- MINAM, Environmental Quality Standards (ECA) for Soil D.S. No. 011-2017-MINAM, and Criteria for the Management of Contaminated Sites D.S. No. 012-2017-MINAM. The application of these standards in practice also lacks standardized protocols for the respective analysis procedures and means of transport used for the shipment

of samples approved by the National Institute of Quality (INACAL) and competent authorities in charge of environmental management, Although there is the will of the State to evaluate compliance with the obligations in the area of economic, social, cultural and environmental rights (ESCER), as indicated in the Final Observations and Recommendations to the Republic of Peru by the OAS and the Working Group of the Protocol of San Salvador (OEA y GTPSS, 2018), there are still deficiencies in the methods and forms of citizen participation. To people in vulnerable situations, to combat the gaps of inequality and discrimination either by age, geographical area, indigenous population, Afro-descendants and disability condition, which allowor relax the non-compliance with these standards in Peru, unlike other developed countries, and it is therefore recommended that the progress made in recent years be further strengthened.

Therefore, we consider that the State and sovereignty have a strategic role in the control and regulation of the use and exploitation of natural resources, to take measures, affirmative actions, programs and policies that guarantee that mining concessions are granted in a transparent manner and respectful of the rights of indigenous peoples and communities. human rights and the environment, as well as the implementation of environmental protection and impact monitoring measures, as part of the right and responsibility of the State in the regulation and control over mining activities within its territory or sovereignty. This includes the promotion of community participation and prior consultation with indigenous peoples and local communities, which although indicated in the Regulation of Law No. 29785, Law on the Right to Prior Consultation of Indigenous or Native Peoples recognized in ILO Convention 169 (2012), applies to administrative measures issued by the Executive Power, through the different entities that comprise it, as well as the legislative decrees that are issued in accordance with the provisions of art. 104 of the C.P.P., implying the need for indigenous peoples to be informed, listened to and submit their proposals by possible and legitimate means provided for in the regulations, where it is the obligation of the Peruvian State, to consult the indigenous peoples who may be affected in their collective rights, determining the degree, before approving the

administrative measure that authorizes the beginning of the activity of exploration or exploitation of said natural resources. While it is true that the Prior Consultation Law and its regulations are clear that citizen participation is not just a requirement, but a right, they do not set acceptable standards in the form and method in which they should be developed, leaving the organizing entities their responsibility, although many times they do not know these mechanisms of local participation.

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mechanisms of local participation.

Thus, the research addresses the controversy of mining concessions due to the lack of citizen participation in decision-making on the current and future use of natural resources and the role of the State in the exercise of its sovereignty.

2. MATERIALS AND METHODS

The study developed a documentary and bibliographic analysis since it is a systematic process of data review and evaluation of the existing literature on a specific topic. This methodology was used to gain a deeper understanding and establish the theoretical framework for the research. The following steps were considered: regarding the definition of the subject, the relationship of State, sovereignty and mining concessions was delimited, in the selection of the source of information the relevant publications for the subject and statistical data of the State institutions linked to the specific topic. In the literature review, the relevant bibliography was read and critically evaluated, in the codification of the information the bibliography was organized and classified according to specific categories or topics, in the analysis of the information we proceeded to identify patterns, trends and important relationships of the classified information and for the synthesis of the information the results of the analysis that give it validity and reliability were summarized and presented.

3. RESULTS AND DISCUSSION

3.1 The Peruvian State.

Although we cannot define exactly the origin of the State, the scientific study of it over time has generated heated discussions and debates among intellectuals of various scientific disciplines even leading to the evolution of the State through various stages and classical theories (Lewellen, 1994). The greatest theoretical exponents of the functionalist and structuralist schools point out different points of view about their origin; functionalism with the social order, is based on the harmony of society, the changes that occur in it, have to be supplied to stay balanced; While the structuralist school is based on needs,

it leads to the development of collective consciousness (solidarity) in order to satisfy this need, realizing the division of labor. (Guerrero, 2020)

Throughout history, organisms resembling an E state appeared, but in more active terms, it can be said that the State appeared in the middle Ages (Renaissance). It is to Niccolò Machiavelli in his work *The Prince* who is attributed the use of the term State which used it to refer to a certain political and social structure. For Machiavelli " (In the Chariot, 2008) he is an articulator of social relations to ensure that men live in freedom through their laws. In this way, the common good is achieved" and (In the Chariot, 2008) would be simplified into a supreme organization of the population in order to safeguard its integrity and the common good.

According to the Royal Spanish Academy (RAE) State would be the form of political organization, endowed with sovereign and independent power, which integrates the population of a territory. Political structure with power, sovereignty, population and geographical space that would be part of the State. Another concept attributed to it would be the "set of powers and governing bodies of a sovereign country recognized as such in the international order, settled in a given territory and endowed with its own governing bodies." It refers to the different institutions of sovereign government and the international community that endorses it as such.

Another concept similar to the previous one, considers the State a "human organization that covers the entire population of a country, structured socially, politically and economically through a set of independent and sovereign institutions that regulate life in society" (Concept, 2021)

According to Leslie Lipson, a primary function of the State "is the protection of people's life and property, promotion and protection of human rights, for human dignity in democratic systems." Of human rights and the protection of human dignity, these are some of the terms that can define a state. The elements that make up the state, mentioned by various authors, but with certain differences are:

- Population.** No State exists without a population that integrates it, however large or tiny, or however diverse it may be in cultural, racial or linguistic matters. In fact, there

are many plurinational states (several nations organized in the same state), since the important thing is that the inhabitants agree to be governed by the same institutions and share a related political destiny.

•**Territory.** All States have a territory and borders that delimit their area of sovereignty and the exercise of law from that of neighboring States. This territory is yours to administer, cede, protect or exploit economically in the way you see fit, as long as it does not jeopardize neighboring territories.

•**Government.** Every State must have strong and durable institutions to manage life in society, as well as authorities to govern them and sovereign methods for deciding who will exercise such authority in its territory. Such government shall exercise the politics and administration of the State for a defined period of time based on the legal, cultural and political rules of the population.

•**Sovereignty.** No state exists if another makes its decisions for it, so every state requires autonomy and strength to exercise and defend its decisions. (Concept, 2021).

This last term is a fundamental and important issue for the State, since it will depend a lot on how we will explain it later. In this sense, we can indicate that the Peruvian State is the political and administrative entity that has the responsibility and power of regulation and control over the territory and society. It is defined as a democratic and representative republic and its government is structured in three powers: the Executive, Legislative and Judicial.

Likewise, it has the responsibility to guarantee the security and protection of its citizens, as well as to preserve the constitutional order and guarantee justice and respect for human rights both individually and collectively. It is also responsible for promoting the economic, social, political and cultural development of the country and for protecting and conserving the environment.

The Peruvian State has the responsibility to regulate and control various key sectors of the economy, such as mining, energy, public services and others. The relationship between the State and society in Peru is based on respect for the Constitution and laws, and citizen participation in decision-making.

3.2 Sovereignty

Its definition is more complex to speak and explain, since according to the different doctrines its meaning may vary. He attributes the first definition of sovereignty to the French lawyer, philosopher and economist Jean Bodin, mentioned in his opera prima: the six books of the Republic, where he defines sovereignty as: "The supreme authority, absolute power and absolute right to reign (govern) in society (...) element necessary in the State or the Republic" (Alvarez, 2017) being this term is the closest at present.

Or in an area of autonomy, we can mention that it is the property that implies absolute independence of a unit of will with respect to another unit of decision of a universal and effective nature (Alvarez, 2017). This definition is inclined to international law, since it has to be recognized as such, a State without sovereignty, only being an attempt on the part of the politically ordered community to achieve the status of State.

Various intellectuals tried to explain what is sovereignty? Although contradicted and creating ambiguities, it is recognized that it is a political dimension of two areas. An internal one, as supremacy over all the authorities in the territory and population of the State, and an external one, as independence and equality with respect to other States (Da Silva, 2007)

Or serious definition, the set of competences attributed to the State by international law on a plane of independence and equality, as its two most outstanding legal-political features. There are even authors who see (Da Silva, 2007) this as an impediment to some ends, according to Da Silva (2007) sovereignty is what hinders the extension of justice and cooperation to the international arena and from a psychological-social perspective, includes the consideration of ethnic aspects, nationalism, and the sense of belonging, identity and community of peoples.

Therefore, we can understand that Peruvian sovereignty refers to the ability of the Peruvian State to exercise its authority and control over its territory, society and resources without external interference. Sovereignty is a key concept in political theory and is understood as the highest political and legal authority that a State has over its territory and population, as long as individual and collective

rights are respected.

And this is based on the Constitution and laws and is exercised by the government through its institutions and agencies. Peruvian sovereignty includes the ability to make independent political, economic and social decisions and to protect and defend its national interests.

However, sovereignty is also subject to certain limitations and restrictions, such as respect for human rights and the international obligations that Peru has acquired through the signing of international treaties and agreements.

3.3 Mining concessions

Throughout history, mining concessions have their origin, presumably in Rome, from which they would have expanded to other civilizations. It was in the modern age that all forms of politics were changed, the concept of sovereignty and mining systems, would be incorporated into the State, which was previously dominated by the system of regulation (patrimonial), sovereignty came into play, as an expression of legal-political order dominated by the State (Vildosora, 1998).

The mining concession is an administrative act that is guided by mining administrative law and regulates both the request of natural and legal persons that require to carry out some type of mining activity in Peru and once granted, the holder is attributed a set of rights and obligations that he has to comply and respond in order to avoid possible penalties in the future.

In this sense "the Mining Concession is a legal figure that comes from a regulated administrative act, which is requested before the government agency that is the Geological Mining and Metallurgical Institute – INGEMMET and at the end of the corresponding procedure, after compliance with the requirements stipulated by law and payments, grants the applicant a title through a Chief or Directorial Resolution " (Medrano & Obeso, 2018) and it should not be forgotten that it is the first step to carry out mining activity and it cannot be a matter of challenge (Villaverde, 2022) and Professor Belaunde is right "the mining concession grants the title for the exercise of the mining activity, but not the authorization to produce that emanates from multiple subsequent authorizations" (2013,

pps. 61-62).

The company that wants to exploit certain resources has to go through this administrative right and is ceded by the State, which recognizes the domain of the guardians of the rights assigned over the fruits and production obtained from the use of natural resources, the owner is sovereign of his production.

Since they are owners, recognized constitutionally and by legal system. (Castle, 2018)

Or granting the concession is eminently the faculty of the State, an element derived and originated by the attribute of sovereignty, which dominates the objects, goods or other elements existing in the national territory, the renewable and non-renewable resources are the patrimony of the Nation, being the State sovereign in its use (according to C.P.P. 93, Art. 54), (Elvis N, 2019) This right of use ends when the concession expires or the resource is exhausted.

On the other hand, we must understand that the mining concession is exclusive and exclusive of the mining owner, to explore and exploit the minerals granted in a determined space. Also this right of use generates duties in attention to the public purposes that covers with its particular delivery, the annual payments of the right of validity, for penalties and of the areas conferred by the State (mining protection). (Elvis N, 2019) To this we must add that the concession enjoys constitutional protection in its article 66 ° that reads: "Natural resources, renewable and non-renewable, are the patrimony of the Nation. The State is sovereign in its use. An organic law lays down the conditions for its use and granting it to individuals. The concession grants its holder a right in rem, subject to said legal norm". (R, 2019).

The areas of mining concessions are:

- **Mining concession (exploration and exploitation).** A title grants the right to exploration and exploitation, limited to the area granted.
- **Granting of benefit.** It grants the holder the right to extract and store the ore, to smelt, purify or refine (physical, chemical or both).
- **General Work Grant.** It is any mining activity that provides auxiliary services, such as drainage, ventilation, etc. It also serves two or more dealerships.
- **Mining transport concession.** It confers on its owner

the right to install and operate a system of massive, continuous transport of mineral products, between one or more mining centers, a port or treatment plant. (R, 2019)

3.4 Mining concessions in Peru.

Mining concessions in Peru are fictitious grids that are granted to natural or legal persons for the exploration and exploitation of mineral resources, which see extension, cannot be less than one hundred (100) hectares. These concessions are granted by the Peruvian State through an administrative process and are governed by specific laws and regulations and we must understand that they are not ex officio, but at the request of a party.

The mining sector is one of the most important in the Peruvian economy and mining concessions are a means to promote economic development and generate income for the State through the production and export of minerals.

Table 01: Analysis of Metal Production in Peru January - December 2022*Region, Process, Stage and Stratum

	METAL												TOTAL	P-value*
	ARSENIC	SILVER	LEAD	SELENIUM	ZINC	BISMUTH	CADMIUM	COPPER	TIN	IRON	MANGANES	MOLYBDEN	GOLD	
REGION														0.547

MOTHER OF GOD	0	0	0	0	0	0	0	0	0	0	0	267	267	
AREQUIPA	0	2	7	0	4	0	1	9	0	0	1	1	34	80
	3													
A lot	0	4	1	0	1	0	0	1	2	0	0	0	58	67
ANGEL	2	1	10	0	12	2	1	8	0	0	1	1	3	53
	3													
PASCO	1	8	7	0	7	2	0	7	0	0	0	0	5	37
JUNIN	2	7	8	0	9	0	0	6	0	0	1	1	0	34
FILE	0	8	5	0	6	0	1	7	0	0	0	0	3	30
CUSCO	1	6	3	0	2	1	0	4	0	0	0	1	11	29
ICA	1	7	3	0	2	0	0	8	1	2	0	0	5	29
AYACUCHO	0	9	4	0	4	0	0	2	0	0	0	0	7	26
FREEDOM	0	9	0	0	0	0	0	0	0	0	0	0	12	21
HUANCAVELICA	1	6	3	0	2	1	0	4	0	0	0	0	4	21
CAJAMARCA	0	5	0	0	0	0	0	1	0	0	0	0	6	12
MOQUEGUA	0	2	0	1	0	0	0	5	0	0	0	1	2	11
APURIMAC	0	4	0	0	0	0	0	1	0	0	0	1	4	10
TACNA	0	2	0	0	0	0	0	2	0	0	0	1	2	7
HUANUCO	0	1	1	0	1	0	0	1	0	0	0	0	0	4
PIURA	0	0	0	0	0	0	0	0	0	0	0	0	1	1
TOTAL	8	11	5	1	50	6	3	6	3	2	3	7	424	739
	4	2						6						

PROCESS														0.655
GRAVIMETRY	2	2	0	5	1	0	0	0	33	8	3	0	2	361
									8					
FLOTATION	6	4	2	5	1	2	3	7	30	63	4	0	46	265
				3							8			
LEACHING	0	0	0	7	0	0	0	0	54	42	1	0	1	105
NO DATA	0	0	1	1	1	0	0	0	2	1	0	1	1	8
TOTAL	8	6	3	6	3	2	3	7	42	11	5	1	50	739
				6					4	4	2			

STAGE	0.063													
CONCENTRATION	8	6	2	6	2	2	3	7	42	11	5	0	49	729
				3					3	2	2			
REFINING	0	0	1	2	1	0	0	0	1	2	0	1	1	9

FOUNDRY	0	0	0	1	0	0	0	0	0	0	0	0	1	
TOTAL	8	6	3	6	3	2	3	7	42	11	5	1	50	739
				6					4	4	2			
STRATUM														0.601
SMALL MINING PRODUCER	3	3	0	1	0	0	0	0	33	37	1	0	11	423
				7					8		4			
GENERAL REGIME	5	3	3	4	3	2	3	7	81	77	3	1	39	311
				9							8			
ARTISANAL MINING PRODUCER	0	0	0	0	0	0	0	0	5	0	0	0	0	5
TOTAL	8	6	3	6	3	2	3	7	42	11	5	1	50	739
				6					4	4	2			

SOURCE: Dirección General de Minería - Dirección de
Gestión Minera - Own elaboration

However, mining concessions have also been the subject of controversy and criticism in Peru. Several communities, especially Andean communities, have expressed concerns about the concession processes, which after moving to the exploration and exploitation stages, may generate negative impacts on the environment and on the quality of life of people, including water pollution, soil degradation and the impact on biodiversity., since "mining requires ample natural resources (soils, waters, forests, etc.), mostly scarce, has generated strong disputes with the inhabitants surrounding the mining projects". (Valcárcel, 2015)

Currently in Peru, mining concessions are carried out by INGEMMET, a state institution that does not coordinate with regional or local governments or take into account whether the concessions are being made in spaces of peasant or native communities, finding out only when they are already notified by the concession holder.

This weak articulation of state information leads to various sectors raising their voices, in protection, especially when they are involved or s collective rights; however, it should also be mentioned that the single concession granted by INGEMMET does not to the concession holder to carry out additional activities such as exploration or exploitation, Since these are stages that must executer prior coordination with the superficial owner.

For this reason, the Peruvian State has implemented

measures to ensure that mining concessions are carried out in a responsible and sustainable manner to protect the rights of communities and the environment, involving them to be actors in the extractive industry process.

In recent years there has been a lot of involvement, opinions and reactions of the population to mining activity, starting with the concession process. This activity is linked to a political, economic and social aspect, and to the fact that the mining activity that generates income for the country and that increases every year. According to the government "it is specified that only in the transfers by Mining Canon in 2021 a total of S / was reached. 2,947 million, a figure 12.5% higher than what was generated in 2020". (Ministry of Energy and Mines., 2022) However, the activity also generates negative impacts and therefore alterations in the environment, therefore, the population sees with bad eyes this activity and what has been generated in the past in spaces where mining activities have been executed, as a model for development.

However, the very concept of development is in constant transformation and this causes various agents to begin to participate more intensely and effectively in the dynamics of society, so that although growth is not development, there is no development possible without economic growth (Vega, 2014).

In this sense, we believe that the granting of mining concessions, as an attractive source for foreign investment and economic growth, although it does not affect the surface territory in the various spaces, whether individual or collective, should involve the various agents that may be impacted, in order to anticipate various social conflicts that end up scaring away investments.

According to the conflict report number 232 of the Public Defense Department, as of June of this year, a total of 219 of 756 social conflicts have been identified, of which 139 are classified as socio-environmental conflicts, 36 have been generated between the inhabitants and the companies of exploitation of natural resources. Being the most conflictive departments Loreto, Cusco, Apurímac, Piura, Cajamarca, Ancash and Puno.

Mining involves indigenous peoples, and impacts on their collective rights that are protected and exercised by individuals and that function as limits to public power.

These rights are a progressive recognition of cultural diversity and the international normativity itself recognized by the United Nations (UN), International Labor Organization (ILO), the Organization of the American States (OAS) among others and not leaving aside the recognition made by our own Political Constitution of Peru of 1993 both in article 2 ° (the right to participation), 88° (recognition of the rights of indigenous peoples to collective property, its foundation and the close relationship between the peoples of Peru). territory for its particular worldview) and 89° (which recognizes the right of indigenous peoples, legal existence and legal personality, to self-government, self-determination, ethnic and cultural identity), and others that allows citizens to participate in the political life of the country, to elect and be elected, free intervention in processes and decision-making in a political sphere, economic, social and cultural (Masquez, 2018).

The population of peasant and native communities sees mining activity as an opportunity and a threat at the same time, since they are sure that it will bring negative impacts on soils (economic environment), air, water (agricultural and health productive means) and others. components of the environment and therefore would impact on economic, social, political and environmental activity, but would also generate positive impacts that would have to be exploited in their greatest dimension in order to achieve and achieve a better quality of sustainable life.

Both positions have generated protests where the confrontations between the demonstrators themselves and between them and the force of order is usually disproportionate and in extreme cases, the confrontations end up producing loss of human lives. In the case of the region of Puno, mining activity has a long tradition in history, from the colony to the present, since the resources found in this region are very precious, such as gold, lithium, uranium, silver, tin, copper, and other non-metallic minerals, which also They are exploited by formal and informal mining (Teran, 2019),

3.5 El Aymarazo, Puno.

The "Aymarazo" was a conflict that arose when peasant communities learned that the Geological, Mining and Metallurgical Institute (INGEMMET) had granted mining

concessions in about 60% of Puno's territory.

According to the current legislation, the applicant for the mining concession must publish two notices in the regional official gazette informing of the concessions. The communities do not read newspapers and newspapers do not reach those areas. In addition, it is not taken into account that the population speaks a different language. Peasant communities never receive a printed notification informing them about mining concessions granted in their territory. This form of notification does not guarantee that they are aware of these administrative acts and that they can file the necessary resources if they do not agree.

For the area, the solution is to comply with the prior consultation. Lawyer Juan Carlos Ruiz affirms: "This is a quick and simple institutional mechanism to channel questions to mining concessions. In this scenario, and taking into account that the communities usually become aware of the concessions when the deadline for filing the opposition appeal has already expired, prior consultation serves to channel the social protests of the peasant population. (Legal Defense Institute, 2019)

3.6 Tia Maria, Arequipa.

Since 2009, the company Southern Peru seeks to develop its mining project that would allow it to exploit 120,000 tons of refined copper per year. Every attempt to do so has unleashed social conflict. Between 2011 and 2015, clashes between police and protesters have claimed the lives of seven people. In 2019 there was a strike that lasted more than 100 days and that generated that the students were about to lose the school year.

Southern Peru has the legal permits for your project. It has approved the Environmental Impact Study (EIA) and on July 8, 2019 received the construction license from the Ministry of Energy and Mines (MINEM). Although the project was suspended for 120 days as a result of protests and legal demands by anti-miners, in October of that same year the Mining Council ratified Tía María's construction license. The project has an investment of US \$ 1,400 million and is paralyzed until it obtains the social license.

"There is no further progress. At the time, the Government decided that construction was not being started. We continue with the work of socialization,

applying all the security protocols, we are already positioning ourselves. Since last year we no longer use Valle Unido for the relationship with the authorities and the community. She is now Aunt Maria. The investment is still available to start the project. We always have hoped," Southern Peru's head of Corporate Communications, Paul Lostaunau, told El Comercio.

Actions, Luis Zapata, spokesman for Arequipeños for Arequipa, a collective that supports investment in the region, lamented that the project has become a "hot potato" that the authorities do not want to move forward. He says that, in the face of the crisis experienced by the pandemic, Tía María would be a lever to reactivate the economy. Zapata said that, if the parlayzations and violent protests return, his group will also act in favor of development. (Condori, 2021)

Mining in Peru has been associated with social conflicts due to tensions between local communities and mining companies. In many cases, local communities have expressed concerns about the negative impacts mining can have on the environment, people's quality of life and communities' rights. These impacts include water pollution, soil degradation and the impact on biodiversity.

In addition, local communities have often criticized the lack of consultation and participation in mining-related decision- making, and have denounced the lack of compensation and negative effects on the local economy.

These conflicts have led to protests, demonstrations and roadblocks by local communities, who have demanded a just and sustainable solution to these problems.

The Peruvian State has sought to address these conflicts through mediation, negotiation and the implementation of measures to ensure the responsibility and sustainability of mining. However, conflicts remain a major challenge today.

4. CONCLUSIONS AND RECOMMENDATIONS:

4.1 The Peruvian State is the political and administrative entity responsible for the regulation and control of the territory and society of Peru. Its role includes ensuring the safety and security of its citizens, promoting economic, social and cultural development, and regulating and controlling key sectors of the economy.

4.2 Peruvian sovereignty is the ability of the Peruvian state to exercise its authority and control over its territory, society and resources without external interference. It is based on the Constitution and the laws, and is limited by respect for human rights and the international obligations acquired by Peru.

4.3 Mining concessions in Peru are fictitious grids that are granted to natural or legal persons for the exploration and exploitation of mineral resources and are a means for economic development and the generation of income for the State. However, these concessions have also generated controversy and concern about their negative impacts on the environment and people's quality of life, so the State has implemented measures to guarantee their responsibility and sustainability.

4.4 Mining concessions is an administrative act and is ceded by the State, which recognizes the domain of the guardians of the rights assigned over the fruits and production obtained from the use of natural resources, the sovereign owner of their production. the granting of the mining right is the faculty of the State, an element derived and originated from sovereignty, renewable and non-renewable resources are the patrimony of the Nation, being the State sovereign in its use (according to cont. 93, Art. 54) being that the State has the capacity to directly dispose and administer its usable natural elements, It is granted to the owner (company), the right of use granting and validity.

4.5 Mining in Peru has been associated with social conflicts due to tensions between local communities and mining companies. These conflicts are due to the negative impacts of mining on the environment, people's quality of life and the rights of communities, as well as the lack of consultation and participation in decision-making. The Peruvian State has tried to address these conflicts, but they remain a major challenge today.

4.6 There actions of the population to mining activities are linked to a political, economic and social aspect, but their activity generates negative impacts, the population reacts to a threat against their livelihood, the ombudsman's office mentions that 36 cases have been generated by the inhabitants against the companies of exploitation of resources, where the departments with the highest rates of social conflicts are Piura, Cajamarca, Ancash, Cusco,

Arequipa and Puno, in the latter there is one of the largest conflicts in Aymarazo-Puno and Aunt Maria-Arequipa.

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