



Use of emergency decrees and militarization to silence indigenous communities

-  Las Bambas Copper Mine
-  Peru
-  Copper mine
-  IFC

On September 28, 2015, indigenous communities gathered at the gates of MMG Limited's Las Bambas copper mine in the Andean region of Peru. Communities from the provinces of Grau and Cotabambas, which border the mine, had called for construction on the mine to be suspended until meaningful consultation could take place with local communities regarding major changes to the mine's infrastructure.¹ When a small group of people, unknown to protest organizers, attempted to push through the gates of Las Bambas, police fired tear gas and live ammunition on the crowd.² In the ensuing clash, three indigenous men were killed and at least 15 other community members injured. Eight police officers were also left with injuries.³

Widespread discord over the Las Bambas mine began after the mine's first owner, Xstrata, merged with Glencore in 2013.

As construction advanced, Glencore looked to sell its stake in the project and proposed significant design changes to increase the project's appeal.⁴ In the initial design, mineral concentrate would be transported 200 kilometers from the mine via a slurry pipeline to be processed in a neighboring province.⁵ The new design, however, allowed for a molybdenum processing plant to be built on-site at Las Bambas, with the copper then transported via truck and eventually train, to a port for export.⁶

For the Quechua indigenous population of Cotabambas, the change raised serious concerns. The new molybdenum processing plant would be sited in the virgin territory of Cotabambas. The local road passing by Las Bambas mine passes through 18 communities and would see a major increase in heavy truck traffic, with approximately 370 trucks daily bringing dust, noise, increased emissions, and possible adverse effects



Protest over Las Bambas Mine.



Funeral for Quintino Cereceda Huísa, shot during a protest against the mine, October 2016.

on communities' health, their livestock, their crops and water sources.⁷ Communities feared that the addition of a processing plant in Las Bambas would also have a dramatic effect on the water supply.⁸

On July 31, 2014, the China-based MMG Limited (MMG) purchased the Las Bambas project from Glencore-Xstrata for \$7 billion USD.⁹ The purchase was financed through a combination of debt and equity provided by China Development Bank, Industrial and Commercial Bank of China (ICBC), Bank of China (BOC), and Export Import Bank of China (EXIM).¹⁰

According to MMG, local communities have greatly benefited from the presence of the mine, which has brought increased employment and business development to the impoverished area, as well as major improvements to infrastructure.¹¹ MMG cites investments of over \$160 million USD to develop roads, electricity, hospitals, and other social projects.¹² While communities are by and large in favor of the mine project, they allege that the benefits have been distributed unfairly and have been inadequate to mitigate the harms. They also express serious concern at the lack of community input into significant changes made to operations at Las Bambas.

Including the major changes in operations, the project underwent five revisions to its environmental impact assessment between 2012 and 2015, and the stated impact area of the project was reduced.¹³ Three significant revisions were passed under a rapid 15-day approval procedure with no community oversight or input.¹⁴ Under Peruvian law, indigenous communities must be consulted prior to construction on development projects that would affect their lands.¹⁵ Communities across Peru, however, continue to push for this requirement to include major changes to project operations.¹⁶

On February 6, 2015, as construction wrapped up on the mine, local temporary workers initiated a 72-hour

strike in Challhuahuacho to protest layoffs.¹⁷ Local tension was high over alleged failures by MMG to comply with previously-made agreements for social development.¹⁸ During the strike, community members temporarily detained a group of subcontractors. Eventually a dialogue process was established, bringing together the central government, local organizations, and the district mayor.¹⁹ The dialogue process focused more on development projects in Challhuahuacho, however, and many communities in the area felt that it was not representative and did not address community needs or fears regarding environmental impacts.²⁰

On September 24, 2015, 1,500 police and 150 members of the military descended on the communities surrounding Las Bambas mine in advance of a province-wide general strike planned for the following day.²¹ Prior to the strike, MMG reportedly signed an agreement with the police to provide security to the project, and a police base was set up within the mine's property.²²

Following the shooting at the mine protest, according to protest organizers, police immediately detained at least 17 people inside the mine for more than 24 hours, where they were allegedly beaten and deprived of food.²³ Two protesters were arrested and would spend eight months in pre-trial detention before being released on bail.²⁴ The government declared a 30-day state of emergency in the region, suspending the rights to freedom of movement and association, and allowing police to freely enter homes in the area without a warrant.²⁵

In November 2015, the national government approved additional military intervention in the provinces of Grau and Cotabambas.²⁶ A second dialogue process between representatives from the local government, MMG, and communities was initiated in December 2015, with community demands focusing on issues of the environment, human rights, sustainable development, and corporate social responsibility.²⁷ The company

reportedly began to negotiate bilaterally with select communities, ignoring the official dialogue process.²⁸

In June 2016, several NGOs sent a letter to MMG's CEO in Australia detailing the social and environmental conflicts around the Las Bambas mine.²⁹ Among other requests, the letter asked MMG to employ local staff in the dialogue tables who will more proactively listen to community concerns, engage a third party to emit a technical opinion on the changes to the project and the environmental impact assessment, pave the highway, and provide humanitarian support for the families of those killed and wounded protesting the mine.³⁰

In his July response, as Las Bambas began commercial production, CEO Andrew Micheltoreau praised the mine's successes in the area, including a reduction in poverty, and argued that the modifications made to the operations were done in full compliance with all legal and regulatory frameworks. He emphasized the importance of the established dialogue and development tables and stated that if company employees, police, or protesters engage in illegal acts, they should be prosecuted by the appropriate authorities.³¹

One of the key issues discussed at the dialogue tables was payment for the use of the community road that passes through Las Bambas, which was seeing a major increase in truck traffic. In October 2016, however, communities learned that, with the support of MMG, the government had changed the designation of the road from community property to public property, negating the communities' claim to compensation. That same month, MMG was in the process of asphaltting part of the road when four communities erected a roadblock. Police arrived on October 14, allegedly on orders of the company to clear the roadblock, and shot and killed one man.³² According to MMG, several police were also injured when community members at the roadblock threw rocks.³³

Between 2016 and 2017, local NGO CooperAcción met five times with the company in an attempt to raise community concerns about environmental and social impacts.³⁴

Despite significant police repression and several deaths related to the mine, it is unclear if Chinese banks supporting MMG were aware of or included

this information in their respective due diligence and monitoring processes. Under China's Green Credit Guidelines, all Chinese banks which issue loans are required to follow international social and environmental standards when financing overseas operations.³⁵ However, impacted communities continue to argue that the Las Bambas project has failed to meet international standards around meaningful consultation, public participation and benefit sharing, and use of security forces.³⁶

In October 2017, a delegation from the region traveled to Lima to ask for the 2016 dialogue process to be reinstated, but their petition was ignored.³⁷ On January 11, 2018, another state of emergency was declared for the region and another delegation from Challhuahuacho traveled to Lima to again request that the 2016 dialogue process be restored. Community members called for the changes to the environmental impact assessment to be rejected and the state of emergency lifted.³⁸

Since initial protests began, communities have been clear that they are not against mining operations, but are exerting their rights to see adequate economic and social benefits. They continue to insist in meaningful dialogue, while the government responds by continuing to enact states of emergency, including in April and August of 2018.³⁹ At the time of publication, two community members continue to face charges from the September 28, 2015 protests and are awaiting trial. An additional 30 community members involved in the protest are waiting to see if accusations against them will be elevated to formal criminal charges.

A community roadblock.



CooperAcción

Endnotes

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