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# Peru's battle against illegal mining far from over

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By Tiffany Grabski

*Peru's current administration is the country's first to put eradication of illegal mining in the forefront of government efforts. Unlike any president before, President Ollanta Humala has taken a hard line against the informal mining sector, which is accused of destroying the Amazon rainforest at alarming rates, poisoning both indigenous and urban communities with mercury absorbed by fish, and costing the government up to an estimated 2 billion Peruvian soles per year in lost tax revenue.*

*In his efforts to put an end to this illegal activity — which is occurring in nearly every region of the country and in many cases is linked to drug trade, prostitution, child labor and mafias — Humala has set and extended various deadlines for miners to formalize their operations, or face prison time, fines and the loss of heavy machinery.*

*A supreme decree passed in May 2012 allowed informal miners who signed a simple statement of commitment to formalize their operations to continue operating for up to two years as they formalize their operations. Those that signed the statement, after postponing the deadline multiple times, were given until April 19 to obtain a series of requirements for formalization. The requirements include authorization from landholders and concession holders, as well as environmental documentation from regional governments.*

*In response to Humala's firm stance on the April 19 deadline, the country has witnessed a series of uprisings and protests, both in the regions where illegal mining is most prevalent as well as in the country's capital of Lima.*

*While the April 19 deadline, which was seen as a doomsday for many informal miners, has passed, Humala passed another decree again extending the deadline, albeit in a more subtle way. Although the Peruvian government refuses to refer to the new decree as an extension, it has given informal miners already signed up to the formalization process more time to complete the various requirements.*

*SNL Metals & Mining spoke with José de Echave, former deputy environment minister for the Humala administration and co-founder of the CooperAcción nongovernmental organization, which closely follows Peru's fight against illegal mining, in order to get an insider's view of these recent events.*

*What follows is an edited version of that conversation.*

**SNL Metals & Mining:** Now that the long-awaited deadline of April 19 has come and gone, we are seeing a flood of news referencing environment minister Pulgar-Vidal and other high government officials referring to the program as a "great success." Despite their declarations of success, there have been no real concrete facts supporting this and at the same time, there is still a very long road ahead in the combat of illegal mining. What is your opinion on the recent declarations and how successful has the government been up to this point?

**José de Echave:** I would like to divide my answer into two parts. The first is that I think there is something that has to be recognized, and that is that the government is trying to confront a problem that is some 40 years [old] and in

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the last 20 [years] has grown to an enormous magnitude — something that no previous government has attempted to do. This, I think, has to be recognized. However, that being said, I get the impression that what is being over mentioned [by the government] is what has been achieved up to this point.

First of all, the date April 19 at some point in time had been planted as an "inflexible" date, and with the most recent supreme decree that came out some four days ago now, it is clear that [the government] is in theory postponing the deadlines for what the miners will have to obtain, which are the agreements with landowners, concession owners and environmental certifications. All of these deadlines have been postponed, in some cases [by] 120 days, and in others until 2016. So in this situation it is difficult to create a speech so triumphant as we've seen, not only by [environmental minister Manuel Pulgar], but also the high commissioner [in charge of the eradication of illegal mining], who said that the [informal] miners have their days counted. What does he [mean by] "days counted," 120 days, or until 2016?

So I do think there is an excess of triumphant speeches. [Illegal mining] is without a doubt an enormous problem, and I don't expect to see any miracle solution to a problem like this that has grown so big; but any discussion of the confrontation to this problem [from the government] has to be done cautiously, looking for indicators that are much more realistic. To start with, [the government] declared that there were 70,000 [informal] miners that had signed the declaration of commitment, and now we know that it isn't 70,000, it is 59,000 and a bit more, and then you have to look at how many of these 59,000 are going to be able to comply with the requirements of formalizing. And finally, we can't forget that all of these stages [of the process of formalization] have to be authorized by the regional authorities. And that is where I see a very significant bottle neck that is particularly complicated because it still hasn't been made clear how much in terms of resources the government will be transferring to regional governments so that they are able to deal with the flood of new authorizations.

So to answer your question, I think that [the government] needs to be much more cautious; they are acting far more triumphant than they should when in practice there are not many concrete results just the good intention of 59,000 and some [informal] miners who have signed a declaration of commitment.

**Let's talk numbers. One we hear a lot is 100,000, which is the number the government gives us as an estimation of how many illegal miners exist in Peru.**

The quantity of [informal] miners in the country is a different topic all together. We hear 100,000, which is a figure I have been hearing for years, since there were only four areas in the country that had illegal mining and now there are nearly 20 regions [with the illegal activity]. But there are no official statistics because there has not been a census of any kind to determine how many [informal] miners there really are, or to determine which are informal, which are legal. Some talk about 300,000 and some talk about even more. I think that this number, 100,000 or even 150,000, is significantly short of the current situation, which has changed drastically in recent years. It would be very good if there was some sort of effort to figure out exactly how many there are.

But at the same time, I don't want to talk down what the government has done, because while I think they need to be more cautious in the way they present information and that they are speaking perhaps too triumphantly, the fact of the matter is that their actions are having an impact and this shouldn't be taken lightly.

**Of that number of 100,000 or 150,000 illegal miners the government is using as a reference as to how many informal miners are operating in the country, how many will realistically be able to formalize their operations?**

First of all, it isn't 150,000, because the deadline has already passed for [informal] miners to sign up for formalization and now we are left with only 59,000 and some. It is only from this group of less than 60,000 that will be able to formalize their operations [and continue operating]. But no official information on this [number] has been released. I think it would be very difficult for any [informal] miner or [informal] mining organization to have complied, already, with all of the requirements: the commitment, the agreement with the land owner, the agreement with the concession holder, and the environmental instrument. Surely there will be some [informal] miners who are also owners of the concession, but this doesn't mean that they have all of the environmental certifications required.

**Is the environmental qualification for small and artisanal miners similar to the environmental impact study (EIS) that large-scale miners are required to submit?**

No, not exactly. It is an adequate instrument that looks to fulfill the same objective, but adequate to the size of these operations. It has a much more specific definition.

**So, it is a quicker process?**

Yes, it is adequate to the reality of the activity. It isn't an EIS.

**In your opinion, how many informal miners, of the nearly 60,000 that have committed, will be able to formalize their operations?**

Asking how many of them will be able to finish the formalization process by 2016, which is required by the law — I think saying 10% would be even too much. So here is where the doubt enters the equation because while we have a significant number of [informal] miners showing good faith and wanting to formalize their operations, in some cases you will find land owners that don't want to give them permission to operate on their land [because they] don't want mining in that area, or [because] the concession owners want to mine [the minerals] themselves. You have to remember that many of the mining concessions that are occupied by informal miners are owned by large mining companies. For example, Las Bambas: Part of the concessions that Las Bambas has, has been invaded by informal miners. In order to avoid conflict, they are leaving those concessions alone but at some point when they begin the second phase of the project, they are going to have to kick [the illegal miners] out.

There are many cases where the mining concession owner wants to extract the minerals themselves — so it is impossible that all of the just shy of 60,000 informal miners will be able to achieve all of these requirements. While it is always risky to give exact numbers, I do think that it will be only a minority of these [informal] miners that are able to complete the process.

**It looks like what we have here are two very distinct problems: Individuals or families looking to make an honest living, as their ancestors probably did, digging up gold, and then those who are blatantly disobeying the law, causing deforestation, child labor and prostitution and often run by mafias also linked to drug trade. Would you agree?**

Yes, definitely. The difference between informal and illegal [mining] is that an informal miner is a miner that has not complied with all of its obligations, but it would be possible. An illegal miner is doing its activities in prohibited regions, where no matter what they do they will never be able to formalize: in urban areas or in bodies of water. These areas are prohibited and if there are mining operations in these areas, which there are, they won't be able to formalize.

**So would you say the majority of them are illegal, and that's why so few will actually be able to formalize?**

No, I think this is something you have to evaluate with caution, as there is no real data on this. But I would say that the majority are not in this [illegal] situation, I would say the majority in theory could formalize their operations. Giving an example, if a miner is working in concessions of others, this miner is informal. To formalize they need to obtain an agreement with the concession holder, so in theory they can do that, but in practice it isn't often the case.

**So do you see this converting into a greater problem now for large-scale miners who own many of the concessions where informal miners are operating?**

Yes. These formalized miners, which could be either large- or medium-scale miners that have these concessions, are who now have the problem. Their concessions have been invaded by informal miners and they are going to have to negotiate and find agreements, or if they want to recuperate their concessions, they are going to have to tell them to

leave and this is going to create conflict. I think that in the coming years, the number of conflicts linked to illegal mining activities is going to increase substantially.

**Based on that fact, and your earlier comment that informal mining has spread over the past 10 years to nearly 20 regions throughout Peru, it seems we're looking at a countrywide problem. However, resources to combat informal mining have tended to be focused in the Madre de Dios region — where international and national organizations have highlighted an alarming rate of deforestation of the Amazon forest as well as mercury poisoning of indigenous communities. Is there a great enough flow of funds to regions outside of Madre de Dios to really combat this problem?**

No, I have the impression that there isn't. Neither the financial resources nor institutional resources [are reaching these areas], not even to Madre de Dios. In the first place there is a need of financial resources and I would be interested to know from the finance ministry how much has been directed towards these regions for their efforts against informal mining. But more than that, they need institutional capacity. The only function that regional governments fulfill in the mining sector is the small scale and artisanal mining documentation. So they have the competency to deal with this level of mining but they don't have the resources or the capacity [to do so]. I foresee a very significant bottle neck happening here.

For this reason, these announcements that are overly triumphant worry me. I recognize that there is a decision to confront the problem, which I think is very good, but I also think that they are exaggerating the results.

**Another comment made by Minister Pulgar is that the national mining, gas and oil society SNMPE has been "timid" with its rejection of informal mining. But he did not explain what exactly should be the role of large-scale miners in the fight against informal mining. What do you see their role as?**

That isn't really clear to me either. Without a doubt it is something they have watched happen and they haven't really said anything in regards to it, but I'm not sure what their role really should be. What I would say is that there are many areas where there is informal mining and large-scale mining and the large-scale miners have allowed informal miners to exploit their deposits, which at some point will turn into a conflict. But I couldn't say exactly what should be their role in confronting the informal miners.

**Finally, I would like to address the growing number of reports regarding illegal mining becoming the new cash cow for mafias and terrorist groups in Peru and Colombia, replacing the cocaine trade as their main source of income. What does this say about the struggle Peru and Colombia will have to shut down this trade?**

In the case of Peru, I believe it was Macroconsult that calculated a few years ago that the export of gold has surpassed the narcotics export trade. And don't forget that more than 50% of all gold exported goes to Switzerland. But what percentage of this gold is produced illegally? The illegal gold quite easily enters the legal market through trade mechanisms, processing, etc. But yes, it does have to be recognized that in the last 10 to 15 years with [gold] prices as high as they have been, there are groups and mafias that have accumulated, economically speaking, a great deal of influence. Even more so, today these groups even have political influence. There are congressman [in Peru] linked to this activity and also regional leaders linked to illegal mining. Because of that, we will surely see in the [regional] election period coming this year ... arguments over this illegal sector — too many hands are in the gold pot. For example, more than 50% of the economy in Madre de Dios is the result of this activity, so its influence is very, very powerful.

**There are already concerns over coming regional elections among the formal mining community as election periods often mark increased conflict and demonstrations as aspiring politicians try to get their name known. Are you expecting this year's regional elections to be marked by conflict over the eradication of informal mining?**

I think we'll have to be very careful with this and [need] to watch carefully, particularly in the regions where there is a significant amount of illegal mining activity. When one visits regions such as Apurímac or Madre de Dios, it is

now known by everyone that the miners are making political moves and putting themselves up for regional as well as municipal positions. Yes, I believe that the power and political influence of this sector threatens to grow in the coming electoral period.