

CSO CASE STUDY 8

Title: NGOs, the extractive industries and community development: the case of NGO Labor in Peru¹⁴

Country: Peru

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Introduction to the case

The history of Ilo – a city located in the southern part of Peru, is marked by the work of extractive industries, namely fishing and mining, and their effects on the local society. In fact, Ilo is an intermediate city that was born as a consequence of the migration of unemployed and underemployed middle-age men searching for work in these industries. However, through time, these economic activities have had negative environmental effects, mainly affecting (i) water availability for agricultural and domestic purposes; (ii) air pollution derived from the Ilo copper smelter; and (iii) river basin pollution derived from the copper lixiviation process at the Cuajone and Toquepala mines, located in the city proximities.

This case study considers the process through which civil society, guided by the developmental NGO Labor, became a real influence in the environmental attitude and corporate social responsibility of the Southern Peru Copper Corporation (SPCC) – one of the main copper producers in the world. One of the high points of this story happened in 1992, when Labor and Ilo's municipality won a lawsuit against SPCC at the II International Water Tribunal in Amsterdam. This event, having exposed SPCC's negative environmental impact to an international forum, produced a turning point in its social responsibility behavior. Afterwards, the mining company started a coordinated plan led by the Peruvian Government to accomplish a set of environmental standards to reduce its air and water pollution.

The type and extent of policy change

The II International Water Tribunal informed the international community about the polluting effects of the mining activities of the world-renowned SPCC in the city of Ilo, and its apparent apathy regarding environmental responsibility in the development of this city.

For Labor's staff, the international exposure gained at the Tribunal helped them access an important network of international donors. At the same time, the positive results obtained at the trial increased its reputation as an NGO with considerable impact among Peruvian civil society.

Therefore, the victory at the II International Water Tribunal can be considered a turning point in the environmental attitude of SPCC and in the consolidation of Labor as an internationally recognized institution dedicated to environmental rights. As a consequence, the policy changes adopted by the mining company and the government (both central and local) since then have allowed the continuous reduction of the extractive industries'

¹⁴ The information used to elaborate this case study is part of a wider effort conducted by Felipe Portocarrero and Cynthia Sanborn at the Universidad del Pacifico Research Center in Lima, Peru, to analyse the development role of extractive industries and their interrelation with NGOs in poor communities. We are grateful for their support and challenging comments to this document.

pollution located at the city of Ilo. In addition, civil society is now well aware of its responsibility as guardians of their air, water and other environmental resources.

Some thoughts on the explanation of the policy change

a) The policy context

Soon after Labor was founded in 1981, and when one of its associates was elected to govern the city of Ilo, this NGO and the municipality established a good relationship that lasted for almost 20 years (until 2000), based on their common objective to empower the entire town vis-à-vis SPCC. As a matter of fact, since the beginning of this relationship several Labor associates were elected City mayors. This relationship, although not free from problems, was crucial in the promotion of environmental consciousness among Ilo's citizens and the municipality itself. In this way, Labor's developmental ideas were the starting point for the elaboration of the local government public policy options. At the same time, the city government benefited from Labor's technical support regarding environmental matters.

According to an official from Novib, a key determinant in their decision to finance Labor programs since the early 1990s was the political leverage created by this longstanding relationship between the NGO and the local government. At the end of the day, these institutional linkages were helpful to transform the proposals developed by Labor into public policy.

b) The ways CSOs tried to affect policy change and impact

Since the creation of SPCC's smelter, and for 35 years, its sulphur dioxide emissions were not controlled. Because of the apparent negative effects SPCC mining activities were causing in the city's water resources, and the fact that there were no clear channels available for the southern region to protect their environmental rights, Labor started to seek for a global forum to present its pledges. After the NGO and the municipality of Ilo took notice of the II International Water Tribunal, they decided to present the case against SPCC regarding water depletion and pollution. Once Ilo's environmental problem was chosen as a case to be treated by the II International Water Tribunal, Labor and the local government gained access to financial and technical support from IDRC to produce the relevant information to prove their case.

On December 2nd, 1991, soon after SPCC was notified (November 1991) that the Ilo's case was going to be treated at the II International Water Tribunal, the company signed the *Acuerdo de Bases* with the Peruvian State, which would be the cornerstone of SPCC commitment with the preservation of the environment in the region¹⁵.

Once the Tribunal took place in 1992, SPCC would argue that it was not necessary because of the investment plan ascribed to the recently signed Environmental Program with the State. In addition, SPCC did not accept the Tribunal as a valid forum because of its lack of judicial enforcement powers –and hence neither its ruling.

¹⁵ This event shows that till the beginning of the 1990s, all the environmental matters were under the central government jurisdiction, specifically under the administrative responsibilities of the Energy and Mining Ministry. Through time, and although this government instances are still responsible for the country's environmental policy, local governments and civil society play a key role influencing the policy outcomes.

The investments SPCC had to make to reduce its polluting effects, between 1995 and 1998, a couple of years after the II International Water Tribunal, included the installation of 2 sulphuric acid plants that helped to capture 33% of these emissions. This percentage meant that still nearly 424 thousand metric tons of sulphur dioxide went directly to Ilo's atmosphere. According to international comparisons, this number was still considerable: more than 3 times that of Belgium (124) and near 14 times more than Norway (30). These emissions were still far below the 92% capture compromised by the mining company under the treaty signed with the government. Despite the continuing delays on its completion, by 2007 the US\$500 million modernisation of the Copper Smelter should allow the capture of 95% of the sulphur dioxide emissions, finally reducing the environmental problem this industry has produced in Ilo for almost half a century.

Although it is difficult to assess any relationship between the trial and Peruvian public policy regarding environmental matters, the involvement of one of the most important mining companies in the world in this trial without any doubt transformed this case in the cornerstone of the Peruvian environmental policy. Before the process that led to the II Water Tribunal had started, environmental public policy in the country was scarce. Therefore, the environmental program signed between SPCC and the Peruvian Government can be considered a blueprint for future programs signed with other companies whose activities have a negative environmental impact.

The favorable results of Labor at the Tribunal, and the financing network provided by its organizers, helped the NGO obtain more resources that it had previously thought to be possible. Before the proceedings of the Water Tribunal had started, Labor supported its activities by external resources that averaged, from 1981 to 1990, US\$75,000 donated by 6 international organizations. After the Tribunal, during the period between 1991 and 2003, its budget increased to an average of US\$412,000, with 34 international organizations having contributed at least once.

These resources have proven to be extremely important when assessing the impact of Labor's activities in Ilo and in the rest of the southern Peruvian region. Today, Labor's various social, technical and community empowerment programs reach across the southern Andean regions of Peru, and the NGO plays a key role in the National Mining Dialogue, alongside private companies, the Peruvian Government and community organizations. In a nutshell, today, the impact of Labor activities regarding sustainable development initiatives among communities affected by extractive industries is felt all over the Peruvian landscape.

c) External influences

Although the II International Water Tribunal did not have judicial enforcement powers, the trial process, having received important media coverage, worked as a reputational force that in the end helped to change SPCC's environmental attitude. The impact of this case made Shell declare in a public statement directed to the Tribunal's Executive Secretary that they had sold their SPCC's shares due to its negative environmental attitude.

This case was covered by the main TV program in the Netherlands and broadcasted during peak hours. It appeared in the main page of Volkskrant, the most read newspaper in this country, and was also covered by important trade magazines in London, like Metal Bulletin and Waterlines, as well as by other media enterprises in Spain and Germany. A

special report on this issue also appeared in June 1992 on the French TV program Thalassa, and media coverage continued even months after the Tribunal had ended.

In the Peruvian context, the trial was closely followed by the most important local newspapers, like El Comercio, Expreso and La República. It should be addressed that opinions were not unanimous: while some of them favored SPCC's position based on their doubts of the environmental knowledge of the members of the jury, others saw in this type of trials as an opportunity to defend the local environment from mining activities. SPCC, trying to balance the negative impact that this trial was causing in its image, increased its advertising expenses.

d) The nature of research-based evidence and mechanisms used to get the evidence into the policy process

The evidence of air and water pollution produced by Labor's technical crew was indeed crucial to support the case of the environmental negative impact SPCC mining activities had in Ilo. Specifically, the technical studies proved that SPCC's apparently indiscriminate usage of the region's water resources was jeopardizing not only agricultural activities but the water supplies of the town itself. The findings were so clear that during this process, the mining company approached the Peruvian Government to settle its environmental liabilities via a multi-stage program designed to reduce air and water pollution in the region.

In 1995, all the material produced by Labor to support its case at the Water Tribunal was published by one of its associates, Doris Balvín, under the title 'Agua, minería y contaminación: el caso Southern Peru' (Water, mining and pollution: the SPCC case). This book would be the cornerstone for other specialized studies about the environmental problems of Ilo, based on the systematization of relevant information regarding air and water pollution.

In addition, Labor's increasing reputation helped it to obtain new financial resources to establish a better structured program to measure and control air pollution in the entire city. In fact, Labor and the municipality created the Air Monitoring System, a program designed to control air pollution in the different areas of Ilo. All this evidence further supported Labor's arguments that not only were SPCC activities depredating the scarce water resources available to the region, but that its copper melting facility had a negative impact on the air quality.

Therefore, the pollution evidence provided by Labor has been crucial when assessing SPCC environmental impact in the region and the support to civil society pledges for a more responsible attitude towards the community's sustainable development.

Lessons learned

The main lesson regarding this case study is how civil society can transform its welfare demands into public policy through the conjunction of interests with the local government. In this respect, this case shows the importance of adequate political leadership of the local authorities and the financial support from international agencies to protect the CSO's environmental and developmental rights, even if having to confront resource-rich, mining enterprises.

In Ilo's case, the involvement of the global civil society proved to be crucial once local instances could not deal with its environmental dilemma. In this sense, the Ilo Water Tribunal not only helped the local community to address this issues, but its results transformed this case into a blueprint for other Peruvian communities searching to improve their environment and for the Central Government to design better public policies to deal with these problems.

Other lessons include:

- The relevance of media coverage as a way of involving global civil society. In fact, the reputational force achieved by the Tribunal's media coverage was the main culprit to Ilo's environmental success.
- The key role of international donors and their network to support NGO activities in distant communities. In particular, it is clear the role played by the financial sponsorship of IDRC and other international donors. Thanks to this support, Labor's personnel could prepare all the technical research necessary to sustain its plaintiff. In this respect, and based on Labor's financial budget before the Tribunal had started, one can reasonably argue that without these resources, it would have been extremely difficult for the NGO to finance all the research necessary to support the negative environmental effects of SPCC activities.
- The importance of research to provide objective proves to support the protection of environmental rights.

Sources of information

This case study is based primarily on the research document: Portocarrero, F. C. Sanborn, J. Loveday and O. Molina (2005) *Filantropía y Justicia Social en los Andes: el caso de la Asociación Civil Labor*. Lima: Universidad del Pacífico.

See also:

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