

Mining in Latin America

Critical approaches to the new extraction

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Chapter 11

Mining, property, and the reordering of socio-natural relations in Peru

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11 Mining, property, and the reordering of socio-natural relations in Peru

Matthew Himley

Introduction

Luis Moreno's house is located on the upland side of a dirt road that leads into Chacrapampa, a village of approximately 40 households in the Cordillera Negra mountain range of Peru's Ancash region.¹ About 400 meters upslope from Luis' house, a security fence, crowned with barbed wire, demarcates the boundary between village land and mine property. If one were to cross this fence and continue upslope, after about 600 meters she would arrive at the edge of the Pierina mine's open pit, an expansive hole carved from the mountainside. The Peruvian subsidiary of Toronto-based Barrick Gold Corporation began extracting ore here in 1998.

In April of 2008, I visited Luis so that he could show me a copy of a legal document, called a *testimonio*, about which residents of Chacrapampa had often spoken to me in prior months.² The *testimonio*, which dated to October of 1997, dealt with an agreement between Barrick and Chacrapampa's Civil Association of Smallholders (Asociación Civil de Pequeños Propietarios) through which villagers had agreed to sell nearly 140 hectares to the mining firm. This land was located in the village's upper reaches. It was comprised mostly of *puna*, a high-altitude grassland typical of the Peruvian Andes. Prior to Barrick's purchase of the land, villagers had managed this area as a commons in which they pastured sheep and cattle. As I inspected the *testimonio*, Luis directed me to an 'insert' that reported on a community meeting in which villagers had discussed the sale of an additional 78 hectares to the firm and also 'ratified the agreements made with the company regarding social support benefits.' The insert went on to list six broad areas under which Barrick would provide social assistance to villagers – employment, education, health, infrastructure, public services, and sports facilities – and elaborated a series of specific commitments within each area.

Years later, though Barrick had undertaken various social development projects in Chacrapampa as part of its corporate social responsibility (CSR) agenda, many of the initiatives listed in the *testimonio* had not been carried out, thus contributing to a sentiment among villagers that the firm had not honored the commitments it had made at the time of land transfer. As Luis recalled in reference to these commitments, 'They haven't fulfilled all their promises' (personal

communication, February 17, 2008; see also Himley 2010, 2014a). Villagers' feelings of resentment toward the firm's inaction on social development matters were sharpened by the fact that their ability to practice traditional agro-pastoral activities had been undermined given their reduced land base (Himley 2011). In this context, a new generation of village leaders began calling on Barrick to carry out the initiatives listed in the *testimonio*. While firm officials argued, in response to villagers' demands, that the document was not legally binding as it did not contain the signatures of Barrick representatives, the company agreed in 2006 to provide a new round of development support to the village. However, by the time of my visit to Luis in 2008, several of the initiatives listed in the 1997 *testimonio* had yet to be completed. Again, villagers had approached company officials to demand that Barrick make good on the promises that, villagers continued to maintain, the firm had made at the time of land transfer.

Chacrapampa's experience with large-scale mining suggests several ways in which changing property relations are central to the politics of the 'new extraction' in Peru. For one, the case of Chacrapampa illustrates the processes of land privatisation and enclosure that have underlain Peru's extended mining boom of the last two decades. While securing access to the land required to carry out mineral extraction has long been a basic necessity for mining firms, the increasingly capital-intensive nature of mining, along with the trend toward land-extensive surface-mining techniques, have amplified the importance of land-tenure issues for the industry (Bridge 2004). In Peru, the capacity of mining companies to establish control over surface lands was facilitated in the 1990s by the Alberto Fujimori administration's neoliberalisation of land-tenure laws, a process that aimed to encourage formalised, private landownership and dynamise land markets (Bury 2005; Glave 2008). These policy changes facilitated a wave of investment into Peru's mining sector, with numerous mining firms, including Barrick, acquiring large swaths of surface lands to construct their operations, typically with negative implications for land-based livelihoods (Bury 2005; Salas Carreño 2008).

Moreover, the story of the Chacrapampa *testimonio* indicates the centrality of mining-driven property reconfigurations to another aspect of contemporary extractivism in Peru: the expansion of corporate-led social responsibility and community development programs (see Bebbington 2010; Himley 2010). The Chacrapampa case demonstrates, on the one hand, how the promise of firm-led social development served to facilitate Barrick's land-acquisition program. In this sense, land transfer was not a clear-cut market transaction. Rather, this process was embedded within a complex set of (mis)understandings regarding the nature of the mine-community relationship that would emerge post-sale (cf. Szablowski 2002). This, in turn, has led land transfer to be a constant reference point for villagers as they have sought, over the years, to obtain a greater share of mining's material benefits.

On the other hand, the process through which Barrick purchased Charapampa land points to the role of changing property relations in the broader socio-spatial organisation of the firm's CSR agenda. To facilitate its land-acquisition program,

Barrick sponsored a process of property formalisation through which residents of area communities, including Chacrapampa, could claim legal title to parcels of land they had previously held in usufruct, the result being a consolidation of legally recognised, exclusive property rights in the communities that the firm considers to be within its 'area of influence.' In a context in which property has traditionally been a basis for community membership (along with participation in sociopolitical life more generally), this process of property formalisation has served to delimit, in social and spatial terms, a target population for the mining firm's social development initiatives.

The remainder of this chapter investigates in more depth the property reconfigurations associated with present-day extractivism in Peru. I begin by contextualising these property dynamics within the broader literature on land and resource privatisation. Following this, I provide an overview of long-term shifts in land-tenure legislation in Peru, highlighting linkages between property, identity, and power that are significant for understanding the recent neo-liberal turn in property regimes. Then, focusing on the Pierina case, I expand on the micro-politics of the firm's land-acquisition program, while also detailing how the process of property formalisation that accompanied mine development shaped the socio-spatial organisation of Barrick's social development programs. In the conclusion, I discuss the ongoing importance of land and property in the struggles that mining has provoked at Pierina. Overall, this chapter highlights the importance of placing changing property relations at the center of investigations into the socionatural transformations generated by large-scale mining.

Privatisation: Opening 'new ground' for capital circulation

While the contours of Barrick's land-acquisition program at Pierina arguably reflected 'new' developments in the mining industry (e.g. the trend toward land-extensive surface mining and the rise of CSR), it is also true that the main features of this process – commodification, privatisation, and enclosure – carry with them deep historical resonances. The creation of exclusive property rights for land and the development of a land market – i.e. the commodification of land – have long been recognised as decisive, if contested, processes in the historical development of capitalism. Land, as Polanyi famously asserted, is an element of nature thoroughly embedded within social institutions; to isolate it and form a market out of it constitutes 'the weirdest of all undertakings' (Polanyi 1944, 178). Polanyi perceptively observed, nonetheless, that the commodification of this fictitious commodity – *fictitious* because, like labor and money, land is not produced by humans for exchange – was fundamental to the development of the modern market economy.

The commodification of land has commonly been intertwined with its enclosure, through which access to land is restricted by the private entities that come to own it (Mansfield, 2007a). Karl Marx ([1867] 1967), in his classic analysis of the enclosure of common, state, and church lands across centuries in rural

England, recognised that the establishment of private property rights and the process of enclosure entailed a double effect. On the one hand, enclosure ‘freed’ land from precapitalist social restrictions, thus promoting the capitalisation of agriculture (along with bourgeois pursuits like deer hunting). On the other hand, enclosure entailed the expropriation of the agricultural population from their primary means of subsistence, thus creating a class of ‘free’ landless workers who had ‘nothing to sell except their own skins’ (Marx [1867] 1967, 667). The massive reallocation of collectively owned land in favor of the capitalist class and the creation of the proletariat were, of course, two interrelated sides of the historical process that Marx referred to as ‘primitive accumulation.’

Critical nature–society research has drawn parallels between the historical land-tenure changes identified by authors like Polanyi and Marx and contemporary efforts to establish private property regimes for myriad forms of nature, including fisheries (Mansfield 2007b; St. Martin 2007), water (Bakker 2007; Perreault 2006), wetlands (Robertson 2004), and even whole organisms (Prudham 2007). This scholarship has typically considered privatisation to be a central aspect of neoliberalisation (Mansfield 2007a). And just as Marx considered land privatisation and enclosure to have been key to the expansion of capitalist relations in England, recent work understands the neoliberal project of privatisation to be a lever for promoting the circulation of capital through environmental phenomena that previously had not been subject to capitalist logics (Castree 2008; Prudham and Coleman 2011). These ongoing processes of privatisation and enclosure are the crux of the concept of ‘accumulation by dispossession,’ which Harvey (2003) developed on the basis of his recognition that many of the important features of primitive accumulation remain present in contemporary capitalism.³

The transition toward a neoliberalised land-tenure regime – through which private property rights are guaranteed and land can easily be bought and sold – can have profound implications for patterns and trajectories of mineral development. As Bridge (2004) notes, one result of the increasingly capital-intensive nature of mining is that a firm’s ability to obtain financing to develop an operation is highly dependent on secure, reliable access to the target mineral deposit. It is important not to conflate property ownership with access – the latter of which, following Sikor and Lund (2010, 5), can be defined as ‘ability to benefit’ and can be, in practice, mediated by diverse social, environmental, and technological factors. Nevertheless, rising mine-development costs, coupled with the expansion of surface-mining techniques, have given legal issues of land tenure heightened significance as firms weigh the risk/reward ratios of potential investment sites. Accordingly, the neoliberalisation of land-tenure laws can have a strong re-regulatory effect: on the one hand, such a shift can simply allow access to more land for exploration and development activities (land that may have been off-limits due to legal restrictions); on the other hand, it can decrease risks to property-owning firms, such as state expropriation. In sum, the institutionalisation of a neoliberal land-tenure regime can open up ‘new ground’ into which mining capital may circulate (Bridge 2004; Otto 1998).

Property, identity, and power in Andean Peru

In Peru, such a shift in land-tenure laws – through which the rights of property owners were strengthened, the formalisation of ownership promoted, and restrictions on the subdivision and sale of communal lands relaxed – occurred in the 1990s as part of an aggressive program of neoliberal restructuring that had as a primary goal the promotion of private investment (Bury 2005). For Peru's mining industry, the implications of neoliberal reforms were dramatic, as a renewed flurry of interest in the country's extensive mineral deposits – located principally in the Andean region – soon materialised. By the turn of the millennium, more than 200 existing mining operations had been privatised, and the amount of subsurface territory granted in mining concessions had risen from four million to 22 million hectares (Bury 2005, 225). In total, between 1990 and 2001, Peru received at least US \$5.8 billion in mining investment, more than any country in Latin America other than Chile (Bridge 2004, 413). Among the socionatural transformations that have accompanied this influx of foreign mining capital, areas receiving large investments have typically seen significant property reconfigurations. Not only have mining firms, in many cases, accumulated large tracts of surface land, but their presence has also been associated with a suite of related land-tenure changes, including the subdivision of individual and communal lands, the increased monetary valuation of rural properties, and the dynamisation of land markets (Bury 2005; Glave 2008; Salas Carreño 2008).⁴

To appreciate the significance of recent mining-driven property transformations, it is useful to consider the long-term evolution of land-tenure laws in Peru. A good starting date for this discussion is 1570, the year that the colonial state, under the administration of Viceroy Toledo, began a process of indigenous resettlement (CEPES 2005). Through this process, Andean populations that had lived in relatively dispersed *ayllus* were concentrated into accessible settlements known as the *reducciones de indios* (CEPES 2005; Scott 2004).⁵ By doing so, the colonial state aimed to facilitate indigenous conversion to Christianity and assure a steady stream of tribute – in the form of taxes and labor – from Andean communities (Scott 2004). While the *reducciones* entailed the imposition of Spanish forms of agrarian organisation and spatial ordering, the communities that were created through the resettlement schemes at the same time allowed for the preservation of certain characteristics of the *ayllus*, including common property rights for land, which usually entailed household usufruct rights for croplands, communal access to pastureland, and collective work regimes (CEPES 2005). Further, prohibitions on the alienation of community lands guarded against the creation of a land market and provided a measure of legal and political protection for Indian communities facing the expansionary efforts of Spanish and Creole rural elites (CEPES 2005; Thurner 1997).

This colonial-era 'pact' – though which land rights for indigenous communities were safeguarded in exchange for their support of the colonial order (i.e. through tribute and labor provisioning) – endured for nearly three centuries. As Thurner (1997) explores, however, liberal reforms implemented in Peru

following independence in 1821 threw Andean land tenure into flux. As part of a broader political project to construct a unified nation and citizenry, the post-colonial state dismantled many colonial-era protections for Andean communities. Arguing that communal forms of property kept indigenous peoples under the yoke of traditional leaders (as opposed to becoming citizens of the new nation), liberals promoted individual property rights and the subdivision of communal lands. While the concrete effects of liberal reforms on community organisation were uneven, the erosion of communal land rights nonetheless allowed landlords to expand their authority by taking over common lands and appropriating indigenous labor (Thurner 1997). This process, which has been described as the feudalisation of rural society in Andean Peru (CEPES 2005), contributed to the most violent peasant insurgency in the late-nineteenth century: the 1885 Atusparia Uprising in Ancash (Thurner 1997).

In the early twentieth century, the pendulum of state policy swung again towards the protection of communal forms of land tenure in the Andes (CEPES 2005). In Peruvian intellectual circles, this period was marked by the rise of *indigenismo*, a movement that drew on idealised notions of Andean populations to promote the restructuring of state-indigenous relations (for example, see Mariátegui 1971). It was in this context that indigenous communities were (again) legally recognised by the 1920 constitution. This was followed by the 1933 constitution, through which the state guaranteed ‘the integrity of community property’ (CEPES 2005, 14). Specifically, the 1933 constitution deemed community lands to be *inalienables* (inalienable), *inembargables* (not subject to seizure), and *imprescriptibles* (immune from prescription) – a trio of restrictions that strongly limited the possibility of communal lands being subdivided, sold, or otherwise appropriated by external actors. The land rights of many indigenous/*campesino* communities remained precarious in subsequent decades due to the fact that they did not enjoy formal registration (CEPES 2005).⁶ Nonetheless, for the six decades that this triple protection for community lands was enshrined in Peruvian legislation, it provided a legal basis for communal property in the Andean region.

The 1993 constitution marked the end of twentieth-century protectionism for common lands in the Peruvian Andes (CEPES 2005). While *campesino* communities are still recognised under the new constitution and enjoy the same legal rights as individual private property owners (assuming formal registration),⁷ community lands are no longer considered *inalienables* or *inembargables* (Del Castillo and Castillo 2003). Indeed, rather than restricting the subdivision and transfer of communal lands, the ability (and autonomy) of *campesino* communities to dispose freely of their lands is now constitutionally guaranteed (CEPES 2005). The decision-making process through which Andean communities might alienate their property was laid out in the 1995 Land Law (Ley de Tierras), which required that at least two-thirds of all voting members of a community be in agreement for any decision on the disposal of communal lands to be valid (Del Castillo and Castillo 2003). These legal changes, which were part of the broader package of neoliberal reforms carried out by the Fujimori administration, constituted a re-regulation of access to the vast expanses of rural territory held by *campesino*

communities: the 'integrity' of these spaces would no longer be assured and access to them would be mediated largely – though not exclusively, given the two-thirds vote requirement – by market mechanisms.⁸ Crucially, as noted by CEPES (2005), while the aim of the 1995 Land Law was to provide a framework for investment in rural areas, it was not focused on stimulating agricultural development or on preserving rural lands as agricultural *per se*. Rather, through the development of a land market, the law sought to promote investment 'in any economic activity' (CEPES 2005, 22), with clear ramifications for the mining industry.

Several issues are worthy of note at this point. First, while until now the discussion has focused on indigenous/*campesino* communities and their relations with other actors (e.g. landlords), in reality the landscape of property – and, in turn, social organisation – in Andean Peru is more complex than this dualism would suggest. Over centuries, land in the Peruvian Andes has been turned into property of multiple (communal and individual) forms (Diez 2003). On the one hand, many *campesinos* are organised into settlements that involve collective property arrangements but are not formal *campesino* communities. On the other hand, within both formal *campesino* communities and other types of rural settlement that maintain common property, an intricate variety of formal and informal rules and regulations typically govern land access and use. These property arrangements – which often vary according to production zone – typically have developed over time in relation to shifting state policies, though they are rarely wholly determined by official legislation (Diez 2003).

Second, for rural populations in Andean Peru, there has historically existed a tight connection between property in land – especially communal forms of land tenure – and sociopolitical identity (Diez 2003). In many cases, this land-community-identity nexus has been forged through histories of legal and extra-legal struggle by which communities have defended (and recuperated) land from rural elites (Diez 2003; Hobsbawm 1974). According to some authors (e.g. Diez 2003), it is this linkage between territory and community that has led Andean identities to be more local (or communal) than ethnic. A more general point is that for individuals and households, membership in a territorially based community – whether formal *campesino* community or not – not only entails certain resource rights, but also typically constitutes the basis for participation in a region's sociopolitical affairs. As such, it may be expected that reconfigurations of property relations in the rural Andes would also generate a reconstitution of identity and changing patterns of involvement in sociopolitical life.⁹

Third, though in Peru mineral deposits are often located beneath agricultural land, their exploitation is regulated by a body of legislation distinct from that which governs access to and use of surface lands. Importantly, under Peruvian law, subsurface minerals are property of the state, which may authorise private actors to extract them through the granting of concessions (Del Castillo and Castillo 2003).¹⁰ In this legal context, it is possible, indeed common, for a 'superimposition of rights' to occur – that is, for a mineral concession to exist *underneath* state-recognised land rights (individual or communal) (Belaunde 2009). While prior to the 1990s, Peruvian law allowed for the expropriation of surface lands in such cases,

the general strengthening of property rights that occurred as part of neoliberal reforms has made expropriation less feasible. In this context, the 1995 Land Law sought to regulate the relationship between surface and subsurface rights by requiring the holder of a mineral concession to come to an *acuerdo previo* (prior agreement) with the owner(s) of surface lands for mining to proceed (Del Castillo and Castillo 2003). This mechanism afforded power to landowners (including Andean communities); however, the mining industry voiced its opposition, and in 1996 the Land Law was modified and a new mechanism was introduced: *la servidumbre minera* (mining easement) (Del Castillo and Castillo 2003). Under the new legislation, recalcitrant landowners can be obliged to allow a mining firm temporary access to their lands in exchange for monetary compensation. In legal terms, the *servidumbre* alternative returns significant power to the holder of a mining concession (Glave and Kuramoto 2002). However, while evidence exists that mining firms have used the threat of this legal measure as leverage in negotiations with landowners (Salas Carreño 2008), it is generally recognised that its implementation would provoke strong social protest (Glave and Kuramoto 2002). Further, particularly in the case of surface mining, its efficacy as a regulatory tool is highly questionable, as it is unclear what 'land' would be returned to the landowner upon mine closure (Del Castillo and Castillo 2003). In practice, then, it has been common for mining firms to rely on a simpler and more permanent method for controlling surface lands: purchase. This was the case at Pierina, where mine development entailed not only the transfer of a large tract of land to the mining firm, but also a more general process of property formalisation in area communities.

Making mine property: Land acquisition at Pierina

Acuarios Minera y Exploradora was one of the mining ventures that, in the wake of Peru's early 1990s neoliberalisation, set out across the country's Andean hinterlands in search of mineral deposits. Acuarios was the Peruvian subsidiary of Arequipa Resources, a Vancouver-based junior mining firm that was already 'armed with a stable of properties in Peru' when it listed on the Vancouver Stock Exchange in the spring of 1993 (Danielson 1999). One of these properties was a collection of concessions, measuring more than 4,000 hectares, in the Cordillera Negra mountain range in Peru's Ancash region. These concessions lay underneath the lands of several rural communities, and in order to carry out its exploration program, Acuarios negotiated agreements with these communities in which the firm provided monetary compensation in exchange for land access. The results of the firm's exploration program revealed a large and economically promising gold reserve – estimated, at the time, to be about five million ounces – that became known as the Pierina deposit. Arequipa Resources' share price surged, and in October of 1996, Barrick Gold Corporation acquired the junior mining company in a transaction carried out on the Toronto Stock Exchange for a total of US \$790 million. Industry analysts celebrated Arequipa Resources; the company was, according to *The Northern Miner* (1997), one of the great success stories of the decade.

With Barrick now in control of the Pierina deposit, the firm's Peruvian subsidiary set about developing a large-scale, open-pit mine. One of Barrick's first steps was to initiate negotiations with landowners to purchase the surface lands necessary for the project. In doing so, company representatives encountered a complex landscape of social organisation and land tenure: populations that occupied lands on top of the firm's mineral concessions were organised into a variety of settlement types – four were *comunidades campesinas*, while others were *centros poblados menores* or *caseríos* – that exhibited diverse and intricate property regimes.¹¹ Given that a combination of common and individual land-tenure arrangements typically existed in these communities, the firm had to reach agreements not only with whole communities over the sale of common lands,¹² but also with specific households over individually held parcels. In addition to acquiring the approximately 2,300 hectares necessary to construct Pierina's main components – including the pit, heap-leaching pad, and waste-rock disposal area – Barrick purchased a series of smaller properties needed to construct an access road to the mine, along with a portion of land near the district capital of Jangas, where the firm built a gated complex for worker housing and office buildings.

The land-tenure situation faced by Barrick was marked not just by complexity, but also by informality. According to a state official involved in land-titling efforts in Ancash, when Barrick initiated its land-acquisition program, 98 per cent of the area's properties were not legally titled, while two percent were 'imperfectly' titled (personal communication, July 31, 2008). For a mining firm that had paid nearly US \$800 million to acquire a gold deposit and planned to spend an additional US \$250 million to develop a mine (Barrick Gold Corporation 1999), this opaque property landscape could prove perilous, as a land purchase enacted today might be subject to legal challenge in the future. It was in this context that Barrick, at the same time that it negotiated with communities and households over the sale of their lands, entered into an agreement with the Ancash branch of the Ministry of Agriculture (Dirección Regional de Agricultura de Ancash) to carry out a process of property formalisation as part of the Peruvian state's Special Program for Land Titling (Programa Especial de Titulación de Tierras, or PETT). Similar land-titling programs were undertaken at other large-scale mines initiated during the 1990s (Glave 2008). Importantly, at Pierina, titling efforts were not limited to lands ultimately purchased by Barrick but rather entailed a more general process of property formalisation, through which many area households were given the opportunity to claim as private property parcels of land that they had held in usufruct. The land-titling official cited above reported that as a result of the PETT program at Pierina, about 95 per cent of properties in the area are now legally titled (personal communication, July 31, 2008).

For details on how land titling and transfer were carried out, the experience of Chacrapampa is illuminating. Prior to the construction of Pierina, the village extended across about 470 hectares that encompassed, broadly, two agro-ecological zones, each subject to a distinct property regime. While the upper section of the *caserío*, which was located in the headwaters of the valley and was mainly *puna*, was held as a commons and used to graze sheep and cattle,

the village's lower section, in addition to being the site of the village plaza and residents' homes, was (and continues to be) used primarily to grow crops. Over time, much of the land in the lower section of the *caserío* – including a subsection of irrigated cropland – had been subdivided into parcels to which village households maintained individualised rights, though not formal titles. On all sides, Chacrapampa bordered other rural communities, including two *comunidades campesinas*, a *centro poblado menor*, and a *caserío*.

Shortly after Barrick's acquisition of the rights to Pierina, two interrelated processes were initiated that would reconfigure property relations in Chacrapampa: the village decided to participate in the Barrick-sponsored PETT program, and firm representatives approached the village with the aim of purchasing a portion of *caserío* land. Apparently, Chacrapampa was one of the first communities in the area to negotiate land transfer with Barrick, and according to villager testimonies, many residents were initially cool to the firm's advances – a reticence that is hardly surprising given the land-based nature of villagers' livelihoods. In the end, however, Barrick succeeded in purchasing about 220 hectares from Chacrapampa. The majority of the land purchased had been commons; as such, payments were distributed among village families. However, because the lower section contained household parcels, these individual households also received compensation for land sold.

Villagers' recollections of their negotiations with Barrick revealed a confluence of factors that led the *caserío* to alienate nearly half of its land base. One important rationale, of course, was the monetary payment that villagers would receive, and in this respect, interviewees often reported being attracted to the fact that they would receive payment in US dollars. An exotic currency to most, dollars promised a value far and above their native Peruvian *nuevo sol*. As one resident of the *caserío* affirmed, 'The people from here aren't very learned, and in those days we weren't familiar with dollars in Chacrapampa. Then, Barrick arrived to pay in dollars, so people said, 'Shoot, we're going to earn a lot of dollars!' Well, people must have thought that a dollar was a whole lot of money' (personal communication, August 4, 2008).

Intra-community divisions also bore upon villagers' decision to sell. In particular, interviewees suggested that during negotiations with the firm, a subset of 11 village families assumed a significant degree of decision-making power due to the fact that they were considered the *herederos* (descendants) of the village's original inhabitants. As one villager explained, it was primarily this group of *herederos* that led negotiations with Barrick: 'Eleven families appointed themselves and said, 'We are going to represent this whole village in negotiations with the mining firm.' You see, so they carried out the negotiations' (personal communication, February 17, 2008). This was despite the fact that many of these *herederos* no longer resided in the *caserío*. Customary property relations dictated that these individuals retained claims to village land due to their family heritage. However, they no doubt brought to the negotiations interests distinct from those of the village's full-time residents, who depended directly on village land for their livelihoods. Despite this, many villagers reported that during

discussions over the sale of land, the voices of the non-resident *herederos* – who advocated selling land to Barrick – overpowered those of permanent residents who expressed reluctance.

Meanwhile, as the above discussion of the 1997 *testimonio* indicates, money was but one of the benefits that villagers expected to receive from their dealings with Barrick. Villagers recalled that the land-transfer process was infused with discussions of the multiple ways that mining would be advantageous for them, two of the most significant being employment and the firm's social development support. Luis, referencing the 1997 *testimonio*, gave the following catalog of initiatives that Barrick had promised to undertake at the time of land transfer: 'There [in the *testimonio*] it says very clearly: 'The company commits to building a health clinic. The company commits to building a sports field. The company commits to building a well-equipped school...The company commits to constructing a road to the Chacrapampa plaza. The company commits to providing electrical service.' It's all there' (personal communication, February 17, 2008). In Chacrapampa, then, the decision to sell hinged on the idea of an ongoing relationship with the mining firm, one that would be 'governed' by the agreements reached with company officials during land-transfer negotiations.¹³

Finally, it is important to note that many Chacrapampa residents testified that, at the time of land transfer, they were under the impression that they would retain access to their land, especially for ranching, and that firm officials encouraged this idea. As one villager asserted, 'The owners of the mine said, 'You all are going to work like you always have; you are going to pasture your animals like you always have'' (personal communication, February 17, 2008). Villagers, however, were disabused of this idea when, within a year after land transfer, Barrick constructed the security fence that now surrounds its property. Whether or not this act of enclosure in fact ran counter to promises made during negotiations, two issues are salient. First, during negotiations there was not a shared understanding between buyer and sellers of what was actually being transferred: many villagers thought that they were selling use rights rather than permanent, exclusive ownership rights to the firm. Second, this misconception was possible largely because villagers had an idea of mining that was markedly different from what was being planned for Pierina. While some in Chacrapampa had experience with medium-scale shaft mining, few if any were familiar with the open-pit, heap-leaching technologies that Barrick would utilise, or with the extreme landscape transformations that these mining techniques would entail (for more on this issue, see Himley 2011, 2014a).

In sum, land transfer in Chacrapampa was marked by misunderstandings regarding the nature of the property being sold, and the agreements, expectations, and promises regarding the firm's social-development commitments that swirled about the negotiation process were characterised by ambiguity and informality. That villagers and Barrick remained in disagreement over these issues years after the firm's land-acquisition program was completed suggests the lack of a well-defined and socially legitimate legal framework to regulate the impacts of land transfer (see Szablowski 2002).¹⁴ Nevertheless, the property transformations

that accompanied Barrick's arrival have had enduring implications for area residents, including in regards to their involvement in the firm's social development programs.

Property and the socio-spatial organisation of CSR

Despite a lack of shared understandings at the time of Barrick's land purchases regarding the nature of the rights being transferred, the firm succeeded in securing legally recognised control over the land it sought. Meanwhile, for communities that sold land to the firm, the transfer and subsequent enclosure of that land represented an erosion of territorial control. In a context in which livelihoods have historically been rooted in the use of land-based resources, especially pasture, villagers' exclusion from their former grazing lands produced a series of socially uneven effects on their daily activities and livelihoods (Himley 2011). Moreover, community water governance has also been eroded, given the location of Barrick property in valley headwaters, coupled with the legal and physical control that the firm has established over surface and groundwater resources (Himley 2014b). In these ways, Barrick's land acquisitions have led to a new regime of resource access and control – and a transformed geography of power – in which the firm has come to exert significant decision-making authority.

Moreover, the property-formalisation process that accompanied mine development has shaped the organisation of Barrick's CSR agenda, especially in regards to the social distribution of involvement in its community development programs. Over the years, the firm has carried out a variety of social development initiatives in areas such as health, agriculture, and education, while also establishing a local employment program and aiding the start-up of community-based businesses to provide inputs and services to the mine (for details on these programs, see Himley 2010, 2013). As noted above, in the rural Andes, membership in a territorially based community has traditionally served as the basis for participation in an area's sociopolitical affairs. At Pierina, the firm has to a large extent structured involvement in its social development programs along these same lines: within the communities in which Barrick has focused its CSR efforts, land ownership has translated into certain 'rights' to participate in and receive benefits from the firm's initiatives. It is in this context that the property-formalisation process that took place in the late 1990s has been significant, as the granting of formal, exclusive property rights to land codified – or 'fixed' – community membership, in the process serving to delineate a discrete target population for the firm's CSR programs.

Evidence suggests various ways that this process of socio-spatial demarcation left individuals and groups excluded from the firm's privatised development regime. For one, exclusion took place when individual residents' rights to land were not recognised at the time of property formalisation and land transfer. In the village of Asunción, for instance, which did not sell land to Barrick, a number of villagers reported that they should have inherited rights to lands that nearby communities sold to the firm. An older woman, for instance, reported on a parcel of land in the town of Santa Cruz that had belonged to her mother. While this

parcel was included in a larger tract of land that Barrick purchased from Santa Cruz, town leaders did not recognise the woman's rights to the property at the time of land transfer. The firm, she said, 'appropriated my land, but they didn't acknowledge [my rights]. They didn't say, "This, this is your land"' (personal communication, February 28, 2008). In cases like these, individuals whose rights went unrecognised were excluded not only from the immediate spoils of land transfer, but also from the social development programs that Barrick has implemented in communities from which it purchased land. This indeed indicates how the formalisation of private property rights entailed the creation of a new set of sociopolitical relations.

The case of Asunción also illustrates how participation in firm-led social development varies *among* communities located within what Barrick designates Pierina's 'area of influence'. At one level, these differences result from contingent histories of negotiation between individual communities and mine officials. (Indeed, area residents commonly reported that the level of development support they received hinged on the pressure they could exert on the firm.) More basic disparities emerge, however, from a distinction made by Barrick between the mine's 'direct' and 'indirect' areas of influence. The firm mainly considers communities from which it purchased land – and thus now border mine property – to be in Pierina's direct area of influence.¹⁵ Meanwhile, the mine's indirect area of influence is made up of an outer ring of communities, typically located further downstream from the mine, which did not sell land to Barrick. Area residents often referred to this distinction as being between *comunidades afectadas* (affected communities) and *comunidades invitadas* (invited communities). Crucially, 'affected' communities have been prioritised within the firm's CSR agenda. In Asunción, it was only after village leaders requested that the *caserío* be eligible to participate in Barrick's local employment initiative that the village joined the ranks of the invited communities. While this request was approved, Asunción has not received the same level of support as have communities within Pierina's direct area of influence (or, more precisely, *landowners* within these communities), as indicated by the following exchange I had with Asunción resident Vicente Heredia (personal communication, April 17, 2008):

- MH: And what did the folks from Barrick say when you made this request [for villagers to be eligible for Barrick's local employment initiative]?
- VH: When we presented it, they said 'We are going to accept you, but only as *invitados*'. That's what they said...
- MH: And what does it mean that you are *invitados*?
- VH: Well, that we're not *reconocidos* (recognised). We're considered to be visitors...
- MH: OK. So you don't have, I mean, you don't have rights.
- VH: Uh huh, we don't have rights. That's why they don't want to support us with *obras* (works), with anything. 'You are only *invitados*, you're not *afectados*', they tell us.

Or, as another villager from Asunción reported to me: ‘We’re not given priority because we’re not *afectados*. We’re only *invitados*’ (personal communication, December 3, 2007).

In sum, it is a (reconfigured) land-tenure system that underlies the organisation of individuals, households, and communities within the new forms of development governance that have emerged in the area following Pierina’s construction. While land-tenure arrangements prior to mine development entailed various and complex customary rules, property formalisation has led to a codification – or ‘fixing’ – of land rights. This, in turn, has established new patterns of involvement in the area’s sociopolitical affairs, particularly when it comes to Barrick’s CSR programs. In the end, the distribution of property rights in land has shaped the socio-spatial distribution of the benefits accruing from mineral development, as property-based membership within the mine’s area-of-influence communities has allowed the holders of land rights to forge certain socioeconomic relationships with the firm.

Conclusion: Property, power, and protest

In Peru, the late-twentieth-century neoliberalisation of property regimes facilitated mining industry expansion by offering mining firms opportunities to establish – via purchase – relatively secure access to surface lands needed to construct their increasingly land-extensive operations. Rather than simply considering the significance of a reworked land-tenure regime for the growth of Peru’s mining industry, however, this chapter has explored the role of mining-driven property reconfigurations in the broader politics of the ‘new extraction’ in Peru. In the case of Pierina, Barrick’s land purchases and enclosures transformed patterns of resource access and control, with important livelihood implications for area residents. Meanwhile, changing property relations have been closely intertwined with the history and evolution of CSR at Pierina, both in the sense that promises of social development facilitated land transfer, and in the sense that the formalisation of exclusive, individualised property rights that accompanied mine construction has served to delimit a target population for the firm’s CSR programs. The Pierina case suggests, then, that property reconfigurations have been central to the processes of socrionatural reordering associated with contemporary extractivism in Peru.

That reconfigured property relations at Pierina have contributed to a new geography of power also raises questions about the role of land and property in mining-related social mobilisation and protest. In this respect, area residents, including those from communities that sold land to Barrick, have resisted the new spatial order associated with mine development in a number of ways. For instance, residents of communities now located adjacent to Pierina have been known to clandestinely pasture livestock on mine property – an action to which, residents reported, firm officials have typically responded forcefully, demanding that private property be respected and warning that livestock found on mine

property would be taken to the police. In addition, residents of area communities have mobilised to demand entry to Pierina for particular purposes, for instance in 2009, when a group of villagers from Chacrapampa successfully demanded entry to mine property to inspect the source of their irrigation water after noticing a suspicious substance the village's canal system (see Himley 2014b).

Research in communities from which Barrick purchased land also revealed that this alienated property has continued to hold symbolic weight in residents' interactions with the firm. In moments of frustration with company officials or policies, it was not uncommon for community residents to express a desire to tear down Pierina's security fence and return to 'their' land. Such declarations were typically animated by the belief that residents' lands had been taken from them unjustly, because it was not made clear at the time of land transfer that they would lose access to this land, and/or because the pledges of social development support made by the mining firm during land-transfer negotiations had gone unfulfilled. As such, residents' statements reflected a desire to see rectified the injustices that, in their eyes, characterised and followed from Barrick's land-acquisition program.

In a number of ways, then, property has remained a 'live' issue at Pierina, the result being that Barrick, at times, has had to 'shore up' its ownership rights, for instance by policing the mine's borders, or by insisting on the inviolability of private property. Notwithstanding area residents' covert trespassing and calls to reoccupy their former lands, however, no serious challenge to the firm's ownership rights or material control over mine property has emerged. Indeed, it is notable that one of the most significant protests occurring at Pierina – a pan-community mobilisation in 2006 that was focused on improving employment conditions for area residents working at the mine – took place not on mine property, but several kilometers away, where roadblocks were put in place to impede transport into and out of the operation (see Himley 2013). The relative stability of mine property can no doubt be traced to the fact that any serious effort to infringe on Barrick's property rights (via, for instance, an attempted land reoccupation) would represent not just a challenge to a set of legally enacted property transactions, but also an affront to one of the core tenets of neoliberal ideology: the sanctity of private property. As such, these efforts would undoubtedly trigger a strong response from the neoliberal Peruvian state.

Finally, at Pierina, the dynamics documented in this chapter have played out against a backdrop of uncertainty regarding the future of mine property. In August of 2013, Barrick initiated closure activities at Pierina as part of a broader 'optimisation' of the firm's portfolio of mines. Though the closure process will last many years, the end of extraction at Pierina raises questions regarding what will come of mine property, especially given that while much of the land that Barrick purchased has been totally transformed, portions of this land would still be appropriate for agro-pastoral activities. Of the many agreements supposedly made during land-transfer negotiations, residents of communities that sold land to the firm reported that Barrick promised to return that land to them post-mine closure. Here, too, however, residents' expectations could go unmet: during the time of my research, at least, firm officials assured me that it was too early to determine the future of Barrick property. What does seem likely is that

as closure proceeds, funding for CSR programs dries up, and employment is no longer an option, residents' demands to access the productive land (in agropastoral terms) that does still exist on the Pierina property could increase. The story of how these demands are accepted, negotiated, or thwarted remains to be written.

Notes

- 1 In this chapter pseudonyms are used for both individuals and communities.
- 2 The research on which this chapter is based was carried out over 13 months between 2006 and 2012 and included a ten-month fieldwork period in 2007–8. Centering on the evolution of mine-community relations at Pierina, this research included in-depth fieldwork in Chacrapampa and two other communities in the vicinity of the mine.
- 3 Notably, recent work has identified critical distinctions between the historical processes of primitive accumulation traced by Marx and present-day processes of dispossession and enclosure. In particular, authors have identified situations in which large-scale development in rural areas has resulted in agricultural populations being dispossessed of land and resources *without* their subsequent absorption into the capitalist economy as laborers (Edelman, Oya, and Borrás Jr., 2013; Li, 2010; White, Borrás, Jr., Hall, Scoones, and Wolford, 2012). Though beyond the scope of this chapter, these insights have clear relevance for the capital-intensive, technologically advanced large-scale mining sector, which tends to offer few employment opportunities for displaced populations (Himley, 2013).
- 4 Interestingly, recent years have seen cases in which landowners have rented rather than sold land to mining firms with the aim of increasing the economic benefits they receive from mining activities (G. Castillo, personal communication, February 20, 2015; see also Ramón, 2011).
- 5 A territorially based organisational unit that constituted the basis for social and political life in the Andes prior to the Spanish Conquest, the *ayllu* survives in various parts of the Central Andes, though typically in modified form.
- 6 My use of 'indigenous/*campesino*' here signals a reconstitution of the state's recognition of Andean communities occurring with the 1964 Agrarian Reform Law, which institutionalised a distinction between *comunidades campesinas* (peasant communities), located mainly in the Andean region, and *comunidades nativas* (native communities), in the Amazon (CEPES, 2005). This re-designation of smallhold Andean farmers as peasants reflected a shift towards a class-based politics that took place throughout the Andes during this period.
- 7 In general, the 1993 constitution strengthened property rights – both individual and communal – by limiting the state's capacity to expropriate property and by guaranteeing foreigners equal rights in property ownership (Del Castillo and Castillo, 2003).
- 8 In 2008, then-President Alan García, having been granted by the Peruvian Congress special legislative powers in matters pertaining to a trade agreement being implemented with the United States, issued a legislative decree (DL 1015) that relaxed the 1995 Land Law's two-thirds vote requirement. In particular, DL 1015 stipulated that the disposal of community lands would require a favorable vote of only 50 per cent of community members present at the meeting in which the issue was being discussed (a requirement that was later amended, by DL 1073, to 50 percent of all community members). These legislative actions, however, drew vociferous criticism from indigenous and *campesino* organisations, along with their civil-society allies, and both DL 1015 and DL 1073 were subsequently repealed by Congress.
- 9 Indeed, it was this very notion that underlay efforts by nineteenth-century liberals to create a new national citizenry in part by suppressing communal forms of land tenure.

- 10 Specifically, the 1993 constitution maintains that natural resources are patrimony of the nation and grants the state sovereignty in their exploitation (Belaunde, 2009).
- 11 While *comunidad campesina*, *centro poblado menor*, and *caserío* are all officially recognised categories for rural population centers in Peru, *campesino* communities are distinct from the other two in that a specific body of legislation governs their organisation. In this chapter I translate *centro poblado menor* as 'town' and *caserío* as 'village,' though I use the generic term 'community' when not referring to a specific population center.
- 12 Importantly, a community's decision to sell common lands was not necessarily a democratic one. Entrenched social divisions – e.g. along lines of age and gender – are typically reflected in an uneven distribution of decision-making power within communities. Research also suggested that community leaders, who usually carried out the bulk of negotiations with the firm, often used their authority to convince other residents of their position regarding land transfer.
- 13 Villagers reported that during these negotiations, Barrick representatives threw a village-wide celebration, or *pachamanca*, the Quechua name for a traditional Andean feast. Given that many residents were initially not of a mind to sell, it is easily imagined that the *pachamanca* was designed to give the *caserío* an agreeable impression of what life would be like with Barrick as a long-term neighbor. According to one village elder, the event indeed had an effect: 'With the whole village eating,' he sardonically recalled, 'people began to change their opinion' (personal communication, December 12, 2007).
- 14 Recent decades have seen the development of global standards to regulate the treatment and protection of populations displaced by large-scale development projects (e.g. the World Bank's Operational Directive 4.30 on Involuntary Resettlement). However, such standards only began to gain purchase in Peru in the early 2000s (Glave, 2008), and I found no evidence of their application during Barrick's land acquisitions at Pierina.
- 15 This includes communities that sold land for the construction of Pierina's main access road.

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