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Large-scale mining in protected areas made possible through corruption: Options for donors

Large-scale mining of minerals and metals are threatening protected areas, and corruption is often to blame. International donors must engage with governments, mining companies and local stakeholders to encourage transparency and accountability around restrictions and concessions. Donors are well-placed to promote adherence to international laws and initiatives designed to safeguard biologically- and culturally sensitive areas. Government agencies need technical and financial support to develop monitoring systems. Supporting national authorities to clarify protected area laws can benefit affected inhabitants, give predictability to mining companies, and improve law enforcement.

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Protected areas and the threat of large-scaling mining

Protected areas are "dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources" (IUCN, 2013). Protected areas are designated and managed by national governments, and human activities in such areas are restricted and/or prohibited by national legislation.[1] The UN Convention on Biological Diversity calls on signatories to "establish as system of protected areas or areas where special measures need to be taken to conserve biological diversity." Parties to the Convention commit to protecting biological resources in protected areas and when possible, expand protected areas within national borders to meet a global target of 17 % terrestrial coverage by 2020. To date, approximately 200,000 protected areas exist worldwide, accounting for roughly 15 % of the Earth's land area (Butchart et al, 2015).

Population growth combined with rapacious industrial expansion in developed and developing countries has created unprecedented demand for minerals and metals. Exploration and extraction is growing significantly in emerging and developing countries, which contain some of the world's largest mines. A portion of the demand for minerals and metals is met by small-scale or artisanal mining, which makes up only around five % of the world's total mineral production.[2]

Large-scale mining is responsible for the remaining 95% of production, and is characterized by highly mechanized and capital-intensive operations (Weber-Fehr et al, 2002: 441). Large-scale mining is carried out by private companies with different ownership structures (from publically traded to state owned) and sizes: companies range from 150 or so "senior" mining companies with over $3 billion in assets to thousands of small "junior" companies (ICMM, 2012).

The extraction of natural resources, including minerals and metals, are posing a substantial threat to the integrity of the world's protected areas. Reports suggest that 44 World Heritage Sites are, or potentially will be, impacted by large-scale mining operations (Koziell and Omosa, 2003). A recent study found that large-scale mining activities are occurring in at least 6 % of protected areas globally, and within 10 kilometers of an estimated 14 % of national parks (Duran et al, 2013).[3] Additionally, previous restrictions on mining and other forms of resource extraction in protected areas have been altered in order to meet increased demands for raw materials. Referred to as "protected area downgrading, downsizing and degazettement" (PADDD) these practices: (1) allow legal authorization to increase the number, magnitude and extent of human activities within designated protected areas; (2) decrease the size of protected areas by changing borders; and (3) remove legal protections for entire protected areas. An estimated 543 instances of PADDD have occurred since 1900, with large-scale mining one of the largest proximate causes (Mascia et al, 2014).

Efforts to downgrade, downsize, and degazette protected areas are in some cases driven by corruption

Corruption and large-scale mining in protected areas

Mining in protected areas and instances of PADDD are a global occurrence. Protected-area boundaries are frequently ill-defined and laws prohibiting mining in protected areas are vague. Moreover, there are genuine arguments for opening up some protected areas to increased human activity in order to address broader challenges of poverty and sustainable development. The problem is more acute, however, in developing countries that are unable to maintain protections due to a lack of government capacity, inadequate infrastructure and scarce financial resources. These are the same countries frequently characterized by poor governance, mismanagement and corrupt practices (Laurance, 2004). Although there are currently no studies detailing the connection between corruption and mining in protected areas, existing evidence suggests that mining in protected areas, as well as efforts to downgrade, downsize and degazette protected areas, is in some cases driven by corruption. Corruption involves a variety of behaviors, such as government officials demanding bribes in exchange for mining concessions, or collusion between companies and governments to allow illegal mining in protected areas. It also includes trading in influence, whereby government officials use positions of power to modify laws and regulations related to mining and protected areas by sidestepping the political process, ignoring relevant stakeholders, and circumventing transparency mechanisms. Several factors increase the likelihood that corruption will lead to mining protected areas. First, in countries that contain both protected areas and significant reserves of mineral or metals, and where governance is weak and/or corruption pervasive, there is a higher likelihood that corrupt practices will lead to more mining in protected areas (Smith et al, 2003). Second, countries lacking the adequate financial resources and administrative capacity to implement or enforce regulations are more susceptible to kickbacks and other forms of corruption in the mining sector. Third, where mining operations are being carried out by small, "junior" companies, corruption is also more likely because juniors are frequently willing to participate in, and/or maintain corrupt practices for short-term gain since they incur little reputational cost if corruption is uncovered. Global or senior mining companies, conversely, have more leverage over host governments and are expected to adhere to global and domestic anti-corruption laws.

Existing evidence suggests that companies are mining in protected areas and governments are engaging in corrupt behavior to change the status of protected areas (Edwards et al, 2013; Farrington, 2005). For example, the Cambodian government granted secret and unlawful concessions in protected areas to mining companies, including large sections of Virachey National Park. The country's mining laws prohibit mining in "national cultural, historical and heritage sites," and in especially designated protected areas. Despite these regulations, mining licenses have been granted in these areas by government officials illegally and without consulting local communities or civil society groups (NGO Forum of Cambodia, 2008). The mining is being done by junior companies that have little incentive to follow global mining standards or to safeguard protected areas. Cambodian mining laws lack openness and transparency: government approval is required in order to get public access to mining industry applications, reports, plans and notices prior to concessions expiring or companies approving disclosure, as well as to access any data about environmental or social impacts.

A second example of how corruption influences large-scale mining in protected areas comes from Indonesia, where a 1999 law bans mining in, and adjacent to, protected areas. But pressure for economic development in 2010, led the government to grant concessions to mine in protected areas, in violation of the 1999 law. Current and former officials were accused of colluding with mining companies to "rezone" and "downgrade" protected areas to allow for increased mining activity. A government decree allowed resource extraction in protected areas if mining companies agreed to rehabilitate damaged

watersheds and rivers, compensate or swap areas twice as large as the concession they exploited, build infrastructure, and not change the designated purpose of the area. Mining companies suggested the reclassification would allow for economic development of the region, but environmental groups and scientists argued that changing the laws without stakeholder input would endanger biodiversity and imperil food security.

Proactive policy measures for international donors

The cases of Cambodia and Indonesia illustrate that corruption is an important factor that enables mining activities in protected areas. To ensure that corruption does not enable large-scale mining to occur in protected areas, international donors must engage with mining companies, governments, international financial institutions, industry associations, non-governmental and supranational organizations, and ultimately consumers. International donors must be proactive and initiate specific policy measures to guard against corrupt behaviors that threaten protected areas.

Policy support and implementation

International donors must continue to support policies to reduce the types of corrupt behaviors that makes mining in protected areas possible, and governments need to uphold these policies. Donors should support anti-corruption laws and international conventions and threaten to withhold aid if government transparency and accountability do not improve. Improving transparency and accountability in extractive industries resource governance is the objective of global initiatives like "Publish What You Pay" and the "Extractive Industries Transparency Initiative". Donors should also support the adoption and implementation of regulations that require extractive companies to report on payments to foreign governments, such as the European Union Accounting Directive, the OECD's Anti-Bribery Convention, and the U.S. Dodd-Frank Act. However, transparency and accountability mechanisms within the extractive industries need to extend beyond the sole focus on resource revenues. Governments and companies should be compelled to make public the locations of all mining concessions and mining operations, particularly those in close proximity to identified protected areas. Where mining has occurred or is occurring in protected areas, donors and civil society organizations should demand information about how government decisions regarding such activity were made, which companies were involved, and any anticipated or actual environmental or social consequences resulting from such mining activity. Where PADDD is occurring, donors should confirm that the political process is fair and all relevant stakeholders are involved. In these instances, direct donor support could be used to encourage broad citizen participation in decisions about mining or related activities in protected area locations.

Donors could support use of remote sensing or Google Earth to look for signs of mining in protected areas.

Promote international laws and voluntary standards

International donors must promote international laws, voluntary standards and corporate best practices that require governments and mining companies to forgo mining in protected areas. International agreements such as protection for UNESCO World Heritage Sites and the Convention on Biological Diversity require signatories to take action to protect and safeguard biologically or culturally-sensitive areas. International donors should support efforts to help ensure that governments uphold their commitments, for instance by publicizing countries that fulfil obligations and those that do not. International donors should also support industry associations and global mining standards. The International Council on Minerals and Metals (ICMM) produced a position statement on mining and protected areas and established a set of "good practices" for mining and biological diversity. All ICMM members, including some of the world's largest mining companies, are required to respect legally-designated protected areas and areas of high biodiversity. The Initiative for Responsible Mining Assurance is a multi-stakeholder initiative to establish global standards for large-scale mining, and it too requires companies to support and strengthen the effectiveness of designated protected areas worldwide. International donors need to play a role in encouraging signatories to be held accountable for their actions while also encouraging non-signatory mining companies to operate according to the standards.

Provide technical expertise

International donors must provide technical expertise and information to small, junior mining companies, who have the highest risk of mining in protected areas. Donors should consult directly with mining companies to provide them with information about responsible mining and global standards that reduce impacts on protected areas. International donors should work with government agencies to advise mining companies about the locations and boundaries of protected areas that could be affected by operations. Donors can also help to provide the necessary technical and financial support to conduct environmental and social assessments, consult with stakeholders, and develop appropriate monitoring systems.

Support government efforts

International donors must support government efforts to clarify protected area laws, policies and processes. Protected area laws define what activities are permissible or prohibited. It is common for these guidelines to be misinterpreted due to vague definitions, which can lead to corrupt behavior – particularly in developing countries. Donors should support governments and other stakeholders (including the private sector and civil society) by providing technical and financial assistance to clarify the objectives and status of protected areas. Legal clarity is a win-win situation for all stakeholders: it reduces opportunities for corrupt behavior, can help to protect local

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populations from unfair treatment, provides mining companies with stable information to make decisions, and provides solid ground for government enforcement of laws.

Publicize cases of corruption

International donors must support global, national and local initiatives to publicize resource corruption and cases of large-scale mining in protected areas. Corrupt practices can be difficult to detect, given their covert nature. Mining in protected areas is clandestine partly because protected areas exist in remote places far from population centers. International donors could support a project that uses remote sensing or Google Earth to look for signs of mining in protected areas. International donors should support and defend local and national civil society and research organizations that are well-positioned to document mining in protected areas and to report on the corrupt practices of government and company officials. Donors should use their financial resources and global reach to provide investigative resources and raise the profile of specific cases in which corruption and mining in protected areas is prevalent, or on the rise.

Support further research

International donors should provide funding to commission a study to document and assess the scope of the problem. The link between corruption and extractive industries in developing countries is well-documented. However, there is at present no comprehensive dataset cataloguing cases of mining in protected areas. Nor is there a comprehensive study that addresses the linkages between corruption and mining in protected areas, or specifies cases of PADDD influenced by corruption. The information that does exist is fragmented, anecdotal, and, at times, circumstantial. A definitive study would not only indicate the extent of the problem, but also help raise public awareness and set the policy agenda.

Endnotes

[1] Numerous locations are recognized internationally as protected areas, including World Heritage, UNESCO, and Ramsar sites.

[2] Small-scale and artisanal mining is a source of livelihoods and subsistence for tens of millions of people in dozens of countries worldwide. It is labor intensive, with low levels of mechanization and capitalization. In contrast, large-scale mining employs around 2.5 million people.

[3] Artisanal and small-scale mining is taking place inside or along the borders of 96 out of 147 protected areas in 36 countries (Villegas et al, 2012)

Further reading

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