Oil blindness in Peru:

laws that neither look to the past nor to the future

The Peruvian Congressional Commission on Energy and Mining passed a bill that enables Petroperú to be awarded the oil lots located on the coast and in the Amazon regions of the country. While new lots are being promoted and old ones are being squeezed, 6,000 environmental impacts continue without receiving the necessary attention to remedy the contamination and to avoid impacts on the health of local communities. In the political debate, the opinion of indigenous organizations is not taken into account, and the costs of remediation or the transition to renewable energy sources are not analyzed.

By Mario Zúñiga Lossio - July 1st 2023

Political crises are often the tip of the iceberg for deeper crises. The deaths of protesters due to police repression during the government of Dina Boluarte carries with it an increase in human rights violations. Thereby, a dangerous trend is confirmed in which the State abandons its fundamental principles and duties and prioritizes, rudely, corporate interests.

In this context, the Peruvian oil sector, made up of private companies and public institutions, has taken advantage of the crisis and impunity to maximize its profits at any cost, based on extreme logics and strategies. The authorities of the [oil] sector set regulations and offer lots to prolong the life of an unviable business, which accumulates decades of socio-environmental debt and which faces deep contradictions regarding the most basic analysis of cost and benefit, or development and future.

While the world continues betting on an oil matrix that will destroy our environment, in Peru, the government, the business community and some sectors of civil society consider oil as a
panacea. Consequently, there is a dispute between the private and public sectors to nationalize or privatize the hydrocarbons that sleep under the sea and the Amazon. This fight is based on fallacies and has no economic or ecological support to justify itself. Worse yet, the path for transitioning to renewable energy sources is not discussed.

The public discussion around oil under a racist and fallacious bias

On May 19th, 2023, the Congressional Commission on Energy and Mining of the Peruvian Republic passed a bill that declares the signing of hydrocarbon contracts to be of national interest in order to promote the development and consolidation of the oil industry. The bill allows the national company Petroperú to receive several oil blocks located on the coast and the jungle of the country whose contracts have ended. The bill is yet to be approved in the plenary session of Congress for it to become law.

The discussion of the bill did not involve the indigenous peoples, peasants and fisherpeople affected, nor did it collect technical information or figures on the impacts that occurred in the past. For their part, the environmental authorities kept a complicit silence. If Congress passes the bill into law, it would violate the right to Prior, Free and Informed Consultation of the affected populations. If the bill is not passed, the alert remains for the lots whose contracts end soon and could be transferred to other operators.

Due to economic reasons, the project was publicly opposed by the Oil Clubs (the National Society of Mining, Petroleum and Energy, and the Peruvian Hydrocarbons Society), which yearn for a life governed by foreign oil companies and a State that protects their freedom to pollute. On the other hand, a sector of civil society, which does not catch a glimpse of impacts on the environment that oil exploitation generates, endorsed the bills without any critical sense.

This bill is one of several other initiatives of the oil promotion agency Perupetro and the Ministry of Energy and Mining that aim to promote new operations and make express modifications to laws and regulations, through biased technical justifications. This state of affairs deepens the oil matrix, violates environmental and indigenous rights, and does not solve the socio-environmental context where the oil lots have operated.
The impact of spills and the environmental debt

In a governance that respects the right to life and the environment, any bill would consider the development of international regulations on indigenous, peasant, and native rights. Therefore, the discussion around the cost-benefit balance of a regulation linked to oil exploitation, should first, at least, address the pending responsibilities to promote new operations. Whether they are exploited by private or state companies.

Currently, we observe four types of lots in Peru: those in which the activities have concluded and new contracts have been signed (Block 192), those which their contracts end this year (Blocks I, V, VII/VI and Z-2B), those that conclude in the next four years (Block 8 and X in 2024 and Block II in 2026) and the lot projects that are promoted on territories where there have never been operations because they belong to fisherpeople and indigenous peoples.

In the case of the first three types of lots, the oil companies have the obligation to present Abandonment Plans that are executed at the end of the contracts with the aim of carrying out cleaning operations and remediation of contaminated sites. In these lots, there is also a universe of 3,608 spills and impacted sites caused by these companies, which should have been completely cleaned up. In the event that they have not yet been remedied, the environmental management instruments should be insured.

In addition to the spills, we must add 2,767 environmental liabilities caused by operators that have already withdrawn from the lots. As long as the liabilities do not receive attention, the risks can grow. The worst happens when new operators cause more damage or when social infrastructure is built on an environmental liability and the population is put at risk. The latter occurs in Lot 192, where a school has been built on a contaminated site, which affects the health of the indigenous students. Similarly, in the La Brea district, a poorly sealed oil well next to a school leaked highly polluting substances that led to the evacuation of all students.

Unattended obligations

If we cross-reference the information on spills, liabilities, and other environmental obligations, there are more than 6,000 contaminated sites that have caused fisherpeople and indigenous peoples to live in constant threat and risk to their health and food. Addressing this
data is vital to prevent possible social conflicts and, above all, to prevent the increase in tangible damage to the population. It is necessary to discuss how to ensure that new operations will not deepen the impacts and how they will respect the rights of local populations. And the consent of the indigenous peoples and fisherpeople who inhabit those territories must also be obtained.

However, in Peru, the current discussions in public institutions and the media revolve around the importance of whether operations are national or private. The environmental and social reality of these lots does not seem to exist. Blindness guides the gaze of the elites when discussing oil. The debate is carried out without seriousness, without truthful information and without the humanity with which the destinies of a nation must be built.

All promotion policy and discussion on the private or public alternatives in a bill must be evaluated. However, one must also ask whether there are indigenous peoples, peasants, natives and fisherpeople who must be consulted by these new regulations, or if the environmental impact studies of the old lots are up to date and have been complied with. When deepening the discussion, several questions arise: how many pipeline adaptation plans and schedules are working and to what degree? How many Abandonment Plans have been approved and do they include all pending responsibilities? Is there will from the business sector to comply with the obligations? When will the pending liabilities and spills in the old lots be intervened? **Are there performance bonds guarantees that cover the actual costs of remediation?**

**Environmental debt**

All lots that are being left or whose contracts are ending should have along with their Abandonment Plans guarantees that ensure that damages due to spill and other impacts will be addressed. They are supposed to cover at least 75% of the costs of remediations. Otherwise, the Peruvian State must finance the intervention of the impacts that are not attended by the oil companies so as not to leave the local population unprotected. In the event of non-compliance, the State must ensure legal mechanisms to force companies to pay.
As a matter of fact, oil companies often evade their environmental and social responsibilities by declaring bankruptcy and liquidating themselves, or even taking the State to court. Thus, they avoid paying for the remediation and who ends up paying is the State. It should be noted that, generally, the costs of remediation exceed the benefits that oil generates. In a scenario in which companies avoid paying their environmental debt, we should ask ourselves if the benefits generated by the State’s oil activities are enough to cover the costs of remediating the impacts of private companies.

In the case of former Block 1AB, today Block 192, where the company Pluspetrol decided not to pay the total costs of its Abandonment Plan, it has been estimated that the remediation of the block amounts to more than 5,000 million soles, in other words, it doubles the oil canon contributed to the State during the time of its operations (2000-2015). This means that there is a deficit regarding the benefits, and that oil activities create an environmental debt for Peru, socially, and economically. In addition, they hinder the financing of development projects that, instead of being used for education, health, or productive projects, will have to be used for remediation of contaminated sites.

The oil paradox

The situation is aggravated if there are no guarantees that the Peruvian State is capable of forcing companies to pay for the costs of all the impacts they have caused. Likewise, it is not known if the State has estimated the remediation costs of all the environmental liabilities identified by the authorities. Nor is it known how these liabilities will be administratively addressed so as not to overlap legal responsibilities when the old lots begin operating again, some of which have accumulated more than half a century of operations and impacts.

The current panorama Peru is facing puts us in a terrible paradox: the 6,000 contaminated sites connect the past with the present and, mainly, with the future, given that the impacts do not lie in the distant past, but are currently causing suffering to the local populations. If it is not clear how to control environmental liabilities, spills and oil activities, the future of the local populations will be destroyed as well as any responsible nation project.
Resuming the debates in the Congress of Peru, if the so-called "fathers" and "mothers" of the country decide to change the regulations and laws guided by the blindness of oil, it is very likely that future generations will inherit a huge environmental debt. This will be their sad and negligent legacy, for their sons, daughters, grandsons, granddaughters and for the territories of the indigenous peoples and fisherpeople.

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