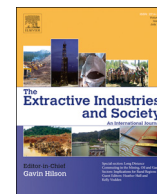




Contents lists available at ScienceDirect

The Extractive Industries and Society

journal homepage: www.elsevier.com/locate/exis

Original article

A different kind of formal: Bottom-up state-making in small-scale gold mining regions in Chocó, Colombia

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ARTICLE INFO

Keywords:

Small-scale gold mining
State formation
Extractive governance
Colombia
Accumulative legality

ABSTRACT

Scholarship on small-scale gold extraction has often understood mining regions to be 'informal' spaces that suffer from 'failed,' 'weak,' or 'absent' statehood. Such insistence on the institutional absences of gold-producing zones (of formality, of law, of the state) has dovetailed with a lack of academic attention to the actual processes of state-making taking place there. Speaking up against this scholarly silence, this article sets out the practices of state formation that lie dormant in the Colombian gold mining department of Chocó. Drawing on 13 months of ethnographic fieldwork, the article illustrates how Chocó's gold miners, far from being outside or at the mere receiving end of state governance, actively influence how the state and formal law crystallize in their gold fields by way of their recalcitrant engagements with legislation. Their bottom-up law-making consists, for one, of appropriating state documentation in ways that transgress its official functions and, for another, of accumulating proof of ersatz legality in severely illegalized mining sites. The article shows, moreover, that miners' on-the-ground enactment of law, while existing in contradiction with official legislation, partly emerges from, and is formative of, the governance schemes of the Colombian state apparatus.

1. Introduction

Over the last couple of decades, small-scale gold mining has expanded into a prominent economic industry in many parts of the world, most notably sub-Saharan Africa, Latin America, and South and Southeast Asia. Although much of this mining activity escapes the registers of bookkeepers, recent guestimates suggest that the sector employs around 16 million people worldwide (Seccatore et al., 2014, p. 666) and contributes to 12–20 percent of global gold production (IGF, 2018, p. 3). Apart from voluminous, small-scale gold mining is also controversial. In many countries, its proliferation has generated fierce public debates on environmental preservation and law enforcement, with news reports and politicians frequently depicting miners as opportunistic outlaws who make a quick buck at the expense of nature, law, and moral decency.

In-depth studies on small-scale gold extraction, nonetheless, have been in fairly short supply, partly because of methodological complications, as the subject is difficult to tackle both quantitatively, due to unreliable or absent state data, and qualitatively, as extraction takes place in peripheral and often conflictive areas. When academic literature mentions gold diggers, it is often by addressing one of their publicly-decried predicaments; such as mercury pollution (Bose-O'Reilly et al., 2008; de Oliveira Santos et al., 2002), deforestation (Swenson et al., 2011), river sedimentation (Mol and Ouboter, 2004), malaria outbreaks (Pommier de Santi et al., 2016), child labor (Huesca, 2013; Potter and Lupilya, 2016), sex work (Desmond et al., 2005), violence toward indigenous populations (Albert, 1994; Ramos, 2010), and the sponsoring of armed conflict (Rettberg and Ortiz-Riomalo, 2016). More recently, though, a more miner-friendly body of work has emerged that has sought to debunk the catastrophic depictions surrounding wildcat

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<https://doi.org/10.1016/j.exis.2019.10.014>

Received 19 July 2019; Received in revised form 21 October 2019; Accepted 24 October 2019

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gold extraction – as well as other forms of small-scale mining. Writing against the commonplace conception of miners as predatory gold seekers, authors have argued that mining motivations are often poverty-driven (Hilson, 2010, p. 304; Hilson and Gatsinzi, 2014, p. 1; Tschakert, 2009, p. 732), have pinpointed the positive effects of mining on upward socioeconomic mobility (Cleary, 1990, p. 101; Fisher et al., 2009; MacMillan, 1995, p. 162; Siegel and Veiga, 2009), and, rather incessantly, have addressed the political exclusion that miners suffer in domestic property regimes, therewith stressing, for different cases, that extractive legislation cements the informalization of small operators (e.g. Banchirigah, 2007; Damonte, 2016; de Theije et al., 2014; Hilson et al., 2017; Siegel and Veiga, 2009; Tschakert and Singha, 2009).¹

Yet whether seeing miners as victims or foes, observers mostly agree that small-scale gold mining is carried out in ‘informal’ spaces outside the reach of state law. As point of fact, scholars’ critiques on one or another aspect of governmental failure – the failures to formalize miners, to curtail environmental destruction, to curb the extractive earnings of non-stated armed actors – coincide with passing comments about gold region’s fractured sense of statehood; about, to be precise, ‘weak state capacity’ (Fisher, 2008, p. 210), ‘little state presence’ (Luning and Pijpers, 2017, p. 765), and even, to quote Hoogbergen and Kruijt (2004, p. 3) on the Surinamese interior, ‘the total absence of any kind of government authority.’ Miners, in a parallel line of reasoning, are often believed to be situated ‘outside the law’ (High, 2012, p. 263) or ‘outside the authority of the legal system’ (Siegel and Veiga, 2009, p. 52), meanwhile their gold delving is said to remain ‘unregistered and unregulated by state authorities’ (Peluso, 2018, p. 400) and to ‘[eschew] the state and its specific forms of territorialization’ (p. 401). The state miners eschew, it seems, is first and foremost the central state and its concomitant legal apparatus, given that miners’ entanglement with local state offices is not taken as evidence of state-making but rather as a sign of state-making being ‘weak’ and ‘co-opted’ (Salo et al., 2016, p. 1065; see also Giraldo Ramírez, 2013). What we learn by reading small-scale gold mining scholarship, in short, is that the state in gold country is one of regulatory weaknesses and absences; an external, centralized actor that hovers above locality and lacks completeness in miner lives.

Though I wholeheartedly recognize that above-quoted authors have provided valuable insights on informalization and/or socio-extractive organization, I do find that, in their insistence on the institutional *absences* of extraction zones (of formality, of the law, of the state), they remain rather silent on the actual processes of state-making that take place in gold country and, as such, on the role of mining communities within these processes. Speaking up against these silences, this article moves beyond widespread assumptions about small-scale gold mining regions’ ‘failed,’ ‘weak,’ or ‘absent’ statehood and, instead, charts out the quotidian practices of state formation that lie dormant in one of such regions: the Colombian department of Chocó. While engaging with

the literature of the anthropology of the state, the article presents ethnographic illustrations that show how, in spite of rampant informalization, bottom-up law-making is emergent amid *chocoano* mining. Specifically, these illustrations seek to demonstrate that Chocó’s gold miners are not outside or at the mere receiving end of state-building, but instead assertively act upon state governance and, while doing so, influence how the state and formal law crystallize in their lifeworlds.²

I shall start by providing a theoretical overview of the anthropology of the state, a body of literature that provides a productive analytical language to talk about how subjects of governance, like gold diggers, intervene in processes of state-building. Hereafter, in Section 3, I briefly introduce the socio-political landscape of illegalization in which small-scale miners in Colombia, and in Chocó in particular, operate. Then, the next two sections propose a joint ethnographic rejection of equating such illegalization for extractive lawlessness. Concretely, they provide ethnographic snapshots that illustrate that *chocoano* miners are not only marginalized by governance schemes, but give shape to these as well through their subversive engagement with state law; either in the form of acting on a state document – the Mayor’s Certificate – in ways that exceed its original administrative purpose (Section 4), or through performing state legality in mining sites where formal recognition has yet to arrive (Section 5). The sixth section, in turn, highlights how miners’ contentious performance of statehood does not just occur outside the spatial reach of bureaucratic regulation but, quite strikingly, also interweaves with the operations of the Colombian state apparatus. Finally, I conclude with a recap of my findings, from which I draw some corrective observations to the a priori conceptualization of ‘informal’ extraction spaces.

The empirics of the article derive from roughly 13 months of ethnographic fieldwork, predominantly carried out in 2017,³ and conducted almost in its entirety in Chocó; mostly in and around the town of Caliche, the village of La Peña, and the Bebará riverbank.⁴ Here and in a few other places, I conducted over 90 semi-structured interviews with different mining stakeholders (e.g. miners, rent claimants, community leaders). Yet in part because of the study’s polemic nature, I invested most research time in, and obtained most valuable insights from, participant observation within a plethora of day-to-day activities, among which stand out: hanging out and mining at placer mines, attending community meetings, and engaging in countless joint walks from and to the gold fields.

² In certain gold-producing areas of Chocó, miners also delve platinum. Nevertheless, in this article I shall stick to ‘gold’ when referring in mineral terms to *chocoano* mining. This choice reflects the much more pronounced significance that gold – vis-à-vis platinum – enjoys in the region, not just in terms of geological availability, but also in regards to socio-economic development, regional identity, and collective memory. Moreover – and considering once more the fact that platinum cannot be found in all gold mining areas – not talking about ‘platinum miners’ helps me with preserving the anonymity of fieldwork locales (see footnote 4).

³ The bulk of my ethnographic research encompassed a one-year period that lasted from February 2017 until January 2018. In addition, I carried out a preliminary research visit to Chocó in February–March 2016, as well as a brief stint of follow-up fieldwork in August 2019.

⁴ Caliche and La Peña are pseudonyms. Due to the illegalized status of *chocoano* gold mining, I am circumspect in giving the original names of people and places. I neither provide social, geographical, and geological details that could ‘uncover’ the identities of places. Only when the socio-extractive characteristics of a place are too extraordinary to be disguised, I mention, in agreement with community leaders, the real names of rivers, towns, and villages. This is, for instance, the case with the Bebará river, whose exceptional history of FARC-assisted mining organization has already been documented by local media (Radio Macondo, 2016) and whose community leaders have extensively lobbied their case in get-togethers with central state emissaries and, moreover, have repeatedly welcomed civil society and state representatives to their river (CIRDI, 2017, p. 74; Minambiente, 2017; UNIDO, 2019).

¹ More specifically, miner-favorable accounts have repetitiously shown how ‘bureaucratic and costly licensing systems’ stifle operators’ access to mining titles (Hilson et al., 2017, p. 82). While denouncing policy-makers’ inability of reading mining populations, this scholarship has forcefully pleaded for miner-sensitive regulation that is responsive to the sector’s economic marginality (for a case in point, see Siegel and Veiga, 2009). These legalist pleas, however, have not been without criticism. Some scholars have called out the ‘formalization canon’ (Geenen, 2012, p. 322) for making broad generalizations about a heterogeneous extractive sector. Geenen (2012, p. 323), for instance, questions the undisputed desirability of formalization, noting that ‘artisanal miners do not necessarily want strong and formal property rights.’ Verbrugge (2015), on the other hand, argues that formalization critics, in their denunciation of ‘fiscal, administrative, and political barriers’ (p. 1023), tend to present an image of small-scale mining as a ‘homogeneous’ (p. 1026) and ‘poverty-driven’ sector (p. 1028). This image, Verbrugge indicates, contrasts starkly with gold extraction in the Philippines, where modest formal recognition of mining entrepreneurs accompanies the lingering informality of their workforce, thus condoning the exploitation of the latter by the former.

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