Session “Native Title Claim and Mining”

Negotiating the Mining Rules in New Caledonia

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3rd MinErAL meeting
June 12-14, 2019
Cairns, Australia
CNRT « Nickel and its environment » Programs

   => [MINING SITE]

1. Negotiate, evaluate, recognize the value of places (NERVAL) (2013-2016)
   => [LAND-MINE NEXUS]

   => [SOCIOTECHNICAL NETWORKS]
CNRT « Nickel and its environment » Programs

   => [MINING SITE]

1. Negotiate, evaluate, recognize the value of places (NERVAL) (2013-2016)
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Mining

- Extractive activity, destructive by definition...
- ... functioning as an enclave, but connected to the outside (connection/overflow)
- « Pumping machine » sucking and rejecting humans and resources (Golub 2018)

Transformations

- Technological and organisational (fly-in-fly-out, end of company-towns) and in terms of environmental damages (overflows): the material enclave
- Shift: social relations of production => of compensation (internalization of environmental externalities, mine-affected communities)
- New rules, new actors, new arenas: interfaces and articulations or the institutional enclave (various arrangements allowing the institutional functioning of a mining project)
- The mine in the national imagination (and nationalist project), the “sustainable mining” oxymoron, and/or the corporation-community “face-to-face” or the ideological enclave
Social processes:
- Conflict and arrangement
- Distribution, recognition and representation, production and compensation

4-corner/4-wheel drive model
4 corners: state, company, community, society
4 dimensions: institutional (the 4 corners), spatial, organizational, temporal

Adapted from Filer and Le Meur, 2017, Large-scale mines and local-level politics

Neighbors
Social license to operate/FPIC

Workers
Community
Environment, indigenous rights, sustainability, CSR...

Organization (level)
Time

4-wheel drive model

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The land issue in the construction of the triple enclave and perimeter

- **Material enclave**: mining (impact) perimeter and land-right holders identification
- **Institutional enclave**: land as a basis for negotiating IBAs
- **Ideological enclave**: land as key component of the representation of the community-corporation relation (+ selective absence/presence of the state, Szablowski, 2007)

**Instruments of the mine-land articulation**

- Land titles
- *Groupement de droit particulier local* (GDPL/NC 1982), Incorporated land groups (ILG/PNG 1974) (Weiner 2013), simplified shareholding companies...
- Areas of clans’ influence, chieftaincies’ restructuring...
- Free prior and informed consent (FPIC)

**Interface apparatuses**

- Impact and Benefit Agreements (IBA) (O’Faircheallaigh 2013)
- Development Forum (PNG) (Filer 2012)
- Patronage and violence (IWP) (Ballard & Banks 2009)
- Conflict and arrangement/settlement (political, legal)
- ...

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Land and the mining enclave

Actionnariat

SCP Mwa Titii
Petits porteurs

GDPL GORO
(NUE MWA DREE)

GDPL UNIA

GDPL TOUAOUROU

34%
26%
20%
20%

SCP XEE NUU

Filiales

100%
49%

PROMOSUD

SAS GORO MINES

SARL SUD RESTAURATION

15%

SODEXHO
Land and the mining enclave

UNE FONDATION D'ENTREPRISE

UN COMITÉ CONSULTATIF COUTUMIER ENVIRONNEMENTAL (CCCE)

PRESENCE D'UNE DUREE D'UN AN AU PLUS AUSUITE D'UNE ANNÉE FINALE

DECORS

VALORATION

CONCLUSIONS

CONSEILS ET RECOMMANDATIONS

LEASENG DE GORO NICKEL POUR LA PROTECTION DE L'ENVIRONNEMENT

LES ENGAGEMENTS DE GORO NICKEL POUR LA PROTECTION DE L'ENVIRONNEMENT

8 TECHNICIENS ENVIRONNEMENTAUX

PROGRAMME DE REBOISSEMENT DES ZONES PÉRIPHÉRIQUES (non affectées par l'activité de Goro Nickel)

CRÉATION DE PÉPINIÈRES SATELLITES

COLLECTE DES GRAINES ET ENGEMENagement

EXTENSION DE LA PéPINIÈRE GORO NICKEL

CONSTRUCTION D'UN CENTRE DE VISITEURS

MISE EN ŒUVRE DES MESURES

Photo: Matthias Kowasch
Indigenous strategies in front of external actors (mining companies, development projects, environmental NGOs...): 2 options

- **Adjustment of local actors to external/global norms**: landownership ideology (Filer 2006), chieftaincy restructuring, ILG (PNG)/ GDPL (NC)

  “Large-scale resources development in PNG has created a new category of citizenry – ‘landowners’ – who, as the recipients of development proceeds and practices, often benefit at the expense of the ‘nonlandowners’ who are their kin and neighbors” (Jacka 2015)

- **Adjustment of external actors to local norms**: inclusion as “good local citizens”, assertion of local/indigenous representations (Brutti 2007)

Two ideal-types of land relations (Abramson, 2000) and value of land/place

- **Mythical land**: embedded links between land, people and their combined pasts (ritually reproduced), no/non linear boundaries, heterogeneous values of places

- **Jural land**: split owner/owned, transferability of property in land, linear boundaries, homogenous value of land

- **Non dualistic combinations**: law/myth, rights/rites, property/identity
1-Mining blockades (2013)

- Thio (1996, 2013), Yate (2005-06)...
- ... and arrangements: Thio Agreement (1996), Pact for the Development of the South (Yate, 2008), Moratorium “Forgotten Coast” (Thio, Yate, 2014-16, 2018-28)

Case studies

1. Violent rains/environmental damages/ mines blockades/ collective action: forcing SLN to act
2. Mining prospection/ collective action/ moratorium: forcing mining companies to stop

UNIA (YATE)
Case 1 - Rain, mine, citizenship

✓ 2 successive exceptional rain events (January and June 2013)
✓ Mines blockade, grievance book writing, and the creation of a trans-ethnic collective
✓ Memorandum of understanding: collective, Thio municipality, South Province, NC Government, SLN
✓ Creation of Chavaa xûâ association (‘taking care of the home/ community’) and of a subcontracting SAS (simplified stock company)
✓ At stake: technical/ political monitoring of restoration and social/ political integration of SLN: type of responsibility? 2 narrative options

Le Collectif
- tribu de Koua
- tribu de Kouaré
- tribus de de St-Pierre / St-Michel / Ouindo
- tribu de St-Paul
- Dallas
- Pétroglyphes
- tribu de St-Pilippo 1
- Thio Village
- tribu de Oroué
- Bourgade
- tribu de St-Philipo 2
- Pawani
- Bota Méré
- District Borendy

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✓ Fault lines and identity politics
  ▪ Thio (trans-ethnic collective including SLN workers) vs. SLN (contrary to 1996 conflict)
  ▪ Municipality vs. local/clan level (sub-contracting vs. anteriority)
  ▪ Generational dimension

✓ Strategic use of regulatory obligation (2009 Mining Code)
  ▪ Taking account of the post-extraction medium-term and restoration issues
  ▪ Technical-legal procedures and...
  ▪ ... limited capacity of response of the local authorities (role of consultancy)
  ▪ Segment of the mining arena: municipal mining commission
Case 2 - Exploration, consent and moratorium

✓ Conflicts with small-scale miners (1970-80s) and 30 years without mining...
✓ ... since 2013, series of meetings in different tribes (Borendi, Yate, Port Bouquet...) between several mining companies and local peoples

✓ On the mining companies side
  ▪ Objectives: maintaining mining concessions, looking for ore, getting a first concession...
  ▪ Regulatory procedures and social license to operate (strategic use)
  ▪ Middlemen or brokers (consultants, local leaders)

✓ On the local peoples side
  ▪ Local interpretations and expectations: various positionings and discourses, mobilizing the past, the present, and the future
  ▪ Monitoring committees, customary ties (supra-commune), indigenous associations (Rheebu Nuu, CAUGERN), and the difficulties of collective action

➢ Mining moratorium (2014-16): free prior informed consent, politics of time and local sovereignty
➢ Extension of the moratorium (2018-28): provincial government intervention, customary authorities, municipalities, external expertise... a complex arena
Case 2 - Exploration, consent and moratorium

Provincial park (2019): hybrid governance and boundary-making (environmental, administrative, customary, mining...)

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Managing overflows

The Wellington Creek: maintenance/dredging or re-exploiting?
Or: what is a mine?

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Negotiating/producing the mining rules

⇒ Actors and identities

- **New actors**: collective, association, SAS and subcontractors, monitoring committee, consultancy/engineering offices...
- **Reconfiguration of alliances**: trans-ethnic, SLN workers, inter-clans/trans-communal
- **Collective action**: Thio trans-ethnic collective vs. customary authorities (SLN conflict 1996) and monitoring committees (2014)
- **SLN as marker of identity**: integration of SLN villages into the mental and social landscape, memories of conflicts – and the questioning of SLN boundaries

⇒ Norms, values, and knowledge

- **Local knowledge/memories/norms (+ FPIC) vs. administrative, legal and technical knowledge** (non dualistic: local use of external expertise)
- **CSR ‘from below’**: SLN as a ‘Caledonian firm’ (official slogan) or/and as a ‘good local citizen’?
- **Transformation of the nexus place/value through events**: the value of belonging to/building a community => including the mining corporations (cf. provincial park)?
✓ **Adjustment to local or global norms?** Hybrid, context-dependent responses (knowledge, norms, memories, alliances)

✓ **Politics of space** (Kirsch 2014): compression (municipality, segmentary logics) and extension (alliances, humans/non-humans, global discursive resources) + question of the audience

✓ **Politics of time**: extension (*longue durée*, local memories, controlling the future) vs compression (political-administrative short term, expertise, project cycles)

✓ **Strategic uses of global repertoires** (toolkit): FPIC/SD (Thio/Côte oubliée 2013-14), shift indigeneity/environment/SD (Yaté 2008) and...

✓ **… Ontological uncertainty**

➢ **Openings: mining enclave vs commons (timescapes/minescapes), or governable spaces (set of resources, territories, identities, authorities),**
Thanks for your attention!

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