



Inequality and environmental activism drive the rise of a new left in Latin America

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Latin America is facing economic fallout from the Covid-19 crisis while simultaneously struggling to address demands around reducing inequality, improving public services, and reducing corruption that emerged in the pre-pandemic wave of unrest. New governments took office this year in Ecuador and Peru, while elections are on the horizon in Brazil, Colombia, and Chile, among other countries. The political landscape remains volatile, with high levels of dissatisfaction pushing voters to extremes on both the left and right. This paper explores three trends shaping the risk and opportunity landscape for Latin America's natural resource sector. These include:

1. Governments are **rethinking fiscal regimes**. States' finances are strained by high levels of public debt, leaving little room to respond to electorates' demands around increased social spending. This – combined with companies' record-high profits and hopes of a 'green' mineral boom to fuel the energy transition – is driving a regional push for tax equity.
2. The 'Ecological Left,' a new generation of leftist politicians, **is less comfortable with the social and environmental trade-offs required for natural resource development** and actively exploring alternative economic models. With the resource sector's environmental and social performance in the spotlight, even some right-wing governments have become uneasy about approving controversial projects.
3. **The energy transition may intensify legal and reputational risks**. The mining sector often thinks about its role in the energy transition in positive terms, but the downside risks are increasingly apparent. Companies in Latin America are already the target of high levels of global civil society activism and litigation. Increased extractive activity in the global south – and the perceived social and environmental harms associated with this – to fuel a 'green' transition in the global north will only intensify this.

However, this context presents new opportunities to address long-standing challenges. Firstly, in order to navigate this fast changing environment companies will need to ensure they have devoted adequate resources to understanding how the political context is shifting, particularly by looking outside their traditional political and social networks. Second, companies will need to 'grasp the nettle' and be active and collaborative participants in shaping new tax regimes that are perceived to provide a fair share of revenues to all stakeholders, particularly in high price environments. Simply opposing tax rises will likely be counterproductive and lead to firms being targeted by governments. Finally, executives will need to place ever greater weight on early and sustained engagement with local and regional stakeholders, including developing innovative models for benefits sharing based multi-stakeholder participatory processes (for further details see Critical Resource's 2020 article '[The social license to operate in a new era of inequality](#)'). Finally, they can take steps to ensure the energy transition does not consolidate longstanding global inequalities, such as by supporting governments' ability to affordably access essential 'green' minerals and supporting, where feasible, climate resilience initiatives in host countries.

Cash-strapped governments are pushing for a greater share of companies' record-high profits

The macroeconomic outlook in Latin America is challenging. Demands for increased social spending persist but governments desperately need additional sources of revenue and have few places to get it. Intensifying calls for broad tax reform and governments' desire to cash in on 'green' minerals – coupled with the mining sector's banner financial performance – will almost inevitably mean higher taxes.

- Changes to fiscal regimes for the natural resource sectors across the region are highly likely in the short to medium term for several reasons. Firstly, countries across Latin America are facing general calls for tax reform. The region saw intense protest in late 2019 and early 2020 as citizens expressed outrage with the quality of public services and growing inequality. The pandemic has made the challenge even more difficult to address, intensifying demands while straining government finances. The Pandora Papers drew fresh attention to longstanding issues of tax evasion which has further fuelled calls for reform. According to the OECD, countries in the region bring in on average 23% of their GDPs in tax revenue (well below the OECD average of 34%). An estimated 27% of Latin American wealth is stored in offshore accounts (compared to 11% and 4% for Europe and the United States respectively).¹ There is a risk that the natural resource sector may end up getting caught up in broader tax reform initiatives. In **Brazil**, the Bolsonaro administration negotiated a tax reform in congress focused on cutting personal and corporate taxes. The Chamber of Deputies unexpectedly added an amendment to the bill hiking the mining royalty, known as the Compensation for the Exploitation of Mineral Resources (*Compensação Financeira pela Exploração de Recursos Minerais*, CFEM), before approving it in September 2021.
- Secondly, miners are likely to find it difficult to convince governments they cannot afford tax increases. Governments across Latin America plunged deep into debt during the pandemic, with public debt levels now at almost 78% of GDP.² In 2020, Latin America's household wealth per adult dropped by over 11%. 22 million additional people fell into poverty, and one third of the region's population now lives in poverty or extreme poverty.³ Meanwhile, the mining sector globally enjoyed a banner year in 2020. Revenue was up 4%, net profit increased 15%, and cash on hand rose 40% compared to 2019.⁴ PwC forecasts that the largest 40 mining companies will report record-high revenue and EBITDA, and the second-highest net profit in the 18 years it has been keeping track.⁵ Dividends returned to shareholders are poised to hit all-time highs. BHP, Rio Tinto and Fortescue Metals distributed record high dividends for the February 2021 reporting season.⁶ A major gold miner increased compensation for its top five executive by an average of

¹ [Tax Transparency in Latin America 2021](#), Punta del Este Declaration Progress Report, 2021

² [Financing for development in the era of COVID-19 and beyond](#), Economic Commission for Latin America and the Caribbean (ECLAC), 2021

³ [Social Panorama of Latin America 2020](#), Economic Commission for Latin America and the Caribbean (ECLAC), 2021

⁴ [Mine 2021: Great expectations, seizing tomorrow](#), PwC, 2021

⁵ [Mine 2021: Great expectations, seizing tomorrow](#), PwC, 2021

⁶ [Mine 2021: Great expectations, seizing tomorrow](#), PwC, 2021

18% in 2020 compared to 2019, paying out over US\$30 million, or roughly US\$10 million more than what it spent on community investments. Miners are asking what to do with extra cash and governments have the answer: pay more taxes.

- Thirdly, fiscal regimes are in some cases outdated and ill-suited to enable governments to capitalise on ‘green’ or ‘low-carbon’ minerals (those likely to see increased demand in the energy transition). In **Colombia**, where the royalty rate varies by commodity, coal is subject to the highest rate and gold one of the lowest. There is considerable debate regarding to what extent governments should reorient their fiscal policies in this context, with a 2020 report published by the International Institute for Sustainable Development⁷ pointing out that demand and prices for low-carbon minerals are potentially less stable and predictable due to dynamic innovation in energy technologies and governments should not make fiscal policy banking on significant increases. However, for the time being, governments appear to be responding to price spikes with tax hikes. Copper – which contributed US\$122 billion to group revenue at the largest 40 mining companies and is forecast to see price increases of 40% by the end of 2021⁸ – has been a particular target, as has lithium (though Argentina, which reduced taxes on mining exports from 12% to 8% partly in a bid to accelerate development of its lithium sector, is an interesting exception to this). Among notable examples of mining tax hikes:
 - In **Chile**, the Chamber of Deputies passed Bill 12093-08 in May 2021, establishing a base 3% mining royalty on copper and lithium with a sliding scale component triggering higher payments at a certain price. The bill was approved by the Senate Mining and Energy Committee in September 2021 following extensive deliberations and is anticipated to proceed to a floor vote in the coming months, though it is widely believed that the final content of the bill will be moderated.
 - **Peru’s** left-wing President Pedro Castillo, the surprise victor of June 2021 elections (see box 1 below for further details), has repeatedly said he wants to increase taxes on the mining sector. He singled out copper several times, at one point saying copper production should be taxed at a rate of 75%.
 - **Panama’s** government is reportedly in contract negotiations with First Quantum Minerals (FQM) in an attempt to get the miner to pay more in royalties and improve environmental conditions at its flagship Cobre Panama copper mine. The trade and industry minister said in a September 2021 speech that negotiations would lead to an entirely new contract and insinuated that the government would give the mine to another company if a fairer deal is not reached.

Box 1: What does a Pedro Castillo presidency mean for Peru’s natural resource sector?

President Pedro Castillo, of the leftist *Perú Libre* (Free Peru) party, took office on 28 July 2021 after

⁷ [The Future of Resource Taxation: A roadmap](#), International Institute for Sustainable Development, 2020

⁸ [Mine 2021: Great expectations, seizing tomorrow](#), PwC, 2021

narrowly defeating Keiko Fujimori in June run-off elections. His victory generated concern among the natural resource sector, with suspicions that radical far-left elements of the party, including its leader Vladimir Cerrejón, would ultimately be in control, pushing more moderate advisors to the side-line. Castillo's government managed to clear several key hurdles in its first few weeks, including confirming a cabinet, but the political situation is fluid and the outlook for the natural resource sector remains uncertain.

A best-case scenario could see Castillo, guided by moderates, advancing a progressive but ultimately reasonable legislative agenda that leverages higher taxes on the natural resource sector to invest in public goods and sets out improved social and environmental regulation to address social conflict. There are encouraging signs. Castillo announced a significant cabinet reshuffle in early October 2021, removing many hard-line leftist figures. Notably, Castillo ousted Guido Bellido, his divisive prime minister who threatened to nationalise the Pluspetrol-led Camisea consortium, the largest natural gas player in Peru, unless it agreed to renegotiate its contract and pay higher taxes. Bellido is replaced by Mirtha Vásquez, a more moderate leftist and former congresswoman who rose to prominence as a lawyer representing communities in conflict with mining companies, including a landmark case by Máxima Acuña against Newmont Mining. Castillo also made six other changes, including replacing Ivan Merino with businessman Eduardo Gonzalez as Minister of Energy Mines.

However, the risk is high that the administration will be derailed by a lack of a clear governing plan, limited experience and technical expertise, and an obstructionist legislature. It is unclear how the cabinet reshuffle will impact the administration's policy proposals for the natural resource sector. Merino announced the government would change the framework for the mining industry, revising the legislation that sets royalty rates and redrafting the umbrella law that regulates the sector, known as the General Mining Law. It is unclear whether Gonzalez will advance these plans or if he may have other ideas for the sector. Moreover, the Castillo administration is likely to struggle to get its plans through a polarised and divided legislature, where it controls just 37 of 130 seats. The right-wing opposition, which controls about a third of the legislature, is on the lookout for any viable opportunity to impeach the president and a worst-case scenario could see Castillo removed from office, throwing the country into another round of political turmoil.

Political shifts on the left are putting the sector's environmental and social performance in the spotlight

Latin America's political Left has reoriented towards social and environmental struggles, marking a break with the Pink-Tide-era focus on more classically leftist redistributive policy programmes. This is shifting the political context for natural resource development, with even right-wing governments more anxious about the trade-offs between economic growth and social and environmental protections. Development-stage projects increasingly face the risk they will stall – or be axed altogether – due to their perceived impacts.

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- The vanguards of the region's new progressive wave are ideologically distinct from previous generations of leftist leaders, with the new Left as focused on strengthening social and environmental protections as it is on the redistribution of capital. The 'Pink Tide' presidents of the 2000s and 2010s – notably Venezuela's Hugo Chávez (elected in 1998), Brazil's Luiz Inácio Lula da Silva (elected in 2003), Bolivia's Evo Morales (elected in 2006), and Ecuador's Rafael Correa (elected in 2007) – relied on revenues from the natural resource sector to fund ambitious social programmes. While Chávez was uncompromising in his view that the “worst environmental catastrophe facing the world is human poverty,” the new Left is less comfortable with the perceived environmental and social costs of development (i.e. impacts on water, biodiversity, and indigenous peoples), particularly in the context of climate change. It has been more active in seeking out economic alternatives to the natural resource sector.
 - As a result, the new left – sometimes called the 'Ecological Left' or the 'Environmental Left' – has a much more fraught relationship with the natural resource sector. In **Ecuador**, leftist indigenous party Pachakutik, often viewed as a leftist, anti-extractive alternative to *correlismo*, gained 23 seats in the National Assembly, winning a total of 27. Pachakutik presidential candidate Yaku Pérez, an indigenous leader who rose to prominence protesting mining projects during the Correa administration, placed third. In **Colombia**, leftist presidential candidate Gustavo Petro, currently leading ahead of May 2022 elections, has previously advocated banning all extractive activity (though he has since moderated this stance). He has floated a range of alternative revenue sources, including tripling tourism from five million to 15 million visitors per year and using hydroelectric power to mine Bitcoin.
 - With social and environmental issues in the spotlight, even the political right is taking a more cautious stance on the natural resource sector. In **Chile**, Sebastian Sichel, presidential candidate for the governing centre-right *Chile Vamos* (Let's Go Chile) coalition, has been critical of mining on the campaign trail. Megaprojects have struggled to receive permits under even overtly pro-mining, right-wing national governments, with permitting processes increasingly frustrated by regional political dynamics and local concerns about impacts. **Colombia's** environmental authority shelved Minesa's application for its Soto Norte gold project in the Santander department in October 2020 and AngloGold Ashanti's application for its Quebradona project in October 2021, despite the right-wing Duque administration's aims to develop copper and gold projects.
 - However, the political landscape remains volatile and it remains unclear to what extent the Ecological Left will be an enduring political force, as well as how effective it will be, particularly as dissatisfaction with governments continues to push voters towards extremes on the left and right. In **Chile**, the leftist, anti-establishment *Lista del Pueblo* (The People's List) – the organisation emerging out of the 2019 protests – was widely anticipated to act as a champion of social and environmental rights in the constitutional convention. However, it proved to be a short-lived phenomenon, imploding amid a series of high-profile scandals in August and September 2021. Meanwhile, right-wing independent candidate José Antonio Kast is polling second ahead of presidential elections, buoyed by a recent unexpected surge. In **Argentina** talk show host turned

anti-establishment politician Javier Milei, who describes himself as “philosophically an anarcho-capitalist,” looks likely to make it into the legislature and reportedly aspires to the presidency. Milei is running as a libertarian. He reportedly has not brushed his hair in almost four decades, preferring the force of ‘the invisible hand.’

Box 2: How will the Ecological Left shape Chile’s new constitution?

In October 2020 – following an intense and protracted period of unrest centered on economic inequality, the inadequacy of public services, and a perception that the political elite is out of touch with ordinary citizens – Chileans voted to replace the country’s Pinochet-era constitution. Many believe the constitution was designed to minimize the role of the state, limit voters’ political choices and make it harder for governments to expand social welfare or interfere with business interests. In May 2021, voters elected 155 delegates to an assembly tasked with drafting a new constitution. Traditional parties, including the centre-right *Chile Vamos* governing coalition performed poorly in elections, while independent, anti-establishment, and leftist candidates performed surprisingly well. The convention convened in early July 2021, but has largely spent the three months of its term establishing convention bylaws and procedures, which proved to be complex, contentious, and time consuming.

Overall, there is a high degree of consensus on the need to focus on environmental justice issues. More than two-thirds of delegates have made an explicit commitment to an ‘ecological constitution,’ and anthropocentric intergenerational justice (the idea that future generations should have the same access to the same resources as this generation) is gaining traction among delegates. On 4 October 2021, the convention approved a declaration stating that the new constitution is being drafted in a context of a “climate and ecological emergency,” and it must therefore take action to safeguard nature and protect communities from the impacts of climate change. The leftist *Frente Amplio* (Broad Front) – which is very focused on strengthening social and environmental protections – is poised to take an influential role in shaping the convention process and the constitution itself. Several of its delegates are prominent, progressive legal scholars with expertise in constitutional law, which may provide an upper-hand when it comes to drafting the constitution, while the unexpected landslide victory of *Frente Amplio* politician Gabriel Boric in July 2021 presidential primary elections for the *Apruebo Dignidad* (I Approve Dignity) has opened up space for it to take on an influential role.

However, there is considerable uncertainty regarding how this will translate into legal or constitutional norms. The convention is already behind schedule and in drafting the new constitution it must juggle a number of competing priorities – including social rights such as healthcare and education – and it is unclear where the environment will ultimately fall on the list. Moreover, it may be challenging for the body to a hit two-thirds consensus (the threshold required for an article to be included in the final document). The convention is extremely polarised, with delegates on both the extreme left and right, and there have been a number of partisan disputes already in relation to procedural issues. It may only be possible to guarantee broad, basic rights that do considerably expand protection of water resources of biodiversity, for example.

The energy transition may create new legal and reputational risks

There is growing concern among civil society about the ways in which the energy transition could exacerbate global inequities including by increasing demand for natural resources and intensifying the perceived social and environmental harm associated with extractive activities. As the conversation around the transition and the trade-offs it requires evolves, companies may be forced to confront an onslaught of new legal and reputational risks. Those in Latin America will inevitably find themselves in the crosshairs of this debate given the continent's store of 'green' minerals.

- Coordinated global civil society campaigns seeking to draw attention to the private sector's environmental and social impacts are gaining momentum and increasingly taking legal action to target companies in both their home and host jurisdictions. In 2021, the Paris-based International Federation for Human Rights (*Fédération internationale des ligues des droits de l'homme*, FIDH) and its member organisations announced the #SeeYouInCourt campaign, a coordinated, global campaign of legal actions targeting multinationals alleged to have violated the human right to live in a healthy environment. The campaign's first five actions all target companies operating in Latin America and four of the five involve the natural resource sector. The campaign has attracted considerable attention from prominent figures on social media, including Greta Thunberg.
- The energy transition could attract increased scrutiny to natural resource companies in two ways. Firstly, any reputational benefits accrued via contributions to the 'green' economy are likely to be offset if green minerals projects are consistently besieged by local conflict and opposition. Latin America has one-quarter of the world's known copper reserves, over half of its lithium reserves, and over one-fifth of its iron ore reserves. The region also faces high levels of conflict around natural resource development. For example, the copper sector in Peru – the world's number two producer – has consistently faced high levels of social conflict. In September 2021, Peru's Minister of Economy and Finance, Pedro Franke, described Southern Copper's long delayed US\$1.4 billion Tia Maria project as socially and politically unviable due to conflict around its perceived impacts, a view echoed by other members of cabinet. Communities blockaded both MMG's Las Bambas copper mine and Glencore's Antapaccay copper mine on a number of occasions throughout 2021. Similarly, development of the lithium sector in Argentina has sparked conflict with indigenous communities due to concerns about operations' proposed water use, while activists in Chile have lobbied the government to halt all new lithium projects until more is understood about their environmental impacts.
- Secondly, the push for 'de-growth' (the idea that the only way to address the climate crisis is to dramatically reduce levels of economic activity and use significantly less raw materials) is increasingly working its way into anti-mining debates. There is growing discomfort over the quantities of green minerals needed to facilitate the energy transition globally and the increases in extractive activity this will likely necessitate. Indeed, the European Union (EU) Green New Deal

has faced intense criticism from civil society along these lines. In June 2021, a global coalition of 180 community platforms, human rights and environmental organisations, and academics called on the EU to abandon its plans to massively expand what it termed ‘dirty mining’ as part of the EU Green Deal and Green Recovery plans. Friends of the Earth Europe described the policy plans as a ‘desperate plunder for raw materials seemingly at any cost,’ noting increased extractive activity would be negative for the environment and human rights. An October 2021 study released by the European Environmental Bureau and Friends of the Earth Europe urges the EU to reduce natural resource extraction by 65%.⁹

⁹ [‘Green mining’ is a myth: the case for cutting EU resource consumption](#), The European Environmental Bureau, 2021