



WILLIAM A. BYRD
E-mail: wbyrd@usip.org

JAVED NOORANI
E-mail: javed.noorani@gmail.com

Exploitation of Mineral Resources in Afghanistan Without Government Revenues or Development Benefits

Summary

- Case studies of five ongoing mining operations show that Afghan mining companies are wantonly exploiting easily extractable mineral resources with little or no taxes and royalties going to the government.
- Revenue losses from just two sources—royalties and land rent—at the five mines are more than US\$50 million per year. Total revenue losses from all sources for the hundreds of mines contracted to different companies easily could be hundreds of millions of dollars annually.
- The tendering processes, awards, and contents of contracts issued, contract implementation, and actual operations at the mines all showed clear signs of political interference, favoring bidders that often had no prior mining experience.
- Companies usually began extracting resources soon after mining contracts were awarded, without paying any taxes and royalties—even though the contract called for an initial exploration period.
- Companies did not provide the legally and contractually required documents, such as exploration reports and environmental and social impact assessments. Effective inspections of mines were not conducted, and companies were not held accountable for payments due.
- Sometimes mining activities precipitated local conflicts, resulting in violence and deaths; weaker local communities called on Taliban elements for support in one such dispute.
- Serious reforms are needed to ensure that mining activities are developmentally beneficial and that revenues generated are paid to the government.

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Afghanistan's Mineral Resources and the Five Case Studies

Afghanistan has plentiful underground mineral resources—hydrocarbons, solid minerals, dimension stones, and gemstones. Gold, platinum, silver, copper, iron, chromite, tantalum, uranium, and aluminum, among others, have potential for economic exploitation. The total value of these resources has been variously estimated at US\$1 trillion to US\$3 trillion. There is a serious risk that the country will become afflicted with the “resource curse” that affects many countries with natural resources.¹

This brief summarizes a study on the political economy and conflict implications of mineral resource exploitation in Afghanistan based on detailed examinations of five mining operations contracted by the Ministry of Mines and Petroleum (MoMP) to Afghan companies.² All of the five mines are tapping medium-sized resources amenable to extraction without very large amounts of capital or advanced technology:³

- Ghori Cement (coal, cement) in Baghlan Province, contracted in 2007 to Afghan Investment Company (AIC)
- Nuraba and Samti (gold) in Takhar, contracted in 2008 and then in 2012 to West Land General Trading Company (WLGT)
- Qara Zaghan (gold) in Baghlan, contracted in 2011 to Afghan Krystal Natural Resources (AKNR)
- Kohi Safi (chromite) in Parwan, contracted in 2011 to Hewad Brothers' Company (HBC)
- Western Garmak (coal) in Samangan, contracted in 2012 to Khoshak Brothers' Company (KBC)

The research included in-depth interviews with seventy diverse respondents, a number of field visits, and much desk research.⁴ The objective was to better understand what the political connections and beneficial ownership⁵ of the mining companies were, how contracts were tendered and awarded, how contract implementation and operations were actually occurring, and what revenues went to the state.

Main Findings

Political influence was evident at all stages of the tendering process. Tender documents for most of the mines were drafted to give an edge to the final winner, and the favoritism continued through long-listing and short-listing. In the Ghori Cement case, respective brothers of the then president and first vice president of Afghanistan, together with other politically connected businessmen, won the contract.⁶ In the other four cases, the winning company exerted influence through political connections or quid pro quos. Promises of royalty payments and other ambitious commitments seemingly trapped even noncorrupt government officials into selecting the winning bidder. Except in the case of Ghori Cement, promised royalties were very high but did not materialize.

Afghanistan's Mineral Law prohibits elected politicians and senior government officials from acquiring mining contracts, but one company reportedly belongs to a sitting member of parliament. Another member openly owns a mining company, in direct contradiction of the law. In other cases there appears to be beneficial ownership by close relatives of top politicians, not necessarily illegal but indicative of powerful political influence. In one case, relatives of top Afghan leaders held ownership stakes. In another, the company was owned by a family with several members of Parliament. In yet another case, a local powerholder reportedly sponsored one of the companies.

The Mineral Law and Environment Law require mining companies to prepare an environmental and social impact assessment (ESIA) and other documents before beginning extraction. All contracts provided for one to three years of exploration and require preparation of an ESIA, a feasibility study, and an environment protection plan. None of the companies fulfilled these requirements; they have also neglected mine safety and tend to subject their employees to long working hours and low wages.

All five companies are widely reported to have extracted resources without providing the necessary documentation to the MoMP or the National Environmental Protection Agency (NEPA).⁷ They have not obtained permission for exploitation and have not paid contractually stipulated royalties and taxes. AIC right away began extracting coal for direct sale and not for cement production as the contract called for. WLGT is purportedly still engaged in exploration after many years, though

there are confirmed reports of extraction at the Nuraba and Samti gold mines.⁸ HBC, despite getting three years for exploration, started extracting chromite at Kohi Safi within a week of signing the contract. KBC got three years for exploration at the Western Garmak coal mine but reportedly has already begun extraction.

Changes favoring the companies have been made to contracts after signature. AIC's new contract separated the coal mine from the cement contract, and AIC obtained the right to sell the coal it extracts on the open market with a very low royalty rate. Moreover, AIC has been released from its commitment to build a third cement plant as the original contract stipulated. AKNR, in its bid for Qara Zaghan, promised to produce 1,628 kg of gold in the first year, but in the contract it got an exploration license for three years and a later extension for two more years—even though substantial extraction of gold reportedly has been occurring. Recently the company requested cancellation of the contract on the grounds that there was purportedly no gold. WLGT signed a new exploration contract five years after its 2008 license, also getting a reduced royalty rate.

MoMP and NEPA have not been effectively regulating and monitoring mining operations. MoMP's inspection department has not stopped irregularities. MoMP's cadastre department has not received any payments due from some mines and only minimal payments from others, and it has not pursued the companies to make these payments.

The Mineral Law defines some clear violations but does not specify penalties. The law and contracts mention circumstances for cancellation and ineligibility, but this has not been invoked in any significant case. Companies have not paid financial dues for years, yet continue to operate mines with an absurd level of impunity.

Contract provisions for funding local development and responding to complaints and grievances from local communities have not been fulfilled. Sometimes mining activities have precipitated or exacerbated conflicts; at the Kohi Safi chromite mine, for example, there have been a number of deaths,⁹ and local communities have invited Taliban elements to protect them. Some companies and associated local powerholders have gotten their militias recruited into the Afghan Public Protection Force (APPF) to protect the mine site, but they have also suppressed local efforts to air grievances and assert rights.

Overall, corruption and abuse of political connections have led to losses of more than US\$50 million annually for the five mines from just two revenue streams, royalty and surface rent.¹⁰ Factoring in other lost revenues, such as corporate income tax, and with over 300 mining contracts awarded by MoMP, the total loss of government revenue easily could be hundreds of millions of US dollars annually.

Recommendations for Reform

The Afghan government should formulate a realistic strategic vision for sound, equitable, and sustained development of the mining sector and avoid being trapped by a quest to generate quick revenues without putting effective institutions and proper regulations in place.

The Mineral Law and regulations need to be amended. They must require disclosure of the beneficial ownership of companies bidding for mining contracts and define penalties for gross deviations from contract terms, illegal extraction, and nonpayment of royalties and other dues.

Serious due diligence must be carried out on each company bidding for mining contracts. Tendering, short-listing, bid evaluation, and negotiations for mining contracts should be conducted by teams that include experts insulated from political interference. The bidding process needs to be transparent, and the final contract should reflect commitments made in the winning company's proposal. Proposals and final contracts should be made public after signature.

Different activities in the mining sector need to be clearly differentiated and companies regularly monitored as to whether their activities are as their contracts stipulate. When there is a shift from exploration to exploitation, it needs to be confirmed that the legal and contractual requirements for such a change have been met.

MoMP and the Ministry of Finance (MoF) should develop a mechanism for collecting revenues from mining companies when due. Joint teams should monitor revenue collections relative to projections based on contracts and follow up in response to discrepancies or delays. MoF's customs department can track companies' reported exports.

NEPA should independently require companies to turn over ESIA's and assess them before issuing exploitation permits. NEPA needs to inspect mines regularly and share its reports with the public.

The APPF should protect mining sites but not interfere in disputes between communities and companies over rights. Recruitment into APPF mine units must not be from militias associated with the mining company or local powerholders. Personnel guarding mine sites need to be trained on human rights and other international standards.

Afghan civil society has to educate itself on natural resource governance, revenue management, and the social and environmental effects of mining.

The international community needs to provide technical and financial support for capacity building and for implementation of a sound strategy to improve governance in the sector.

Notes

1. The "resource curse" refers to countries with weak institutions and significant underground resources suffering from slower economic growth, worse governance, problematic politics, and higher conflict risks.
2. The findings and recommendations of this study will be presented in a forthcoming US Institute of Peace (USIP) special report by Javed Noorani. The full study, tentatively titled "Elite Connections, Government Contracts, and the Mining Oligarchy: Political Economy and Conflict Analysis of Selected Mines in Afghanistan," is expected to be published later.
3. These case studies were researched by Javed Noorani in a project funded by USIP with Integrity Watch Afghanistan, for which work was completed after Javed Noorani became an independent researcher.
4. Documentary sources included the publicly available contracts for all five mines; relevant Afghan laws, regulations, policies, and standards; reports by the government, companies, or others; and press and media accounts. These sources are specified in the forthcoming special report.
5. Beneficial ownership refers to parties who reap financial benefits from a company or venture even if not listed as formal shareholders or officers of the company.
6. For an illuminating discussion on this case, see Mir Sediq Zaliq, "Ghori Cement—A Loss-Making Goldmine," Afghanistan Analysts Network, July 7, 2011, available at www.afghanistan-analysts.org/guest-blog-ghori-cement-a-loss-making-goldmine/ (accessed November 19, 2014).
7. The findings summarized in this and the following paragraph are based on numerous interviews with government officials, staff of the mining companies, and knowledgeable local people, as well as observations during field work by one of the authors.
8. The German government reported that gold extraction had begun at Nuraba and Samti. See Federal Foreign Office, "Progress Report on Afghanistan," Press and Information Office of the Federal Government, December 2011, 60, available at www.auswaertiges-amt.de/cae/servlet/

ABOUT THIS BRIEF

William A. Byrd, a senior expert at USIP, has published widely on Afghanistan's economy and related topics. Javed Noorani, formerly a senior researcher at Integrity Watch Afghanistan (IWA), is currently an independent researcher. He has conducted extensive fieldwork, interviews, and documentary research on Afghanistan's extractives sector, including a major study of five mines on which this PeaceBrief is based. The views expressed do not necessarily reflect the views of USIP, which does not take policy positions, nor those of IWA.

contentblob/611546/publicationFile/165674/111214-Fortschrittsbericht2011.pdf (accessed November 19, 2014).

9. See "Roadside Bomb Kills 8 Afghan Mining Company Workers in Parwan," Afghan Voice Agency, September 1, 2013, available at www.avapress.com/vdcaumn0.49neu1gtk4.html (accessed November 19, 2014).
10. Based on calculations for the five mines presented in the forthcoming USIP special report.



UNITED STATES
INSTITUTE OF PEACE

2301 Constitution Ave., NW
Washington, D.C. 20037

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