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The Origin of Crony Capitalism in Modern Mexico And Its Current Impact on Foreign Direct Investment

El origen del capitalismo de amigos en el México moderno y su impacto actual en la inversión extranjera directa

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Abstract

This article analyzes the extent to which crony capitalism (CC) affects international business activities. By using the case of Canadian companies investing in mining in Mexico, the author explains how CC impacts foreign direct investment, arguing that it does not imply negative consequences for international business activities if other variables are controlled domestically. Crony capitalism could even generate positive incentives for foreign investors since it deepens corruption internally. This type of corruption does not elevate the risk perceived by foreign investors if the process of doing business in Mexico is under the control of domestic power groups.

Key words: crony capitalism, mining, foreign direct investment, Mexico, Canada.

Resumen

Este artículo analiza en qué medida el capitalismo de amigos o *crony capitalism* (CC) afecta las actividades comerciales internacionales. Al utilizar el caso de las empresas canadienses que invierten en minería en México, explico de qué manera el CC impacta la inversión extranjera directa (IED). Mi argumento es que el CC no implica consecuencias negativas para las actividades comerciales internacionales si otras variables se controlan a nivel nacional. El CC incluso podría generar incentivos positivos para los inversores extranjeros, puesto que profundiza los problemas de corrupción al interior del país. Este tipo de corrupción no eleva el riesgo que perciben los inversores extranjeros si el proceso de hacer negocios en México está bajo el control de grupos de poder nacionales.

Palabras clave: capitalismo de amigos, minería, inversión extranjera directa, México, Canadá.

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Introduction

Focusing on Mexico, this article analyzes the extent to which domestic crony capitalism (a type of collusive corruption) affects international business activities and in what sense. First, I introduce the origins and evolution of crony capitalism in Mexico since the dictatorship of Porfirio Díaz (1876-1911); then, I explore how business networks operated in this country at least until the end of Peña Nieto's term (2012-2018) and how crony capitalism is related to corruption. Finally, using the case study of Canadian companies investing in Mexico, mainly in the mining sector, since the start of North American Free Trade Agreement (NAFTA) in 1994, I explain how these grey areas have an impact on foreign direct investment. My main argument is that crony capitalism does not imply negative consequences for international business activities if other variables are controlled at the domestic level. What is worse, crony capitalism could even generate positive incentives for foreign investors, in a context of weak formal institutions, as is still the case with Mexican institutions, while deepening corruption problems internally by undermining the country's institutional structure even more. In that sense, this type of corruption does not necessarily elevate the risk perceived by foreign investors if, regardless of existing legislation, the process of doing business in Mexico is under the control of domestic power groups made up of entrepreneurs and government officials, who sometimes negotiate directly with foreign investors. These groups can partially guarantee the success of foreign investment projects and, at the same time, obtain personal benefits. This is one of the main reasons why, even though Mexico has such substantial corruption problems, many foreign companies are still willing to invest there: they obtain high earnings and guarantees from local governments for operating their businesses at different levels (federal, state, and municipal), something that has also recently been observed in other countries, i.e. Russia.

Defining Crony Capitalism and Its Relationship to Corruption

Crony capitalism is a term used to describe an economy in which success in business depends on the relationships between businessmen and government officials. Even though there may be a few situations where crony capitalism differs from collusive corruption, for this article the two concepts will be used as synonyms (Table 1).[1]

[1] Not all crony capitalism is necessarily corrupt. Andrew Paxman distinguishes between two stages or types of relationships between businessmen and public officials: the symbiotic imperative, which involves crony

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The Relationship between Corruption and Crony Capitalism

Table 1
TYPES OF CORRUPTION

	Bureaucratic Corruption	Political Corruption
Extortionate Corruption The public servant extorts citizens by not doing his/her job, doing it conditionally, or failing to do his/her daily work in exchange for gifts or money that he asks of the citizen or obliges him/her to offer	Services provision (healthcare, education, licenses, law enforcement)	Licenses, property, expropriation, court rulings
Collusive Corruption Implies the collusion among different participants of the private and public sectors at different levels. Public servants divert or misuse the public budget	Arrangements to avoid or deviate from standards (taxes, quality control, permits), public procurement CRONY CAPITALISM	"Close links" between companies and politicians (with the capacity to manipulate regulations, including public services and works), high-level recruitment, tax exceptions CRONY CAPITALISM

Source: Developed by the author using data from OECD (2015).

In this paper, collusive corruption is defined as the phenomenon whereby a public official (supported by a network of bureaucrats under his orders and sometimes by other officials of the same hierarchy), in the exercise of his/her functions, in collusion with elements of the private sector, abuses public power and illegitimately appropriates what belongs to the inhabitants of a nation (the public), either following the laws or not (or, in some cases, even supporting modification of specific laws in the short or long term), to favor his/her individual interests. This type of corruption usually benefits to differing degrees all individuals in the public and private sectors that participate in the corrupt act, i.e., in a public procurement process, and who are organized in a network. These networks usually vary in each act of corruption, but can be the same for different processes of corruption.

My definition refers particularly to acts committed by members of the public sector who manage public resources, and who are linked to elements of the private

relationships but benefits state formation and economic stability, for example, after a revolution; and symbiotic convenience, which implies a mutual personal interest, without taking into account anyone else. Put another way, all collusive corruption is crony capitalistic, but not all crony capitalism is corrupt (Paxman, 2017: 30-1).

sector. In addition, it includes an aspect difficult to measure but fundamental to consider, which refers to when the corrupt individual or network, even without violating the law, carries out acts of corruption. This situation also occurs continuously in the processes of public tenders for goods, services, and public works, for example. That is to say, a scenario or simulation is set up in almost every procurement process, where all the laws are fully complied with. However, this scenario benefits the bidders for goods, services, and public works that allied public authorities may favor by assigning them contracts. The profits that eventually emerge from these contracts are distributed among elements of the private and public sectors that participated in these activities.

Exploring this topic as it applies to Latin America using a neo-institutionalist approach, Stephen Haber (2002) defined crony capitalism as a system "in which those close to the political authorities who make and enforce policies receive favors that have large economic value." Some economic consequences of crony capitalism are that under a crony system, favored entrepreneurs can operate their businesses as monopolies or near-monopolies. Monopolies generally have two negative consequences for the economy: a company with a monopoly produces less than would be produced in a competitive market, and products are sold at higher prices than they would be in a competitive market. This creates a loss to society in which consumers transfer resources (money) to privileged entrepreneurs due to the higher prices they pay. This has an effect on income distribution.

Society also loses on the supply side. That is, individuals are limited as producers in economic sectors where privileged companies operate. In that sense, we can say that crony capitalist systems distort economic incentives, negatively affecting the growth rates of various sectors of the economy because under crony capitalism, "industries that would not exist otherwise arise . . . and opportunities are denied to entrepreneurs who have the necessary skills and assets but not the political access or the necessary protection" (Galindo, 2021). This has a negative impact on the quality of goods and services, including that associated with a lack of innovation.

Regarding the rule of law, in crony capitalism "application of the law becomes arbitrary, unpredictable and dependent on informal relations and factors other than universal rules" (Galindo, 2021). In short, the law does not apply equally to all social and economic participants, as there is no calculable law that would allow economic actors to predict their profits. Second, in these systems, property rights are weak and transient. Crony capitalism is a system that ensures property rights of select economic actors.

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The Debate over the Existence of Crony Capitalism During Mexico's Porfirio Díaz Dictatorship (1876-1911)

In 2003, Stephen Haber, Armando Razo, and Noel Maurer published *The Politics of Property Rights: Political Instability, Credible Commitments, and Economic Growth in Mexico, 1876-1929*, which presents a vertical political integration (vpi) model that posits the existence of crony capitalism in Mexico. For Gulnaz Sharafutdinova, the neo-institutionalist approach that Haber adopted "provides a solid starting point, but it does not address the issue of the origins of cronyism" (2010: 27-34). In addition, neo-institutionalist models cannot explain the existence of some characteristics of crony capitalism in developed countries, which supposedly have solved this problem, at least partially. In that sense, neo-institutionalist models have also been criticized insofar as they are constructed with excessive generalizations that do not distinguish between specific versions of crony capitalism.

In his book *Institutions and Investment: The Political Basis of Industrialization in Mexico before 1911* (2001), Edward Beatty implicitly questions the idea that the Porfirio Díaz administration, known as the Porfiriato, was a case of crony capitalism. Beatty shows that Díaz's government favored the development of a national industrial sector through a carefully planned and administered series of laws and policies, including trade policy (import tariffs), intellectual property law (patents), and the program of providing tax incentives to employers who established new industries. Beatty argues that these formal institutions (laws and policies) played a critical role in the formation and behavior of investment in Mexico.[2] Moreover, he asserts that there were a number of small and medium-sized companies that did not have special privileges during the Porfiriato and that were subject to the laws. In the same sense as Beatty, Sandra Kuntz also affirms that during the Porfiriato, the rules undoubtedly improved; and she proposes the analysis of crony capitalism over a longer term. That is, "going backwards, we can better appreciate the institutional progress of the Porfiriato" (Kuntz, 2014).

However, the conclusion I have reached after many years of studying crony capitalism is that its reality in Mexico during the Porfiriato falls somewhere between the position of neo-institutionalists and that of Beatty and Kuntz. This implies that, for Mexico, the term "crony capitalism" should be understood as a hybrid model or a nuanced version of what the neo-institutionalists, the proponents of the term for Latin America, consider. That is, crony capitalism was not as prevalent and harmful

[2] Institutions are defined here as "humanly devised constraints that structure political, economic, and social interactions." According to Douglass North, constraints are devised as formal rules (laws, constitutions, property rights) and informal restraints (customs, traditions, taboos, sanctions, codes of conduct), which usually contribute to safety and order within a society or market (North, 1990: 97-112).

–one could argue it helped draw investment into some sectors that would otherwise have remained underdeveloped– as neo-institutionalists say, but more prevalent than the other authors acknowledge. Whether the Porfiriato legal system had more weight than neo-institutionalists recognize or not, the formulation of laws and policies in this period was often the product of the mixed interests of political and business elites, the main characteristic that distinguishes cronyism from crony capitalism. A clear example of this is found in the construction of the General Law of Credit Institutions of 1897 by the federal government in conjunction with the few banks that existed at the time. This led to a highly concentrated banking sector that in turn led to a highly concentrated industrial structure (Maurer, 2002). However, Mexican politicians in this period were not involved in companies in all economic sectors, nor in most small and medium-sized companies established in Mexico. So, the story of crony capitalism changes depending on which sectors and sizes of companies are analyzed. For more on this debate, see Galindo (2021).

Crony capitalism has continued to operate in Mexico over the years. In fact, crony capitalism was necessary for the development of capitalist economies in the world. So, when capitalism took off with greater force in Mexico during the Porfiriato (1876-1911), and little formal institutional development existed, the cooperation between entrepreneurs and politicians, which implied monetary benefits for both groups, was of enormous importance in making the productive apparatus work. However, over the years, this informal way of doing business in Mexico, favoring connections between political and economic elites, passing over the formal institutional framework and negatively affecting the possibilities of new participants to produce, has been difficult to control and has played against the strengthening of institutions that it had initially promoted. In addition, an important number of entrepreneurs maintained their position within the Mexican elite from the Porfiriato through to the late twentieth century as a result of crony capitalism. Between the 1940s and 1960s, the traditional Porfirian economic elite continued to participate actively, the Mexican economy showed stable growth within an import substitution industrialization model that required strong state involvement. (I do not give a detailed account of the evolution of business groups and economic and business models and practices in twentieth-century Mexico in order to maintain their anonymity.)

However, the Mexican economy began to deteriorate in the 1970s and a change in economic paradigm was adopted during the 1980s, largely due to pressure from developed countries (particularly the United States and the United Kingdom). This led to the liberalization of the economy, which included the privatization of most state-owned companies and a restructuring of the economic elite as new business entrepreneurs were granted access to opportunities. Despite the emergence of greater

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economic competition, the neoliberal reform mainly led to a change in business leaders without changing the way of doing business in Mexico, ultimately supporting a new generation of cronies.[3] That is, despite the economic changes that emerged in Mexico in the twentieth century, economic groups have continued with similar practices in their operations, inherited from the Porfiriato (Galindo, 2021). They can be identified by the following characteristics:

- Ownership and operation are in the hands of a small number of major shareholders.
- The links between the companies that form a network are long term. While legally independent, companies share ownership through informal mechanisms such as family or social relationships and the overlap of members of the boards of directors (interlocking directorates).
- Their network architecture leads companies to be integrated vertically or with a certain level of diversification (related, non-related, or geographic).
- For funding, companies are supported mainly by retained earnings distributed through their domestic capital markets or by the investment of securities in international financial markets and credit extended by the financial wing of their holdings (banks, brokerage firms, insurance companies).
- Some overlap exists among the majority shareholders, the boards of directors, and senior executives of various companies. (Castañeda, 2010: 604-605)

In addition, crony capitalist practices have found new ways to expand. There are new alliances between organized crime, government officials, and legal entrepreneurs, or new ways to attract foreign direct investment guaranteeing certain benefits to foreign investors who share their profits with local politicians. This is why we can classify certain foreign direct investment projects as crony capitalism.

Before analyzing the ways these grey areas have an impact on foreign direct investment, we need to examine the variables taken into account by foreign investors when making investment decisions.

International Investing

The most common ways to invest internationally are through mutual funds, depositary receipts, exchange-traded funds, foreign stocks, or direct investments in foreign

[3] Many of those cronies are currently involved in mining activities, as will be discussed below.

markets (foreign direct investment, or FDI). The first four types are known as portfolio investments, and their main difference with FDI is that in these cases, foreign investors are not necessarily intent on managing control over local companies, but rather on building an investment portfolio. The type of investment chosen is determined by the amount of risk foreign investors are willing to take in a specific market. Investors take into account sudden changes in market values and fluctuations in exchange rates, among other variables (risks). International mutual funds, for example, can be less risky than direct investments in foreign markets. Risk can also be avoided by investing in developed economies, where the variables taken into account in investing generally fluctuate less, but where profits (interest rates) are also commonly lower.

This article will focus on FDI. Something that has not been studied and is usually not recognized is that crony capitalism may limit the risk of investing directly (FDI) in developing economies, if specific foreign investors are connected directly or indirectly (through local entrepreneurs) to key politicians in a country. This would guarantee (protect) their investments. In other words, when a country, through its rulers' behavior, can offer preferential terms and guarantee physical investments arbitrarily, foreign entrepreneurs, whose ultimate goal is to maximize profits, will seize the opportunity. In exchange, local politicians will obtain part of the profits secured by foreign businessmen.

About FDI

There are numerous indexes of socio-political risk that present a negative correlation between socio-political risk and FDI. For example, Business Environment Risk Intelligence developed an index that ranks countries according to their degree of political risk. In doing so, it looks at domestic causes of political risk considering a fractionalized political spectrum: how far people are divided by language, ethnicity, and/or religion; and coercive political risk, that is, dependence on, or importance assigned to a hostile power, or both. The index also takes into account symptoms of political risk (mass demonstrations and politically motivated street violence). This qualitative index rates countries from 0 (complete instability) to 100 (complete stability). A study based on this index concludes that, "broadly, and not surprisingly, the index rating is higher for countries with a high net share of FDI in gross domestic product (GDP)." For all countries, the perception of socio-political stability plays an important role in determining FDI levels. For countries with low FDI flows, instability is a significant deterrent to FDI (Jun and Singh, 1996).

However, here one can formulate an important question: What is it that makes investors keep investing in certain countries despite high socio-political risk? In other

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words, why is FDI maintained in Mexico despite the social and political risks caused by factors such as lack of transparency and accountability in Mexican public institutions, corruption, or drug trafficking and violence? In that sense, on what side should collusive corruption be considered in social and political risk indexes?

Even though there are many other variables considered important for attracting FDI to countries, such as the relative size of exports, there is a variable of special interest to this research, involving the indexes that measure hospitality. Business Environment Risk Intelligence also developed an operations risk index. Broadly speaking, here, each country is ranked according to the preferential treatment, if any, given to business people and the general quality of the business climate. A wide range of factors are evaluated, including political continuity, attitude toward foreign investors, enforceability of contracts, and infrastructure and its management, among others. Ratings range from 0 (totally unacceptable conditions) to 100 (superior business climate). As expected, the higher the value on the index, the higher the attraction of FDI flows to a country. This is consistent with the general notion that foreign transnational firms do not consider some developing countries candidates for FDI until the climate for corporations becomes more "hospitable," in terms of the factors considered by the index (Jun and Singh, 1996). In addition, many studies claim that foreign investors also generally avoid corruption in possible recipient countries for ethical reasons (Mohsin and Zurawicki, 2002: 291).

Part of the argument of this article is to show that some of the same variables that theoretically could discourage FDI, such as political risks and social instability,[4] lack of institutional transparency, which conceals corruption, and lack of a strong legal system to formally enforce contracts, can also attract FDI indirectly. The lack of transparency, for example, allows foreign companies to obtain certain concessions under the table, which results in maximizing profits. No one can deny that where corruption is low, a country can perhaps attract more FDI at the aggregate level. Wei Shang-Jin proves this hypothesis in his article about corruption in China (Shang-Jin, 2002: 303). However, as he emphasizes, the idea to write his article came from how surprised he was to see high levels of corruption in China with high levels of FDI at the same time. In that sense, the intention of the rest of my article is not to analyze each of the factors that make corruption an impediment for foreign direct investment, but to examine scenarios in which businessmen agree to invest in a country in spite of it. This has to do with guaranteeing their earnings, whether through corruption or not, always taking care not to harm their companies' reputations. Here we will examine the case of Canadian mining companies that invest in Mexico and analyze the qualitative aspects that can even make corruption an incentive for them to invest.

[4] Numerous indexes of socio-political risk propose a negative correlation between social-political risk and FDI.

In a conversation with Carlos Solórzano, a promoter of Canadian investment in Mexico, he mentioned that Canadian extraterritorial laws affect Canadian investors in Canada if they engage in corrupt practices outside their country.[5] As a result, Canadian businessmen are very careful about how they do business abroad. However, if after a "legal" procurement process to do business in Mexico, the Mexican government invites foreign investors to partner with a Mexican company, and if that company is legally established in Mexico, then foreign investors will definitively accept that business, even if they are aware of the company's bad reputation. Solórzano mentioned some examples, most related to procurement processes that recently took place in Pemex. According to Solórzano, in one of the cases he is aware of, the winning Canadian company was "forced" to privately partner with a legally established Mexican company owned by a member of the Hank family, one of the most corrupt in Mexico, and founders of the well-known Atlacomulco political group (Solórzano, 2019). And, according to him, it is through these legally established Mexican companies that mining project profits can be shared among Canadian and Mexican businessmen and government officials in Mexico.

Historical Context of Mexican Mining

The extraction of minerals in Mexico has existed since pre-Hispanic times and became very important in the colonial period. One of the main reasons why Spanish colonists arrived in what is now Mexico was to become wealthy through the mining of silver and gold (the main minerals extracted during the colonial era). This mining was concentrated mainly in the current central, south-Pacific and northern states,[6] and little changed in the early years of independent Mexican. An important mining boom after independence occurred in the Porfiriato, when not only precious minerals but also those demanded by industries were extracted. New mining methods made the process cheaper and increased production, replacing primitive winches with steam engines after the 1820s and later, with electric machines. At the same time, mining activity created a large mass of workers (including women and children) with very low wages or who received vouchers that could only be exchanged in the companies' stores as payment (Nava, 1962: 53).

[5] The Corruption of Foreign Public Officials Act (CFPOA) was passed in 1999, more than twenty years after the U.S. passed the Foreign Corrupt Practices Act (FCPA) in 1977.

[6] Some of these states are Guerrero, Aguascalientes, Zacatecas, Hidalgo, Guanajuato, San Luis Potosí, Chihuahua, the State of Mexico, Coahuila, and Nuevo León.

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Foreign investment in mining grew considerably in the Porfiriato, supported by new mining laws and codes. In 1884, the first mining code was issued, establishing the right to free exploitation of the subsoil and free possession of the minerals extracted by both Mexicans and foreigners (Secretaría de Estado y del Despacho…, 1884). In 1887, a series of measures to facilitate investment, such as tax exemptions, were issued, which mainly benefited foreign entrepreneurs who had the capital for investment and the technology required. Barriers to the entry of new companies were also removed, and a period of high demand for Mexican minerals from the United States and European countries began (Gámez, 2001: 55). In 1892, a new Mining Law reaffirmed the free exploitation of mining concessions, which would only be cancelled if taxes were not paid (Secretaría de Estado y del Despacho…, 1892). In 1909, a series of additions to the Law were made, but they did not alter the investment practices for mining, especially in industrial minerals in high demand abroad at that time (Urias, 1980: 953).

Investments in mining through the Porfiriato varied between those with mixed capital and those in which Mexican investment was non-existent. In addition, for the population, all these new sources of employment were insufficient. Especially during the last decade of the Porfiriato, the industry's development was unable to absorb labor supply. In part because of low wages, a strike broke out in the mining city of Cananea in the northern state of Sonora, where the U.S. military ended up attacking Mexican workers on Mexican soil. After the Mexican Revolution and the influence of the labor circles (where there were different ideological currents, from anarchists to Catholic circles, and including mutualism and unionism), legislation to protect workers was created (Rosenzweig, 1965: 405).

In this same context, Article 27 of the 1917 Constitution was written, establishing the nation's control over mineral subsoil resources. However, large mining companies, including foreign ones, rejected the new regulations (Riguzzi, 2015: 195). Thus, the structure in mining practice in Mexico continued unchanged, and the Mining Law of 1909 was in force until 1926 (Coll-Hurtado, Sánchez-Salazar, and Morales, 2002: 47). In 1926, the new Mining Law tightened the nation's control over the subsoil and established a series of requirements for granting mining concessions (Secretaría de Industria, Comercio y Trabajo, 1926). By 1930, a new Mining Law particularly targeted control foreign domination over natural resources and aimed to reduce their profits, causing a decrease in foreign investment in mining in Mexico in that period (Urias, 1980: 954).

Following this tendency, in 1940 President Cárdenas's nationalist policy was represented in an energy reform that gave sole and exclusive ownership to the state of mining and energy resources. Under this reform, establishing contracts with entrepreneurs was allowed, as long as the rights of the nation were not endangered and the individuals operated within the legal framework. Article 27 would be amended in 1958, 1960, 1983, and 1992. As for the mining laws, in 1961 the 1930 law was replaced in a period known as "the Mexicanization of mining," which sought to make Mexican capital greater than foreign capital in mining companies, implementing protectionist measures. However, these measures did not turn out to be an obstacle for foreign investors since they also obtained fiscal perks, which allowed them to continue controlling part of mining activity.

During the 1980s the official discourse changed. It morphed from revolutionary nationalism to democratizing liberalism by shifting its approach from welfare to the privatization of large sectors of the economy, particularly para-state companies and basic social assistance services. This created a great deal of discontent among Mexican citizens (Galindo Rodríguez, 2011). Under this logic of liberalizing the economy, in 1993 a new Mining Law was approved. This law, in conjunction with the amendment to Article 27 of the 1992 Constitution, legally allowed the privatization of both *ejido* and agrarian communities' lands, and opened a legal space for national and foreign mining companies to expand throughout the country with very few restrictions. This is how the accelerated growth of mining in our country reappeared (Martínez, 2016: 45). Between 2000 and 2010, more gold was extracted than in the Spanish Crown's 300 years of domination (*La Jornada*, 2011).

The Current Situation of the Mining Sector in Mexico

Today, Mexico contends with Peru for first place in silver production worldwide and is among the top ten producers of different minerals: bismuth, fluorite, celestite, wollastonite, cadmium, molybdenum, lead, zinc, diatomite, salt, barite, graphite, plaster, gold, and copper. It is first in Latin America in mining exploration investment, and fourth in the world, according to a report published by SNL Metals & Mining in 2015. In addition, it ranks fifth as the best environment for mining business, according to a report of the consultant Behre Dolbear published in August 2015 (Secretaría de Economía, 2015).

On the other hand, the weight of Canadian mining companies in today's Latin American mining, often with an elevated percentage of U.S. partners, is very important. As of mid-2017, Canadian mining assets in Latin America were worth US$67.5 billion and accounted for 55 percent of Canadian mining investments in the world (Fajardo, 2017). In addition, Canada is the most important foreign investor in the Mexican mining sector, making up approximately 70 percent of FDI. Mining represents 5.9 percent of FDI in Mexico, out of a total of US$18 billion (Aristegui Noticias, 2017).

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The investment reported in 2017 by companies affiliated to the Mining Chamber of Mexico (Camimex), representing the majority, amounted to US$3.6389 billion; more than US$1 billion was allocated to new projects or the expansion of existing ones. This meant a 11.9-percent increase from the previous year. In addition, in December 2019, a total of 237 foreign companies were operating 988 mining projects in Mexico. Of all these companies, 153 (64.56 percent) reported being based in Canada; 32 (13.5 percent) in the United States; 14 (5.91 percent), in China; 9 (3.8 percent) in Australia; and 5 (2.11 percent) in South Korea and also in Japan; and 4 (1.69 percent) in the United Kingdom. Spain and France reported three companies each, representing 1.27 percent. Finally, nine companies were placed in the category of "others," representing 3.8 percent. It should be noted that approximately 711 (60.41 percent) of the registered projects were associated with precious metals, particularly gold and silver; a total of 162 (13.76 percent), with polymetals; 177 (15.04 percent), with copper; and 72 (6.12 percent), with iron. The rest involved metals and materials such as germanium, cobalt, titanium, molybdenum, bismuth, barite, and wollastonite, among others. However, in most cases, these minerals are considered by-products, or associated with metallic minerals (SGM, 2019). In addition, by December 2019, a total of 24,066 mining concessions in force were located on the country's land surface, covering 16.83 million hectares.[7] Ernesto Zedillo (1994-2000) granted 9,990 concession titles, which meant little more than a million hectares granted. At the beginning of the federal governments of the National Action Party (PAN), with Vicente Fox (2000-2006), more than 30 million hectares were granted through 17,774 titles. Felipe Calderón (2006-2012) granted 12,274 titles, covering 34.379 million hectares. During the administration of Enrique Peña Nieto (2012-2018), the Ministry of the Economy granted more than 3,000 mining concessions involving around 15 million hectares (Flores, 2019).

In 2019 the main mining states were Sonora, with 33.3 percent; Chihuahua, with 19.9 percent; Zacatecas, with 15.9 percent; Durango, with 8.0 percent; and Guerrero, with 4.9 percent. Mining existed in twenty-four states of Mexico, in more than 690 municipalities and 210 communities. At the same time, in that same year, the national production of five minerals stood out by contributing 81.9 percent of the metallurgical mining value. Gold was in first place, with 27.7 percent; followed by copper, with 24.6 percent; silver, in third place, with 16.0 percent; zinc, with 7.0 percent; and iron, with 6.6 percent (SGM, 2019).

[7] A mining concession is not the same as a mining project. However, concessions are the first step for exploration and eventual extraction of minerals. According to Article 19 of the Mining Law, amended in 2005, the area covered by a concession does not grant the concessionaire property rights over the land surface, but only over the mineral resources of the subsoil; however, it does allow the concessionaire to request, if necessary, the expropriation and temporary occupation of the lands located within the concession to carry out the exploration, extraction, and processing of minerals (Fundar, 2017).

This massive growth in mining activity is a direct consequence of the signing of the North American Free Trade Agreement (NAFTA), which came into force in 1994, designed to give preference to exports and the importation of merchandise, services, and intellectual property in a common market through tariff preferences, free zones trade, customs unions, and common tax policies. This treaty, designed to speed up trade, led the Mexican state to support the country's mining chamber to make labor contracts in the sector more flexible with the aim of weakening and eliminating unionism, while opening up foreign investment by modifying Article 27 of the Constitution to commercialize social property.[8] This facilitated the growth of the mining industry at the expense of the affected population (Azamar, 2020).

The exploration, extraction, and exploitation of all metallic and non-metallic mineral deposits can only be done through mining concessions granted by the federal executive through the Ministry of the Economy. Other federal agencies are involved to a greater or lesser extent in the mining process (operation of national and foreign mining companies), in an area that already covers twenty-two million hectares in Mexico. These agencies are the Ministry of the Environment and National Resources (Semarnat), the Ministry of Finance and Public Credit (SHCP), the Ministry of Territorial and Urban Agrarian Development (Sedatu), the Ministry of Labor and Social Services (STPS), the Ministry of National Defense (Sedena), and the Ministry of Energy (Sener). The National Commission for the Development of Indigenous Peoples (CDI), the National Water Commission (Conagua), the Mexican Geological Service (SGM), the Mexican Social Security Institute (IMSS), and municipal governments are also involved in the process.

This is in general terms how the mining process works. Mining companies request permission from the municipal authorities to modify land use. The SHCP grants the fiscal registry to mining companies and is also responsible for collecting the rights and taxes derived from the companies' mining activities. The Sedatu grants legal certainty in relation to land tenure. The National Agrarian Registry (RAN) is responsible for the control of *ejido* and communal land tenure and registers expropriation decrees of those assets. The CDI advises companies concerning indigenous peoples' uses and customs in order to avoid social conflicts, since a large part of indigenous communities live in places that are attractive for mining activities. In addition, mining requires large amounts of water to operate, which it then pollutes. Conagua regulates the rights for the use of water and can grant or extend the titles of allocation or

[8] As explained in Chapters I and II of the Mining Law, as well as Chapters I, II, III, V and VI of the Law to Promote Investment and Regulate Foreign Investment in Mexico, after NAFTA was in force for five years, any investor (regardless of his or her origin) becomes the absolute owner of the mining companies in which he/she invested.

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concession for the use of water. It also takes care of everything related to wastewater discharges. The Sedena is in charge of the authorization and supervision of the use of explosives and is responsible for granting permits for the purchase, storage, and consumption of these materials in the mining industry. The IMSS has the fundamental task of providing medical service and social security benefits to affiliated workers, after managers of mining companies register their employees. The STPS provides job security to workers, which is important, since mining is a risky activity, and also authorizes the operation of containers such as boilers or other pressurized containers in order to monitor compliance with national standards (NOM-020-STPS-2011). It also ensures that mining companies do not employ minors, can authorize jobs for minors between fourteen and seventeen years of age, and also approves training plans and programs. The Sener, the entity in charge of directing the country's energy policy, participates when hydrocarbon deposits are found on the lands to be exploited by the mining companies. Finally, the SGM offers geological advice and environmental studies (Lira, 2018).

In each of these institutions, which intervene at different stages of company mining production, it is possible to engage in corruption by bribing the authorities in charge. This type of corruption, falling within the scope of extortive corruption, is not necessarily linked to that which arises from collusion between foreign (and national) businessmen and government officials who share the profits of mining businesses (collusive corruption). However, it is common for public officials linked to collusive corruption in mining to give instructions to simplify the activities carried out by these institutions. They do this in order to unlock intermediate mining processes that may prevent profits from appearing.

Mining is a highly privileged industrial sector in Mexico. It enjoys apparent laxity in the application of tax laws that protect and give it priority. In addition, according to the 2015 and 2016 reports of the Higher Auditor's Office of the Federation (ASF), a public oversight institution, the mining industry has failed to comply with important tax obligations, such as the payment of mining rights to which it has been subject since 2014. The reports reveal that only 0.8 percent of the holders of mining concessions in Mexico made the payment of the special mining rights and only 32.4 percent made the payment of extraordinary rights.[9]

[9] Articles 268, 269, and 270 of the Federal Duties Law regulate the rights that must be paid for mining. Art. 268. Special right: The holders of concessions and mining assignments must annually pay 7.5 percent of the taxable income. Art. 269. Additional right: The holders of concessions and mining assignments that do not carry out mining activities within the first eleven years of validity of the concession shall pay an additional fee semiannually; an increase of 50 percent of the quota per hectare concessioned should be paid after the eleventh year of validity. There is an increase of 100 percent in the rights per hectare for concessions that are not explored or exploited for a period of two years starting from the twelfth year of tenure of the concession.

The ASF also found irregularities in the submission of reports on production, benefits, and destination of minerals or substances, and in the reports of works, exploration, and exploitation, which the concession holders are obligated to submit. These reports are important, since they are a key step toward the identification of the mining companies that must pay mining rights. Not having this information makes it impossible to collect payments. The ASF determined that the Ministry of the Economy and the SHCP Tax Administration System, known as SAT, did not have a reliable database on current mining concessions. They have indicated that 23 percent of the concessions lack identification. This makes it impossible to collect taxes and rights that should be paid by concession holders. So, for example, on the payment of the so-called additional right, the SAT did not have information to determine how many concessionaires were required to pay for it. This exceptional behavior of the SAT allows us to affirm that mining companies are being protected from the payment of their fiscal obligations. The SAT is usually very strict in its collection of taxes from ordinary citizens.

In addition, by the end of the Peña Nieto administration the Ministry of the Economy had not sanctioned mining concessionaires who had failed to comply with their fiscal obligations. In fact, according to the Mining Law, failure to comply with these payments is sufficient reason to initiate a procedure to cancel mining concessions. This has not happened, thus proving how private capital enjoys great privileges. It can also be stated that the laws to which mining companies are subject always favor them. Proof of this is the preference given to mining activity in Article 6 of the Mining Law, which establishes that the exploration, extraction, exploitation, and processing of minerals are considered public utility activities, and mining enjoys special preference over any other use of land, which implies that all productive activities, except for the exploration and extraction of hydrocarbons and the generation and distribution of electricity, are subordinated to mining. This includes agriculture, tourism, or any other industrial activity, and the uses of the territory by indigenous and peasant communities according to their customs and culture. Consequently, through the Mining Law, and contrary to the obligation of the state to guarantee the rights of indigenous peoples and communities, the interests of mining companies are prioritized. Likewise, the 2005 Foreign Investment Law allowed companies the possibility of making investments in the mining sector with 100-percent foreign capital (Cámara de Diputados…, 1993).[10]

Art. 270. Extraordinary right: The holders of concessions and mining assignments must annually pay this right, applying a 0.5 percent rate to the income derived from the alienation of gold, silver and platinum during the fiscal year (Fundar, 2017).

[10] The last reform was published June 15, 2018.

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Under this regulatory framework, mining concessionaires do not respect indigenous peoples' territories, urban areas, social or private property, or protected natural areas and areas of importance to conservation of biodiversity. Therefore, the country's mining policy is not aligned with the international commitments on the environment, labor, and the protection of indigenous peoples' rights. As if these were not enough, another condition favorable to mining established in the Mining Law is one involving the terms of the concessions. Mining concessions can last up to fifty years and can be extended for another fifty years. Thus, mining companies have a century to extract the gold, silver, and other minerals they require (Núñez, 2016).[11]

However, the main attractive benefit to mining companies is paying no taxes or paying very low taxes. We can use an example to show some of the advantages that mining companies have in Mexico that they do not enjoy in their countries of origin: the Canadian transnational Goldcorp has several projects in Mexico and has become the main gold producer. In its country of origin, it would never enjoy a fifty-year concession with the possibility of renewal, and would have to follow strict environmental rules and protocols —i.e., the Initiative towards Sustainable Mining, prepared by civil society organizations and the federal government, requiring it to apply environmental protection and environmental protection programs, as well as labor inclusion laws, among other things. In addition, to extract the gold it would be forced to pay 2 percent of its operating income; 13 percent of its additional accumulated net income; and two income taxes, a 10-percent provincial tax and a 15-percent federal tax.[12] Finally, it would also have to have obtained a social license of operation and have paid permits and municipal procedural fees.

In Mexico, the same company is obliged to pay only the income tax (*impuesto sobre la renta*, ISR) creditable according to the agreement of elimination of double taxation: they pay the same tax in Mexico and in their country of origin. The Income Tax Law also provides for a fiscal stimulus consisting of the immediate deduction of the investments made by the mining company, up to 77 percent of the value of the capital invested.[13] Continuing with the same example, for the extraction of gold in

[11] In her book *Minería mexicana en el capitalismo del siglo XXI*, Violeta R. Núñez (2016) describes in detail how concessions can last up to 100 years. In an interview with this author (2019), she stated that the answer to the accumulation of land is due to the feasibility of speculating with it, the same as with the prices of minerals in future markets. In this market prices are fundamental. Contracts are sold in the so-called over-the-counter or unregulated markets. This allows an enormous speculative process outside the control of the country's financial authorities. Many of the companies mentioned in this article participate in this type of future markets.

[12] The Mineral Tax Act of the British Columbia would apply in this case to determine taxes.

[13] The current tax regime in Mexico applies equally to companies with Mexican or foreign capital. The only difference between the two involves the international treaties signed by the government to avoid double taxation (González, 2011).

Sonora –where the company has 70,900 hectares under concession–, in 2012 the company obtained a gross profit of more than Mex$2 billion; however, it only paid Mex$5.75 per semester for each hectare it holds; an amount that does not even come to one million pesos per year.[14] This payment is the equivalent to 0.039 percent of its net profits throughout the year. Finally, the low wages paid and the non-payment of social security benefits for workers can be added to the company's savings (Rodríguez García, 2013).

In addition, the mining companies enjoy other privileges, such as federal resources to improve the infrastructure for mining operations, and they generally disregard the needs of the areas and communities where the mines operate (Tourliere, 2017). In fact, there is a great tolerance for failure to comply with the agreements promised the local communities to avoid affecting the companies (Cedillo, 2014). Mines also operate without any supervision or external verification. For example, mining companies themselves are in charge of monitoring the contamination they generate (Mendoza, 2013).

Furthermore, despite the discourse on corporate social responsibility (CSR) that these mining companies maintain as policy,[15] it is not difficult to verify that in the communities where they operate, these policies do not actually apply. As confirmed by several researchers at the Fourth National Congress on Climate Change Research in 2014, CSR actions in the mining sector in Mexico have not been successful, as practices that neglect environmental conservation prevail along with a lack of actions to trigger local economic development, which actually highlights the poor (and unethical) performance of these companies' environmental and social actions (Pérez, Aguilar, and García, 2014).

Last, but not least, another key incentive for investing in the mining sector in Mexico is the protection by the state repressive apparatus given to investors in the case of social conflicts in mining areas. The army and the police repress the *comuneros*, activists, and trade unionists (Turati, and Guillén, 2015). Sometimes companies even

[14] As is defined in Federal Duties Law Article 263, "The holders of concessions and mining allocations shall pay for mining rights semiannually for each hectare or fraction of land given in concession or assigned." The quotas range between Mex$5 and Mex$111 (González, 2011).

[15] There is something extremely conflictive in the discourse of socially responsible companies when trying to present themselves as positive entities in socio-environmental relationships through the voluntary signing of ethical codes of conduct, among other actions. When we analyze them in greater detail, we can see that these discourses are really more insidious than a simple aesthetic performance: they are part of the speeches that promote not only deregulation, but also the establishment of a relationship between society and business in which the state practically disappears, proposing that only the market regulates relations among companies, society, and the environment, leaving the surveillance in a group of supposedly responsible and well-informed consumers who would exercise by themselves the role of state administrations.

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have private armies (paramilitary groups) or create alliances with drug kingpins that allow them to attack anti-mining activists with total impunity.[16] [17] [18]

But, what is it that drives mining companies to act in this way? They act following the capitalist logic of obtaining the maximum profit with the least possible cost. But, what economic, political, productive and even diplomatic conditions push them to act the way they do while guaranteeing their safety and profits? To a large extent, the answer can be divided into three major factors: the strategic need for minerals for the development of the current stage of capitalism, the geopolitical struggle for mineral accumulation, and, finally, it has to do with the existence of crony capitalism, the central topic of this article. To explain the first factor, it is obvious that the mining boom not only goes hand in hand with the increased price of metals, but also with the importance they have acquired in industry and in the arms race, by becoming primary elements in the productive chain, either as objects and tools linked to production or as energy. This use of minerals in production does not occur spontaneously, but is adapted to the needs of capitalist reproduction.[19] Hence, at certain times a mineral may or may not be strategic (Lopez-Bárcenas, 2017).

[16] The use of mercenaries by mining companies, both to protect their area of operations and to intimidate the local population, is not exclusive to Mexico. These private armies are part of a global trend that has appeared in areas that have gone through decolonization processes. As Lieutenant Colonel Laborie Iglesias explains, numerous extractive companies are employing mercenaries to secure their investments. These mercenaries have experience in counter-insurgency since they are usually former soldiers of government armies that participated in colonial conflicts and bring with them their old methodology, changing only their employer, which it is no longer a state but a private company (it is also not unusual for the extractive company and mercenary group to both be parts of the same corporation). These mercenaries facilitate the corporations' control over natural resources within "weak states," thus favoring the privileged position of extractive companies. This association between multinational companies and mercenaries who participate directly in civil conflicts in developing countries is one of the causes of the lack of governance in areas rich in natural resources. This trend, which is not new in African countries according to Laborie, begins to appear in Latin America and Mexico (Laborie, 2008).

[17] According to Mendoza Cortés (2018), these criminal groups' military capacity has increased not only thanks to deserters from the armed forces, who have joined their ranks, but also to the training they have received from members of private military corps, who have provided them with training in various fields, such as tactics and combat techniques, as well as operational, logistical, doctrinal, intelligence and technological capabilities, to the point of creating authentic private armies that become a danger to the state.

[18] According to journalist Jesús Lemus, currently almost all drug cartels are involved in mining activities. In addition, Lemus states that in central and northern Mexico, the mining companies have made alliances with the Sinaloa, Juárez, the Beltrán Leyvas, La Línea, Los Zetas, and Del Golfo cartels, to "neutralize" opponents to their economic projects through persecution, harassment, and execution, mostly of indigenous groups. As Lemus explains (2018), given the ease of obtaining the necessary concessions and permits to operate mines —since it is easy to buy the will of state officials, and economic profitability is ample with minimal risk—, an increasing number of drug traffickers diversify their activities to join mining exploitation, bringing with them all their experience in kidnapping, extortion, and homicide.

[19] In his book *La vida o el mineral: los cuatro ciclos del despojo minero en México* (Life or the Mine: The Four Cycles of Dispossession through Mining in Mexico), F. López-Bárcenas finds various cycles of mining exploitation throughout Mexican history. He analyzes it in terms of the evolution of mining legislation and policies, together with the social resistance that these cycles have created and the forms of appropriation of minerals. He shows the systematic destruction of the property of rural communities with the aim of privatizing sources of wealth in such a way that the new owners can take advantage of the existence of a rural population that owns nothing but their labor power.

The second, geopolitical factor, shows that the current global economy model works for developed countries and rather harms those in the developing world, since it perpetuates the extraction of natural resources from the latter while the military, industrial, and technological advances are concentrated in the developed countries, which require not only gold, silver, iron, copper, aluminum, or nickel, but also minerals for the advancement of new technologies, such as lithium, coltan, chromium, cobalt, fluorite, and manganese (Álvarez, 2019a). This explains how an enormous variety of economic diplomacy has been deployed to secure these geopolitical objectives and maintain the current advantageous order for these developed countries. Thus, the derived diplomacy seeks to preserve mining exploitation in favorable conditions together with political and economic measures to facilitate accessing strategic minerals to maintain their industrial advantage (Álvarez, 2019b).[20]

Finally, and the factor that we will analyze in greater detail in this article, is the alliance between businessmen and government officials, which can lead to the phenomenon known as crony capitalism, the collusive corruption that colonizes the state to subordinate the national interest and the social agenda at the service of powers that be.

Politicians, businessmen, and organized crime groups have joined the mining business. For example, the fact that there is no a transparent and public database clearly showing the concessions granted by the government is part of the same problem. This lack of transparency allows companies to do whatever they want without assuming their legal responsibilities. These companies will ultimately produce economic benefits that would be distributed among the participants (public and private) involved in mining businesses. It is difficult to trace how mining profits end up in bank accounts of Mexican politicians. However, crony capitalism is one of the most palpable ways to explain the exaggerated privileges of a mining sector that clearly leaves no benefits for the country.[21] The construction of networks between businessmen, regardless of their nationality, and politicians, with elements of both groups obtaining individual benefits, is a practice that has lasted in Mexico over the years, independently of formal institutions, including laws and government agencies that have supposedly tried to control these practices. This behavior has played

[20] Obviously, this is not only a fight among developed countries to control the strategic resources of developing countries, but also a fight among developed countries to monopolize and avoid interference from other countries within their areas of influence, while seeking to extend these areas by eating away at other competing countries. A symbol of this struggle in our times is the famous outburst by controversial businessman Elon Musk, who stated that the United States would support coups d'état so that his companies could access lithium where necessary.

[21] Other explanations are related to 1) Incompetence, and 2) The desire to maintain good relations with Canada, the U.S., etc., which would be compensated with geopolitical or economic gains associated with free trade.

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against strengthening the country's formal institutions (Galindo, 2021). In addition, as will be seen below, the practices of foreign investors, in this case Canadian, can be puritanical within their countries, but in other countries, especially those in development, they can act without limits, contributing to the weakness of local institutions by using alternative ways based on privileges and exceptionalism to operate their businesses abroad. Also, "*malinchismo*," a flattering attitude of Mexicans with respect to Anglo-Saxons, allows these privileges and exceptionalism, and, in some cases, such as the one presented in this article on Canadian mining in Mexico, plays against local institutional strengthening.

How does the corruption network operate among Canadian businessmen, national companies, and Mexican governments? Everything begins with a whole network of straw men and speculators who obtain most of the mining concessions. The ten individuals with the most concessions acting as straw men end up transferring those concessions' operations to national or foreign companies or speculating through a transfer scheme allowed by Mining Law Article 19.[22] Speculators have up to fifty years to transfer their concessions. They will not transfer them until they obtain a price close to what they are expecting.[23]

On the other hand, mining companies operating in Mexico, whether funded by foreign capital, national capital, or a combination, are divided among themselves. This division is between so-called junior and senior companies, the former being those that work in exploration, and the latter, those working in production. This means that the junior companies are risk ventures focusing on the search for and acquisition of plots containing precious minerals, and in designing mining projects that allow for 1) the sale of the project; 2) exchange of shares; and, 3) other speculation activities based on extraction. The senior companies focus chiefly on extraction and refining of the mineral. Many of the junior companies operating in Mexico are tied to the Canadian risk capital stock market, including a considerable number of companies of great liquidity dedicated initially to developing mining projects. Of the 1,520 mining companies listed in this specific market, at least 198 operate in Mexico. The companies tied to the TSX Venture Exchange are not required to report environmental impact studies or to audit their own activities. This allows for an endless "fudging" of vague data concerning mineral deposits and results in eventual environmental damage in developing countries (Téllez, and Sánchez-Salazar, 2018).

Through the study of various investigative journalism articles, as well as an analysis of Latin American scholars' views on the *modus operandi* of mining businesses, we

[22] Concessions cannot be sold —it is illegal. However, these transactions take the form of legal assignments that include a monetary exchange.
[23] This scheme is similar to the one used by Canadian speculators in Mexico's real estate market.

can say that at least two established strategies exist for setting up operations in Mexican territory. This is not to say that the strategies are applied mechanically or remain unaltered; on the contrary, they adjust or hybridize according to circumstances, resistance by local inhabitants, or the force or absence of the state's influence in the region.

The first model is the direct appropriation of mining areas by foreign companies through straw men or shell identities. This is the simplest and most direct model. For example, through its legal representative in Mexico, Jorge Jiménez Arana, who also acted as a straw man, the mining company Blackfire Exploration obtained concessions in four different municipalities of Chiapas, equivalent to 580,304 hectares, an area similar to the size of the state of Colima (Vega, 2017). Fortuna Silver, another Canadian mining company, managed to deprive indigenous and peasant communities in Oaxaca of more than 80,000 hectares by purchasing concessions from "opaque" companies.[24]

These companies generally operate within poor or peripheral areas where government presence is weak, or where it is virtually non-existent beyond its oppressive interests and which, obviously, will support the mines whenever local inhabitants resist dispossession, divestment, or exploitation by the mining companies.

The second model, ambiguous and replete with grey areas, not due to lack of data (this article cites several), but rather to its variability, is that of partnerships between Mexican and Canadian companies. This occurs mainly in the country's Central-North, where the government influence is more consolidated. Canadian companies take advantage of the corrupt networks linking national entrepreneurs and public servants. Exemplary cases of alliances between Mexican and Canadian companies include those made with larger Mexican partnerships, such as Grupo México, owned by Germán Larrea; Industrias Peñoles, owned by Alberto Baillères; and Minera Frisco, owned by Carlos Slim. These alliances between Mexican and Canadian companies benefit from the absolute power of the Mexican state with which they are allied. The latter allows the use of its repressive and administrative apparatus, and, at the same time, may impose its ideology.

In fact, the Mexican mining companies that stand out in terms of the number of concessions they have for the installation of mines are Grupo México, Industrias Peñoles, Minera Frisco, and Altos Hornos de México. Most of the mining projects these companies are involved in are almost always associated with subsidiaries of large transnational corporations, which take at least half of the profits.[25] However, it is not

[24] By "opaque companies," I mean companies that exist only on paper. They don't have verifiable businesses, just bank accounts. They are often used for tax evasion, to camouflage corruption or money laundering. They tend to be created in tax havens. Although they may be similar to offshore companies that reduce the tax burden, the difference is that tax authorities consider the latter legal.

[25] The current Mining Law allows transnational capital to obtain concessions to carry out mining activities, as long as they request it through a subsidiary registered in Mexico (Lemus, 2017).

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only these wealthy Mexican entrepreneurs who are associated with foreign companies in mining. Many other minor Mexican entrepreneurs are associated with foreigners in projects that are likely smaller but profitable. For example, the Canadian company Telson Resources and the Mexican consultant Reyna Mining, owned by José Antonio Berlanga Balderas, recently acquired the Campo Morado de Arcelia mine for US$20 million (*Proceso*, 2017). There are plenty of other similar examples. In addition, Mexican mining companies tend to have close ties with different political actors, as is clearly the case of Grupo México and Industrias Peñoles (Regalado, 2020), who use these relationships not only to be supported by the force of the state to repress and destroy union organizations (Gomez, 2020), but also to get away with not paying for the environmental disasters they cause (Azamar, 2019).

Also noteworthy is the fact that Margarita Zavala, an independent candidate for president in 2018 and wife of former President Calderón, received campaign financing from the country's major mining companies, among them those run by the Baillères family (*Sin Embargo / La Vanguardia*, 2018). These connections have served to expand companies' mining business networks, which, as has been shown, transcend entrepreneurs of Mexican nationality.

Foreign companies often use straw men and partner with Mexican companies to avoid being detected in operations that compromise their reputation or would make them subject to the Corruption of Foreign Public Officials Act (CFPOA) (*Minería en Línea*, 2014). However, although the Canadian government passed this law in 1999 to prevent Canadian companies from bribing foreign authorities, it has not been an impediment to their carrying out ambitious mining projects in Mexico.[26] In part, the association with Mexican companies and the relationship established by foreign companies with Mexican advisers, including lawyers, allows them to directly or indirectly establish agreements with public officials. It also frees foreign companies from impediments to polluting, violating human rights, or protecting their mines when facing actions by mining dissidents (Hudlet and Herrera, 2016).[27]

[26] The CFPOA was passed in 1999, but it is only recently that it has been the subject of minimal enforcement efforts by Canadian authorities. It essentially codifies two offenses. Under Section 3, it is an offense to bribe a foreign public official in exchange for the official agreeing to an act or omission, or to induce the official to use his or her position to influence acts or decisions of the foreign state. It is considered an offense whether or not the bribe is actually paid or the action is actually carried out. Furthermore, both offering and accepting a bribe are considered offenses. Section 4 deals with accounting offenses, commonly referred to as "books and records" offenses. Offenses falling under this section include forging accounting records to facilitate or conceal the bribery of a foreign public official. The involvement of a Canadian company or wholly owned subsidiary of a Canadian company may be sufficient to trigger the application of the CFPOA. A convicted company may also be ordered to forfeit all proceeds –not just profits– obtained from the act of bribery.

[27] The Coalition of Civil Society Organizations presented a compendium of information to the UN Working Group on Business and Human Rights on August 29, 2016. With more than 100 organizations participating

Research has also shown that the Canadian embassy in Mexico has contributed to the security of mining businesses with Canadian investment,[28] spying on activists and pressuring Mexican authorities to repress social mobilizations. Also the Canadian government does not ask its companies not to damage the environment or violate human rights in the countries where they carry out mining activities (Grupo de Trabajo sobre Minería…, 2013). For example, documents from the Canadian embassy in Mexico show the support that the embassy provided to the mining company Excellon Corporation in 2012 to end a protest of miners and *ejidatarios* of La Sierrita, Durango, who demanded the clean-up of contaminated water and compliance with their labor rights (Turati and Guillén, 2015). In addition, evidence shows activists denouncing the systematic concealment of violations of laws by the Canadian government, through its embassy in Mexico, committed by its companies, despite numerous complaints of contamination and violation of the rights of land owners on whose property mining sites are located (Mariscal, 2018). In this sense, the objectives of the CFPOA are opposed to the economic incentives that the Canadian government has for mining carried out by Canadian companies abroad, which are evident from the actions that Canadian embassies carry out in different countries, including Mexico.

Corruption often occurs in the use of resources supplied by the Fund for Sustainable Regional Development of Mining States and Municipalities (known as the Mining Fund). This directly affects investment in social projects and, therefore, the development of the communities where mining is practiced. The Mining Fund was created in 2014 by the reform of the Federal Duties Law, which establishes that this fund's resources must be used to generate investments to promote social, environmental, and urban development in regions where minerals are obtained. The Mining Fund is made up of the payment of duties for mining activity. According to Federal Duties Law Articles 271 and 275, 80 percent of the resources collected from the special, additional, and extraordinary rights must be destined to the Mining Fund, and this fund must earmark 62.5 percent of its resources to the cities where mining activities are carried out. The remaining 37.5 percent must be delivered to the corresponding federal body. The other 20 percent of the resources collected should be directed to infrastructure programs already approved in the federal budget.

Regarding the resources involved in the Mining Fund, the ASF detected that Sedatu did not monitor the development of the financed projects. After reviewing seventeen project files in four federal entities, the ASF detected that they lacked a program

in the report, it was compiled by Karen Hudlet of the Center for Information on Businesses and Human Rights, with the assistance of Marta Herrera.

[28] The embassy's diplomatic support is not only used to protect the interests of these businessmen but also the geopolitical interests of Canada as a state.

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of execution of works, a register of physical and financial advances, other documentation for checking the project's progress, and the project's total cost, among other things. As for 20 percent of the resources that should be allocated to infrastructure projects, the ASF found that no unit within the SHCP had knowledge of the destination of the resources, and that this institution did not have a legal framework for regulating programming, budgeting, exercise, control, and monitoring of the expenditure of these resources. This corruption and lack of concern for the development of the local communities where mining takes place is exemplified in such simple things as diverting resources to build roads to link mining companies, but not to link communities among themselves or to larger cities (Fundar, 2017).

The most serious negative consequences of mining within this corrupt system are mainly environmental. Mining activity also affects surrounding communities, usually indigenous communities in many ways, something that is also ignored by municipal authorities.[29] When the report "Emissions and Transfers of Pollutants in North America" came out, prepared by the Commission for Environmental Cooperation of Montreal (2018), the disparity in pollution levels between Mexico and the United States/Canada was questioned. María Colín of Greenpeace Mexico stated that, "The corruption and impunity with which the large mining consortiums operate in Mexico allow their pollutant emissions into the atmosphere, water, and land to be much higher than in the United States and Canada" (Poy, 2018).

The Current Federal Government Policy toward Mining

Concerning the current government policy, Morena, the political party of Andrés Manuel López Obrador (AMLO), aware of the state of affairs of mining in Mexico, presented a bill to reform the Mining Law in the Senate late last year (García, 2018). The proposed reform basically sought to review and revoke unexploited concessions, control a change in activities in the concession areas, and increase the weight of the input of communities that lived in mining areas most affected by the concessions. More specifically, the initiative sought to empower the SGM so that it could carry out studies of social impact on the areas related to mining concessions, empower the

[29] In addition, the municipal authorities do not respond to the demands of the inhabitants of the areas where they carry out their mining activities. Such is the case denounced by the *ejidatarios* of Poxcuatzingo in the municipality of Zacatlán, Puebla, who state that past mayors have not supported them in the struggle to defend land and water. They also mention that they know that the municipal authorities do not have the power to give all the permits to the mining companies, but they do have the power to supervise that the mining companies comply with their commitments to the population, a task they ignore (*Municipios Puebla*, 2020).

Ministry of the Economy to declare unviable areas of mining exploitation or in conflict due to its negative social impact, and to cancel mining concessions for this reason. The bill also sought to ensure that all mining projects lived up to the principles of sustainability and respect for human rights of the communities in the regions they intended to develop, and required the owners of mining concessions to allocate resources for human and sustainable development in the localities where they carried out their activities. It also sought to ensure that companies gave annual reports on the social impact of the mining area where they undertook their projects. If not, it proposed that concessions be cancelled due to non-compliance.[30]

In February 2019, then-vice-minister of mining, Francisco Quiroga Fernández, whose background is in protection of mining investments, revealed that the Ministry of the Economy had a backlog of 20,000 administrative procedures of different kinds relating to mining companies nationwide, and that the current federal government was already analyzing the cancellation of 5,000 concessions.[31] Likewise, Quiroga Fernández said that at the moment, the main objective of AMLO's government in mining was to establish regulations comparable to those of other countries in terms of taxes charged the companies. Also, it was their intention that the funds raised through mining taxes and rights be channeled directly and transparently to mining communities. He planned to do this by restructuring the operation of the aforementioned mining fund by giving the communities the resources from this fund directly, centralizing its control through the federal government and applying it to specific causes such as public school reconstruction (Soto, 2019). However, these types of policies of channeling funds directly to communities have not been very successful in other countries; Peru, for example.[32]

[30] Different proposals for reforming the Mining Law have also been presented by other members of Mexico's Congress. These have not made it through committee nor have they been filed. For example, in September 2018, Labor Party Federal Deputy Clementina M. Dekker Gómez proposed that Article 6 be reformed so that mining activity ceases to be preferential with respect to "the territories whose property belongs to indigenous communities" (Dekker, 2018).

[31] Toward the end of 2020, President Andrés Manuel López Obrador's administration reduced by 20.8 percent the territory granted to the mining companies, compared to 2018, at the end of the administration of former President Enrique Peña. This means that in 2020, 16.8 million hectares were granted to the mining industry, a percentage that is a result of the review of requests for new licenses, but not as a result of the cancellation of concessions already granted (Sánchez, 2020).

[32] Upon considering this federal government policy proposal, it should be noted that various similar projects have been created in Peru, a country where 25 percent of GDP depends on mining-generated assets, all of which focus on the release of a portion of profits from extraction directly to the municipalities where the companies operate. This has meant more frustration than satisfaction in the long run. In the majority of these projects, "mining royalties," "voluntary contributions," and "community trust funds," among other things, have been directed, supposedly, toward combating poverty and promoting social development, but they have failed due to local authorities' inability to manage allocated resources. Lack of planning in the allocation of resources has meant that funds are exhausted as they are spent on activities unrelated to the original social objectives, such as construction of stadiums and monuments, or implementing patronage

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AMLO has so far maintained a dual discourse regarding mining, depending on the audience. He says one thing to indigenous communities and communities affected by mining and another to businessmen. His position on mining by August 2019 was that mining companies must offer the same working and wage conditions to workers that are obtainable in the countries of origin of the foreign mining companies investing in Mexico, although he has not presented any bill forcing companies to do so. He also expressed concerns about environmental protection, although he has not been clear on how to achieve this. In addition, contradicting the vice-minister of mining, AMLO recently declared that the current mining concessions should be maintained but that he will not offer more (*Expansión*, 2019). This is another sign of pragmatism *vis-à-vis* the private sector.

This pragmatism with which López Obrador handles himself in his dealings with mining companies and the tendency he has shown to collaborate with them led to the joint creation of a "Mining Table" by mining businessmen and state officials in 2019 to study the needs of the sector and find ways to promote its growth. This body was chaired dually by the well-known businessman Alfonso Romo, then head of the Office of the Presidency, together with then-Vice-Minister of Mining Francisco Quiroga.

This collaboration does not seem to stop despite the fact that in September 2020 the disappearance of the Vice-Ministry of Mining was announced within the framework of the "austerity measures and administrative rationality," while giving the attributions, powers, and works that the vice-minister had to the General Office of Mines, the General Office of the Fund for the Development of Mining Areas, and the General Office of Mining Development. Along with this announcement, the minister of the economy himself affirmed that the outgoing vice-minister, Quiroga, would continue working for AMLO's "Fourth Transformation" and that the state would continue his work (Gutiérrez, 2020). The sympathy that the aggressive mining companies have for this public official can be confirmed in the joint statement of the Mexican Mining Chamber, the Canadian Chamber of Commerce in Mexico, and eight other associations in the sector, which praised his role in linking state authorities and mining companies (*México Minero*, 2020).

The people unhappy with the role of the "Fourth Transformation" in the link between public officials and mining entrepreneurs were those affected by the mines. The Mexican Network of People Affected by Mining released a statement that was widely circulated, in which they recalled the many years of the vice-minister's long

policies. At the same time the companies located where these resources are allocated continue their projects without restrictions regarding environmental impacts, and thus assume they have *carte blanche* to continue polluting. This very misallocation, besides being a failure in the fight against poverty, has led to the creation of mafias and networks of corruption (Mogrovejo, Pimentel, and Zúñiga, 2017; *La República*, 2017).

career at the unconditional service of mining companies, promoting favorable conditions without caring about the racist stigmas created against entire communities, the serious labor problems by positioning himself as an enemy of the unions, and the continuous violations of the human, social, environmental, and cultural rights of the *ejidatarios* and anti-mining activists, who have been repressed (Rema, 2020).

The truth is that despite the covid-19 pandemic, mining investments in Mexico did not stop in 2020 and 2021, and in fact their profits even increased –despite some conflicts about the payment of late taxes– without thus renouncing their impunity (Núñez, 2021; Carbajal, 2021). At this point, it is difficult to affirm that the so-called "Fourth Transformation" is an alternative to the mining model of previous federal governments. Although new concessions are no longer awarded for now, existing operations continue and, with them, socio-environmental conflicts. Its policy is reduced to a "fair" distribution of the Mining Fund resources while the companies continue to extract and devastate, and the opponents of this model continue to be criminalized and murdered.

Not even the lithium nationalization proposal presented in the Senate by Alejandro Armenta Mier, with the support of numerous parliamentarians from the "Fourth Transformation," who propose considering this mineral as strategic and the property of the nation, has stopped the collaboration with foreign private companies (Senado de la República, 2021). It is said that concessions will be given to these companies for the exploitation of this ore. All this debate occurs while the Toronto-based lithium mining companies are already beginning the race to take over the ore through projects that maintain the extractive, colonizing, crony model I have already presented (GeoComunes, Rema, and MiningWatch Canada, 2021).

Perhaps amlo's reluctance has to do with needing to secure Morena's political presence in the North before he takes on the mining sector, including big companies that might support National Action Party (pan) or Institutional Revolutionary Party (pri) gubernatorial candidates. López Obrador's mining policies may be understood upon considering his need to win over Mexican entrepreneurs to his cause, while attempting to paint them in a positive light to a populace that mistrusts them. He does this through discourse of the so-called "social entrepreneurs," currently including Carlos Slim, many of whom have positions of influence in the so-called "Fourth Transformation." Even in the face of disasters such as the extensive spills of contaminants in the Sea of Cortés in July of 2019 caused by Grupo México, no penalty has been levied except that limited to bestowing money as compensation to the affected communities (*Hoy Los Ángeles*, 2019).

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CONCLUSIONS

The main argument is that crony capitalism does not necessarily imply negative consequences for international business activities if other variables are controlled at the domestic level. However, this does not justify the existence of those grey areas. Crony capitalism affects other local aspects, such as social mobility, market competition, social stability, and domestic security, among others. In other words, although crony capitalism may not impede international economic transactions, this does not imply that it has no negative social and economic consequences. In addition, evidence exists that the cleanest countries attract more FDI at the macro level than those with more corruption. So, even though corruption may not affect operations of some international businesses at the local level, in general, investors prefer to invest in non-corrupt countries unless they obtain certain specific guarantees that tend to maximize profits with less risk. The process of investing in a foreign country could include accepting things like associating with local entrepreneurs of less reputation if that does not affect profits. In that sense, I assume that. Generally, ethical considerations play no role in business, although this could vary from entrepreneur to entrepreneur.

This article contributes to two specific debates. One is about the degree of crony capitalism present in Mexico historically. Some historians, such as Stephen Haber (2002), argue that during the Porfirian period, Mexico represented a clear example of weak institutions and crony capitalism; while other authors mention that the *Porfiriato* was a period of construction of institutions that were not present in Mexico between 1821 and 1876, and that Mexican economic activity was more heavily regulated during that period than Haber and his followers recognize. However, the reality is mid-way between what Haber and his followers have argued about crony capitalism in Mexico and what the other authors analyzed have claimed. In addition, the legislation favoring certain power groups has not varied considerably over time. In fact, today, we can observe that in the creation of the new "anticorruption system."

The other debate is about the variables taken into account when investing in a foreign country. Country risk indexes are just one of the variables considered by investors, and they are much more important for speculators, who usually play with volatility around the world. In other words, country risk indexes only play a fundamental role in speculative transactions. In addition, local corruption and crony capitalism do not necessarily elevate the risk if they are under the control of local power groups, including government officials, who sometimes negotiate directly with foreign investors. The answer on how foreign companies invest in Mexico has been exemplified in this article using the case of Canadian companies.

The title of a recent article published in the periodical electronic publication, *Sin Embargo*, summarizes what is happening today in Mexico: "Corruption Grabs the Front Pages but Nobody Goes to Jail" (Rodríguez Nieto, 2015), referring to the fact that crimes are not prosecuted even despite all the books and articles published today in various media and by renowned academics. This speaks to the cynicism in contemporary Mexican politics. For example, during the administrations of Presidents Felipe Calderón Hinojosa and Enrique Peña Nieto, of the PAN and PRI, respectively, the Brazilian company Odebrecht was linked to high-value bribes that allowed it to "win" Mexican public works contracts that generated enormous profits. Odebrecht participated, among other things, in the reconfiguration of three refineries: Minatitlán (Veracruz), Tula (Hidalgo), and Salamanca (Guanajuato), linked to the state-owned oil company Pemex. All of these cases involved direct awards, overpriced payments, and irregular budget increases, and the highest-level government officials were aware of this situation and benefited from it.

This does not mean that scholars should stop writing as a means to exert pressure. However, the problem is profound, especially now that organized crime profits are also favoring strong networks of "legal" entrepreneurs and politicians. In this sense, civil society must continue promoting a number of steps geared toward weakening corruption in the long term in everything from education, free expression, and supporting social movements with genuine and noble objectives.

Finally, it is noteworthy that some of the recent general conclusions reached regarding crony capitalism are that countries with the lowest level of corruption usually have more efficient bureaucracies and stronger institutions, as affirmed by the World Economic Forum. However, efficient governments are not a guarantee that crony capitalism is decreasing. Hong Kong and Singapore are saturated with millionaires in "crony" industries and have relatively efficient governments compared to other countries. Hong Kong even received the worst rating in *The Economist* magazine's crony capitalism index, surpassing Russia, which came in second. Meanwhile, Singapore ranked fifth place, surpassing countries like the Philippines and Mexico (*The Economist*, 2014).

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