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## Subsidiarity: A Central Principle for Justice, Peace, and Sustainability in Mining

Caesar A. Montevecchio  
*University of Notre Dame*

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## **Subsidiarity: A Central Principle for Justice, Peace, and Sustainability in Mining**

**Caesar A. Montevocchio**  
**University of Notre Dame**

*The Catholic social teaching principle of subsidiarity states that problems should be dealt with at the lowest level possible, but the highest level necessary. It attempts to create structures of social power that can best protect the dignity of individuals and families and promote their human flourishing. In the case of mining, subsidiarity would say that the communities impacted by mining need to be centered and empowered to the greatest extent possible, but that the national, regional, and/or global nature of the issues at stake, like climate change, violent conflict, or economic justice, mean that community goals and decisions need to be weighed against other common goods or translated into broader frameworks. Subsidiarity can be an effective tool for adjudicating the best ways to optimize these goods within different contexts. This essay examines the role of subsidiarity in three key sectors related to mining: international law and human rights, regulation, and sustainability and the environment. After showing how subsidiarity applies to these problems, four additional recommendations are given for how to exercise subsidiarity for justice and peace in mining: focus on vertical integration, create opportunities for horizontal subsidiarity, build capacity in local communities, and support alternatives to industrial mining. Two examples of a subsidiary response to mining are detailed: Oro Verde in Colombia and Chartered Mediation in Extractive Industries in Kenya.*

*Keywords:* Subsidiarity, mining, Catholic social teaching, peace, sustainability, common good

### **Introduction**

The modern mining industry is paradoxical in many ways. Mined resources are indispensable for clean energy technologies, but mining accounts for between four and seven percent of global greenhouse gas emissions (Global Data, 2022) and is responsible for significant deforestation, pollution, displacement, and water consumption. Mine development offers promises of employment and prosperity, but it is frequently experienced as an economic curse in countries in the global south (Natural Resource Governance Institute, 2015), and often correlates with violent conflict. Another paradox is the way that it is a massively global enterprise, with dizzyingly complex supply chain relations and multinational corporations developing, exploiting, and buying and selling rights to mines across the globe, while also being deeply local. Mining is unavoidably and intimately rooted to specific lands inhabited by specific peoples beset by specific challenges and living specific histories. Working through these complexities to promote justice, sustainability, and peace requires working at multiple levels and developing complementarity between those levels. The Catholic social teaching principle of subsidiarity can help orient such efforts.

The idea of subsidiarity in brief is that problems should be dealt with at the lowest level possible, but the highest level necessary. It attempts to create structures of social power that can best protect the dignity of individuals and families and promote their human flourishing. In the case of mining, subsidiarity would say that the communities impacted by mining need to be centered and empowered to the greatest extent possible, but that the national, regional, and/or global nature of the issues at stake, like climate change, violent conflict, or economic justice, mean that community goals and decisions need to be weighed against other common goods or translated into broader

frameworks. Subsidiarity would also say that higher orders of social authority may need to supersede lower ones in some cases, or step in to carry out functions that lower ones cannot. Different local contexts and needs mean that there are no one-size-fits-all answers to these challenges. But subsidiarity can be an effective tool for adjudicating the best ways to optimize goods within different contexts. After giving a more in-depth explanation of subsidiarity, I will examine specific ways that subsidiarity can apply to mining. This will include subsidiarity in reference to international law and human rights, regulation, and sustainability and the environment. Based on those ideas, I will present prescriptions for justice and peace in the mining sector based on the principle of subsidiarity. I will conclude with two examples of initiatives addressing mining in a way that illustrates the usefulness of a subsidiarity-based approach.

### **Explaining subsidiarity in Catholic social thought**

The Catholic Church's formal understanding of subsidiarity can be found in the *Compendium of the Social Doctrine of the Church*: "On the basis of this principle, all societies of a superior order must adopt attitudes of help ("subsidiarity")—therefore of support, promotion, development—with respect to lower-order societies" (Pontifical Council for Justice and Peace, 2004, §186). It first came to prominence in the Catholic context when it was used by Pope Pius XI in his 1931 encyclical *Quadragesimo Anno* (§79). For Pius XI, subsidiarity was a way to steer a middle path between extreme liberal (individualistic) and collectivist models of political order. It defined the role of the state as helping individuals and families live out their dignity. This meant that the state could not interfere with individuals, or orders of society closer to the individual, doing what they are capable of doing for themselves. But it also meant that the state must help when needed, and that individuals have the right to expect such help to protect and fulfill their dignity and rights. The influence of subsidiarity in this era can be seen in the formation of Christian Democratic political parties in post-World War II Europe (Zamagni, 2010). And while Catholic concerns about labor predate Pius XI's articulation of subsidiarity, the principle can also be seen in the support of Catholics for labor unions through the early- to mid-twentieth century as intermediate institutions to protect worker's rights (Mazzenga, 2012).

In 1963, Pope St. John XXIII began considering subsidiarity in a context of increasing international complexity. For John XXIII (1963), as the political order had globalized and international authorities had grown, Catholic teaching on subsidiarity needed to be applied at that new scale—that is, international powers may not abrogate less powerful states' rights and capacities (§67-69). But John XXIII also recognized that while it was still vital to protect the ability of persons, families, and intermediate social and civic bodies to exercise their competence and determination, an increasingly complex world would more and more require interventions from higher authorities to adequately protect and advance the common good (Curran, 2004, p. 21).

Pope Francis has strongly affirmed the dual vectors of subsidiarity in his teaching, largely as part of his focus on making sure that "everything is connected." Emphasizing the inseparability of economic, environmental, social, and political problems has been a hallmark of Francis' papacy, most notably in his advocacy for integral ecology, of which he has said: "We are faced not with two separate crises, one environmental and the other social, but rather with one complex crisis which is both social and environmental. Strategies for a solution demand an integrated approach to combating poverty, restoring dignity to the excluded, and at the same time protecting nature" (Francis, 2015, §139). This emphasis has led Francis to insist on holding the local and the global

in balance. His teaching calls people to recognize that the integrated crises of the modern world require global perspective and coordination, while also requiring rootedness in the vulnerable communities that feel the brunt of the effects of economic and environmental injustice, whether in the form of displacement, violent conflict, famine and drought, poverty, or other ills. For Francis (2020), if problems are approached too globally, then we can become too abstract and general to help at the human level; however, if they are approached too locally, then we can become too narrow and ineffectual (§142). Complex, integrated problems that disproportionately impact the most vulnerable need responses that remain rooted in the experience of those vulnerable victims, while also tackling the global dynamics behind those problems. This mandate seems apparent enough, but subsidiarity is a principle that can help adjudicate when, where, and how different responses at different scales are most prudent.

Italian social scientist Pierpaolo Donati has reflected on how to expand subsidiarity in this contemporary context. He argues that the core idea of subsidiarity is to allow for the formation of emergent common goods, like peace, which cannot be produced by structured political or economic arrangements. For Donati (2012), common goods like peace are primarily relational. They are “supra-functional” effects that become instantiated in political, cultural, and economic forms after they emerge from rightly ordered social relations, and subsidiarity is the principle by which resources are allocated and distributed in order to facilitate the emergence of those goods (p. 9-12, 16). Subsidiarity is thus also “supra-functional.” A functional understanding of the concept, that is, one that casts it as a mandate to not interfere when it is not necessary and to interfere when it is needed, is not incorrect, it is just limited (pp. 2-4). The goal for Donati is to conceive of subsidiarity in a way that can foster the emergence of relational common goods in a globalized context. He offers three points that he thinks must undergird such an understanding of subsidiarity: neither the nation-state nor the market are adequate bases for understanding relational common goods nor the relations considered in the rubric of subsidiarity; resource allocation and cooperation need to flow horizontally across the networks of civil society that make up nations and the international order, rather than just vertically as conceived in the classical, functional understanding of subsidiarity; and lastly, subsidiary action can take many different forms because the sharing of responsibility that is at the heart of subsidiarity can have very different requirements in different circumstances (pp. 17-18). These points are affirmed by Marco Fattore and Giorgio Vittadini (2021), who suggest that subsidiarity is a fulcrum for the kind of flexible, adaptive governance required by modern, “nonlinear” societies that are less predictable and more dynamically complex. Donati (2012) concludes:

To cope with globalization, new political configurations are necessary on a supranational and infra-national level, and it can be useful to draw on the principles of subsidiarity and solidarity in order to envisage them. These principles must be interpreted from a new perspective—no longer that of nation States, but rather of an emergent global civil society, which is not limited or bound to the frontiers of the nation State any longer (p. 20).

### **Subsidiarity in connection to the mining sector**

One of the most consequential relationships in the mining sector is that between multinational companies and national governments. Another is the relationship between companies and local civic authorities from whom companies often must acquire consent to operate a mine. And these civic authorities are of course operating within political, legal, and economic parameters

established by the national government. In such a situation, Donati's observations about expanding subsidiarity beyond its original conceptualization in reference to nation-states are quite relevant. The flows of power and resources impacting the mining sector are not confined simply to nation-states, nor just between higher authorities and lower ones. This raises the question of how subsidiarity applies when power is not only the province of governments and states, and when we face problems like the climate crisis that are not beholden to national borders. How can subsidiarity apply in international systems like law and human rights? What about finance and business? What role can it play in combatting climate change and supporting environmental protection? For mining, as well as many other sectors of globalized society, these systems and topics are crucially consequential. They operate differently from political governance, but they interact with governance and are similar in how they involve micro and macro authorities and experiences trying to find practical consonance. Subsidiarity can apply to these areas, but it requires some extra theorizing to do so. I will turn next to some examples of such theorizing to help show how mining can benefit from the principle of subsidiarity.

### ***International law***

International human rights laws and conventions are important safeguards for communities impacted by mining. Paolo Carozza, an expert in international law and human rights, recognizes complementarity between subsidiarity and human rights. Both operate with an understanding that human flourishing is achieved through the exercise of free agency within a framework of social embeddedness. Community belonging is essential and persons and smaller communities should be free from violations of their dignity and undue impositions on their autonomy, while also receiving assistance and support when it is needed. Both also recognize that individuals are part of a wide array of social groupings and communities and that their flourishing is tied to goods realized through all of them (Carozza, 2016, pp. 53-54). But Carozza sees three main obstacles for a subsidiary exercise of international human rights. First, international law generally lacks the kind of coherence that is needed for the structural nesting of authorities and relationships in the vision of subsidiarity (p. 57). Second, the ongoing centrality of sovereignty in international law. For Carozza, the gravity that sovereignty exerts on the general system of international law prevents the imposition of requirements to foster the common good and human rights in a subsidiary way (pp. 62-63). And third, a deterioration or outright lack of local civic institutions—"subsidiarity can protect the local and the social only if there *is* a local and a social to protect" (pp. 63-64, quote on p. 63).

Carozza (2016) offers some general recommendations for remedying these problems: increase the role of subsidiarity in other sectors of international law, such as environmental or economic law; develop a more person-centered approach to international law while more clearly enfranchising the benefits of sovereignty so there is room to more freely pursue subsidiary values; and do the hard social work of creating and nourishing local institutions to channel subsidiarity within smaller communities (pp. 66-67). None of these issues is specific to mining in Carozza's presentation, but all of them do apply to it. Inconsistent and underdeveloped international laws, the challenge of balancing respect for sovereignty with the need to enforce requirements for the common good and community protection, and a lack of civic structures competent to navigate the complexities of mining all contribute to injustice and instability, and in turn conflict, in the mining sector.

### ***Finance and regulation***

Financial regulation and oversight are other important aspects of the mining industry with strong impacts on equity, justice, and conflict. Weak regulation and oversight can allow conflict minerals to remain obscured, corruption to fester, and equity, integral human development, and sustainability to stay elusive. Economist Philip Booth has written about the role of subsidiarity in financial regulation and his insights offer some ideas about how to apply it to regulation in the mining sector. Booth (2021) does not advocate for unregulated markets, but he does raise strong cautions about the effectiveness of government regulation based on the inclination of human persons who run regulatory mechanisms to sin (pp. 141-144). He summarizes:

[I]t could be considered imprudent to give power to the state for the regulation of markets unless it is absolutely necessary. This is because man's vices may bring about greater evils, such as the abuse of power, corruption, the lessening of individual responsibility, the growth of impersonal bureaucracies remote from the problems they are trying to solve, and the capture of regulatory processes by elites (p. 144).

As evidence for his position, Booth argues that the 2007-08 financial crisis was not simply a matter of deregulation or lack of regulation. He asserts that government regulations were broadly existent but did not prevent the crisis and even encouraged some of the behaviors that caused it (p. 145). He argues further that international regulation is not a good solution to the shortcomings of national regulation because international regulation by necessity becomes too complex and cumbersome for any but specialists to effectively navigate, and that that complexity increases the chances of human error (pp. 147-148). The problems with effectively administering international law outlined by Carozza also add a pragmatic hurdle to Booth's concerns.

The problems that concern Booth are indeed present in the mining sector. For example, corruption and cronyism remain some of the biggest problems in the mining industry in the Democratic Republic of the Congo (Wakende, 2020). In Peru, the government body that grants mining concessions, INGEMMET, has received national awards while it oversees practices by which impacted communities face major obstacles to access and act upon information about mining in their lands (Chata Pacoricona, 2022, p. 74). And while the situation has improved, the early stages of conflict mineral regulation like the United States' Dodd-Frank Act showed adverse effects on local communities as trying to conform to the regulatory process was too challenging (Koch and Kingsbergen, 2018). Booth's concerns are valid though not absolute. The case of conflict mineral regulation in the DRC shows that the kind of problems with complexity and international regulation described by Booth can be overcome (Koch and Kingsbergen, 2018). And counter examples can show that better centralized regulation may sometimes be needed, such as in the Philippines where decentralization of mining has led to elite capture (Verbrugge, 2015). Still, Booth's concerns lead to some useful recommendations to consider.

Booth (2021) states that the goal should be to find "the institutional approaches to restraining markets that best deal with the imperfection of the human person" (p. 158). To that end, he argues that subsidiarity "would suggest that the state might need to play a part in regulation, but that it should not be the primary actor. Rather it should support other regulatory institutions that have evolved to deal with human imperfection in finance" (p. 159). Because Booth is addressing finance

specifically, his example of an alternative is the type of nongovernmental bodies that emerged to regulate financial markets during the nineteenth century (pp. 149-151). But for Booth, the principle shown in such bodies is that effective regulatory systems can be led by professions themselves. That way regulation will be informed by professional expertise and maintain discretion and flexibility instead of trying to apply standards that are rigidly uniform to all institutions (pp. 152-153).

The mining industry does have this kind of industry-specific nongovernmental body to set regulations. It is called the International Council on Mining and Metals (ICMM; n.d.a), and it sets forth principles by which member corporations are expected to operate. Working with ICMM can be an effective way to translate the ethical concerns of activists and peacebuilders into the business world (Offenheiser, 2022). But the efficacy and intent of ICMM are open questions. Rodrigo Péret, OFM (n.d.), who leads a South American coalition of mining activist groups called Iglesias y Minería, has criticized a series of dialogues between mining executives and leaders from the Catholic, Anglican, and Methodist Churches as “church capture,” seeing the dialogues as an effort by ICMM members to “faith-wash” their operations. And some of ICMM’s principles show an ongoing need for government regulation to complement this industry-side regulation. In describing the commitment to free, prior, and informed consent from indigenous peoples and affirming the international legal right of indigenous peoples to free, prior, and informed consent, ICMM (n.d.b) states:

If consent is not forthcoming, despite the best efforts of all parties, in balancing the rights and interests of Indigenous Peoples with the wider population, a government might determine that a project should proceed and specify the conditions that should apply. In such circumstances, it is for ICMM members to determine individually whether they ought to remain involved with a project.

In other words, even if consent is not given, and indigenous peoples have an internationally recognized right to refuse consent, ICMM acknowledges that governments may override that refusal and give companies license to do the same, which in turn makes those communities vulnerable to the kind of governmental corruption, cronyism, or ineffectualness that Booth warns against. It makes clear that just as state-led regulation may be fraught, so is industry-led regulation. The principle of subsidiarity would argue that the two must be complementary.

### ***The environment***

Environmental impacts from mining can include emissions and pollution from the mining process, including chemical runoffs and waste storage; landscape transformation that can threaten environment-dependent livelihoods and cultures; biodiversity loss; and forced migration. In addition to these impacts being conflict factors because of the way they increase pressures on impacted peoples, conflict also frequently arises in the form of violence against environmental activists and land defenders (see Holden and Montevecchio, 2022).

Theologians Jame Schaefer and Amy Levad have both presented cases for how subsidiarity can apply to the climate crisis and the environment. Schaefer’s picture depends on the connection between subsidiarity and solidarity, the Catholic social teaching principle that calls people to an ethical response to the fact of human interdependence. Solidarity is the virtue by which humans

work to coordinate their activities toward the common good. Donati (2012) emphasizes this point as well, that subsidiarity and solidarity must be mutually reinforcing. Solidarity without subsidiarity cannot be functionally achieved, and subsidiarity without solidarity does not get directed to ends consistent with the common good because it lacks the sense of shared values and care necessary to animate it (pp. 8-9). Schaefer recognizes a similar connection, but also weaves in the theme of preferential option for the poor and vulnerable. For her, solidarity in an age of climate crisis means recognizing that humans must be in solidarity with not only one another, but also with creation itself, and that subsidiarity must therefore safeguard the dignity and well-being of both (Schaefer, 2011, p. 409). The vulnerability of the climate and the vulnerability of those most impacted by climate change, who are not the ones most responsible for causing it, make this new paradigm all the more urgent (pp. 406-409).

Schaefer suggests ways in which each of this triad of Catholic social teaching principles should be reimagined in light of the climate crisis. For solidarity, she suggests developing “Earth solidarity,” which means living in solidarity with and attending to a common good that includes “all species, abiota, ecosystems they constitute, and the biosphere into the future” (Schaefer 2011, p. 411). For preferential option for the poor and vulnerable, she suggests including those species, abiota, and ecosystems as poor and vulnerable members of the Earth community that are due special protection and resource allotment (p. 416-417). These are valuable insights, but the focus of this essay is on the third piece, subsidiarity. Here, Schaefer recommends shifting from “politically defined to bioregionally-defined subsidiarity.” She begins by acknowledging that the principle was first imagined in a scenario where decision-making occurred within human-drawn political boundaries and layers, “However, these political boundaries do not seem appropriate for making decisions about either mitigating changes humans are forcing on the global climate or adapting to them” (p. 413). If the well-being of the Earth is part of the common good that subsidiarity is meant to enable, then, in Schaefer’s view, decision-making entities responsible for mitigating environmental impacts or adapting to them are better organized around bioregions.

According to Schaefer (2011), “Bioregional subsidiarity will require increasingly encompassing levels of the region to help those that are less encompassing to achieve their mitigation and adaptation goals” (p. 414). This is akin to how subsidiarity in the geopolitical model would call for higher levels of organization to assist lower ones in achieving their goals when that help is needed. But in a context like the climate crisis where challenges are not confined to sovereign borders and individual governmental policies, authority organized according to the ecological reality of the impacted systems makes more sense. For an industry like mining that has major environmental footprints, this new model of subsidiarity would indeed be applicable. Because mining does also include questions related to governance and economics, however, ecological subsidiarity would need to be incorporated alongside other mechanisms. And as Carozza noted, the sovereignty paradigm is so entrenched in international law that mechanisms of bioregional subsidiarity would have to be envisioned as complements to rather than replacements for established political authorities.

Amy Levad goes into greater particularity about how subsidiarity can help global environmental problems. She does so by analyzing the problem of regulating common-pool resources, which would include mined minerals and metals. Levad affirms the position developed in Garrett Hardin’s (1968) “The Tragedy of the Commons” that there are three possible avenues to managing



common resources in light of the overriding inclination to self-interest that drives the use of global commons to ruin if there are not protections in place. These avenues are government regulation, privatization, and appeals to conscience. Levad argues that subsidiarity, as a principle for optimizing the allotment of powers to best promote the common good, can provide guidance on when to employ each of these three strategies and can highlight the strengths and weaknesses of each. Relatedly, it can foreground the fact that no one approach is ultimately superior and that all three measures are needed. Government regulation is needed in circumstances where high-level organization and the force of law are needed, like in cases of conflict, risk of local-level corruption or exploitation, or lack of expertise at lower levels (Levad, 2021, p. 46). Privatization can be sensible when, as noted by Booth, the value of free enterprise and expertise is worth preserving and it is not offset by risks from lacking established laws and enforcement structures, ecosystem fragility, or especially high dangers from degradation or pollution (p. 46). And while appeals to conscience are not alone prudent as ways to effect structural change, without moral commitment from individuals to transform lifestyles and cultivate new values for nature, even a perfect balance of regulation and privatization will fail to solve environmental problems (p. 47).

Levad sees another aspect of subsidiarity as relevant, but it is one that she thinks Catholic teaching has not sufficiently detailed. Since Pius XI first introduced the concept, it has included insistence that there needs to be intermediate institutions to mediate between individuals and the state, or between lower scales of power and higher ones. According to Levad (2021), the shape of such institutions is not only a neglected topic in Catholic social teaching, it is also one that would require new formulation anyway in the face of the ecological crisis (p. 47). Holding to the value of intermediate institutions and considering the need to better flesh out what they might look like, Levad turns to the work of Nobel-laureate Elinor Ostrom (2015) identifying the characteristics of sustainable intermediate institutions for governing common-pool resources (pp. 91-102).<sup>1</sup> To Levad, these characteristics help complete the picture of how subsidiarity can be employed to cope with environmental degradation by showing how intermediate institutions can serve as a fourth strategy to balance the strengths and weaknesses of government regulation, privatization, and appeals to conscience. She writes:

The design principles described by Ostrom . . . allow us to understand more clearly the appropriateness of privatization, intermediate institutions, government regulation, and appeals to conscience in our care for creation by clarifying the precise conditions necessary for successful institutions, as well as the roles and responsibilities of governments, individuals, and communities in supporting them (Levad, 2021, p. 52).

Bringing together the ideas from Schaefer and Levad, employing subsidiarity in relation to environmental problems means prudently determining the right roles for governments and the private sector, while also developing and empowering appropriate intermediate institutions, including ones that account for the bioregional nature of ecological problems and not just political boundaries. It also means appealing to individuals to undergo an ecological conversion so that they might support systems intended to address the climate crisis and ecological preservation. In the case of mining, the picture is even more complex. Governance in both countries where mining occurs and countries where multinational companies are headquartered must be considered. Also, mining companies frequently have power and resources that exceed that of global south nations where they might operate, and those imbalances must be factored in when considering the

appropriate approaches to mitigating a mine's adverse impacts. Individuals at both ends of mining supply chains, resource production and consumption, need to be conscientized to more strongly value the environment and accept possible tradeoffs to protect it. And in the mining sector, intermediate institutions are strongly needed to bridge between policy, law, and regulation and local experiences and needs.

### **Subsidiarity and prescriptions for peace and justice in the mining sector**

Mining is a nexus point for varied types of challenges. The preceding section has shown how the principle of subsidiarity can apply to some of those challenges. International laws relating to mining, such as business law, human rights law, or laws pertaining to indigenous persons, need to be bolstered to have a truly subsidiary function and support human flourishing. The private sector should be engaged as a partner to realize justice and peace in mining communities because industry-directed regulation can sometimes be a more efficient and reliable way to realize those goals than government-led regulation. And a subsidiary understanding of environmental protection highlights the importance of balancing multiple approaches to limiting ecological harms, including the crucial role of intermediate institutions. In this section, I will highlight some recommendations for how these subsidiarity-informed practices can effectively promote peace and justice in the mining sector.

#### ***Focus on vertical integration***

Subsidiarity clearly calls for engagement at all social levels. This is needed acutely with mining. Subsidiarity means that local communities should be active agents in determining whether and how mining projects should proceed in their lands, but it also means that a range of higher levels need to help those local interests. International laws and norms that can mediate across sovereign borders; prudent policies and financial arrangements as well as means to enforce those policies and arrangements; sound industry-established best practices for just and sustainable operations; and checks against corruption or other abuses all are needed for mining to advance the flourishing of individual communities and for conflict between stakeholders to be prevented. This is a daunting scope, but peacebuilders and other advocates need to systematize ways for these different levels of activity to integrate, or work through existing institutions with the capacity to integrate them, like the Catholic Church. In shaping new intermediate institutions or working with a partner like the church, integration between social levels should be a primary goal.

There is the potential challenge of a single authority determining what levels of social organization should be handed what powers or determinations. The very idea of subsidiarity presumes inequality of power. It therefore does not aim at a redistribution of power, but a redirection of it toward the common good. This means that there is indeed the potential for certain actors or institutions to abuse power and dominate, but such a scenario would be a perversion of subsidiarity as it would cease to be married to solidarity, a marriage that Donati and Schaefer both highlighted as essential. It would also cease to serve the common good. And achieving the common good, and mining-industry policies and practices that would advance it, are not static, one-time achievements. Subsidiarity similarly would involve ongoing prudential judgments about how to best safeguard the common good, and a truly subsidiary integration of vertical powers would involve space for such prudential determinations. This is another space where the mediation of an established institution like the church, with connections across vertical levels and a robust appreciation for the centrality of the common good, could be valuable for advocates of mining justice.

***Create opportunities for horizontal subsidiarity***

Donati emphasized the need in the contemporary setting for vertical as well as horizontal subsidiarity. Horizontal subsidiarity would involve civil society entities collaborating to bring resources and power as close to the problems impacting mining communities as possible, while providing help and support as appropriate. One powerful way horizontal subsidiarity could work in the case of mining is to have institutions in the global north, where the majority of consumption occurs and where many multinational mining companies are headquartered, seek ways to empower and help peer institutions in areas where mining is prevalent, especially ones in conflict zones and ecologically vulnerable regions. This could include churches, universities, NGOs, or professional societies like bar associations.

***Build capacity in local institutions and empower local communities***

One of the greatest challenges facing lower-level institutions with regard to mining is the sheer complexity of the financial and legal systems that set the terms of operation. Carozza observed that “subsidiarity can protect the local and the social only if there *is* a local and a social to protect.” To slightly reframe the idea, subsidiarity can only help or enable the local if the local has the capacity to be helped or enabled. To that end, intermediate institutions that are meant to help problems in the mining sector must make capacity building a top priority.

***Support alternatives to industrial mining***

Subsidiarity aims to foster human flourishing and make sure that social structures and governance help rather than hinder it. Part of the thought process in determining how to best make industrial mining serve human flourishing for local communities near mining sites should be identifying alternative means of economic development. Regulatory measures and intermediate institutions should keep such options open and work for them when it is appropriate, as this recommendation is not to say that industrial mining ought to be forsaken in all situations. One type of alternative could be supporting the growth of different industries like eco-tourism or aquaponics. Another could be systematizing other local economic activities, like fishing or farming, or even artisanal mining. Artisanal mining is a complicated challenge: lack of formalization can introduce environmental impacts as bad or worse than industrial mining; criminal activity can coopt it; access to markets or finance streams might be lacking; and efficiency will be lower, meaning prices may get higher and disrupt supply chains in unpredictable ways. But those are not insurmountable problems (International Institute for Sustainable Development, 2018). Subsidiarity should include finding ways to enable alternatives so that communities can truly exercise determination in finding their best paths to sustainable economic development and conflict transformation. Preventing a situation where a local economy is solely dependent on mining is also beneficial for communities and the environment because diversification will yield a more flexible and healthy local economy and can promote more sustainable land management.

***Subsidiarity in action***

Initiatives exist that demonstrate some of the above prescriptions, or that model subsidiarity in other ways. Many are at work in conflict zones and show how justice and sustainability in mining can be a means of building peace. Red Eclesial Panamazónica is not specifically focused on mining, but it is an excellent example of a bioregional organization formed by South American religious institutions to collectively defend the Amazon and indigenous peoples.<sup>2</sup> It inspired a similar institution in central Africa, Reseau Eclesial du Bassin du Congo, to defend the Congo

River Basin (Nyembo, 2021). Red Muqui is an intermediate institution specifically focused on mining that connects different regions of Peru in an effort to support communities and address socio-environmental conflicts through organization, capacity building, and advocacy.<sup>3</sup> In 2020, the Church-CSO Empowerment for Environmental Sustainability Project launched in the Philippines to respond to harms from extractive industries and the lack of systematic organization and consensus among impacted peoples and weak laws and enforcement for ecological protection. It includes establishment of regional hubs to monitor extractive activities and coordinate environmental campaigns as well as organization for systematic advocacy for **divestment** and legislation (Foundation for the Philippine Environment, 2020). Below, I will describe two more initiatives that clearly embody a subsidiarity-rooted response to mining injustice and conflict: Oro Verde in Colombia and Hekima University College's Chartered Mediation in Extractive Industries in Kenya.

### ***Oro Verde***

Oro Verde ("Green Gold") is a pioneering cooperative for certifying and marketing environmentally friendly gold mining in the Chocó region of Colombia. It inspired the formation of the Alliance for Responsible Mining, which has scaled up much of what made the Oro Verde initiative a success.<sup>4</sup> The Chocó region is rich in biodiversity and mineral resources, but it has suffered for several decades from insecurity and conflict, criminal enterprise, poor economic development, and the lack of a presence from the central government. The region also has a history of artisanal mining that has included non-toxic methods of removing metals from ores and sustainable land management, though these practices were lost through decades of conflict-driven displacement and illegal mining (Vera, Raufflet, and Pozzebon, 2012, p. 79). Starting in 2000, Oro Verde embarked on two processes to help this situation: local community-building to reinvigorate and systematize traditional artisanal mining practices, and international commercialization and marketing to make that sustainable mining economically viable (p. 80). This dual approach demonstrated subsidiarity in multiple directions: scaling down to assist local communities to be agents of their own development, and scaling up to help them by creating impact at higher social levels. It also showed horizontal subsidiarity by networking with international partners to gain recognition for the Oro Verde certification process (p. 82). And that process was crafted in a subsidiary way. The artisanal miners created the certifying body and standards based on their traditional mining techniques and practices (pp. 80, 83). This was a case of allowing the profession itself to determine regulatory standards, as recommended by Booth, but in a way that centered individuals and their families as well as sustainability and the environment. But for all the success the program has had supporting local miners in working to achieve their own flourishing, it still needs subsidiary help from the government. In particular, the government is needed for help with better infrastructure, clearer national norms and laws on mining-relevant issues like environmental protection and taxation, and elimination of criminal activity and illegal mining (p. 85).

An analysis of Oro Verde by Luz-Dinora Vera, Emmanuel Raufflet, and Marlei Pozzebon does not interpret Oro Verde's activity through the lens of subsidiarity ostensibly, but their observations about how Oro Verde differs from classical organizational change theory for sustainability show how subsidiarity is at the heart of its effectiveness. They note five key differences:

1. Instead of locating efforts at the corporate or industrial level, Oro Verde is community-centered and treats those communities as vitally connected to ecosystems. "The unit of

analysis is a region composed of communities, families and individuals in interaction with an ecological environment” (Vera, Raufflet, and Pozzebon, 2012, p. 86).

2. Instead of being motivated to improve a business’s sustainability in order to improve its competitive market advantage, Oro Verde aims primarily to create economic opportunity for poverty- and conflict-affected communities while also stopping environmental destruction (p. 86).
3. Instead of beginning with an established set of policies and laws, Oro Verde had to work with low levels of government presence, low rule of law, and high conflict and insecurity. Oro Verde began as an attempt to create an intermediate institution to fill some of these vacuums to improve security, reduce conflict, and improve opportunity (p. 87).
4. Instead of adopting sustainability certification standards established by a higher-level institution or regulatory body, Oro Verde developed certification standards that were established by local consensus building. Those standards are therefore more contextually appropriate and manageable for the communities (p. 87).
5. Instead of measuring success with defined economic and ecological benchmarks, Oro Verde utilizes environmental and economic measurables, but also more intangible outcomes regarding social transformation and cohesion and improved capacity (p. 87).

Oro Verde offers a model for community-focused sustainability with lessons for other regions facing similar challenges of environmental degradation, poverty, and conflict, and its lessons flow from the subsidiarity principle.

#### ***Chartered Mediation in Extractive Industries in Kenya***

Chartered Mediation in Extractive Industries demonstrates a focused process of identifying a particular problem and offering a solution to that problem. In 2013, Kenya announced discovery of oil and mineral deposits that would figure prominently in national economic development plans. Several of these resource discoveries were in regions with high ecological vulnerability and established conflict. A team of researchers from Hekima University College led a study, the results of which were published in 2017, to identify “gaps in knowledge, particularly in relation to policy and advocacy strategies applied in addressing diverse issues in the management of extractive industries, while evaluating the role of the local populations, country and national government as well as civil society organizations” (Opongo, 2017, p. 9). The research identified several systemic gaps: a majority of respondents did not know about national extractive industry policies and plans, respondents were largely unaware of corporate social responsibility requirements or how to assess them, and government officials were severely lacking in knowledge about how the extractive industries should be administered and managed to ensure community benefit (p. 9).

The takeaway from this study was that communities needed information and training about extractive industries and resource management, as well as skills in conflict mediation, peacebuilding, and negotiation. Hekima responded by creating a program, Chartered Mediation in Extractive Industries, that would educate and empower community members to form systems of leadership at the local level that could try to maximize community benefit and reduce conflict around mining and other extractive activities (Center for Training and Research Publications, 2021a, 2021b). The initiative moved in three phases, each focusing on a different region with different extractive profiles and community dynamics. The first phase included sixteen people

from Kwale between October 2018 and 2019. Starting in November of 2019, twenty-two more individuals from Kwale, Turkana, and Migori received training.

This initiative does not weave together multiple vectors of subsidiarity in the way Oro Verde does. But it shows a clear and focused allocation of resources in one research-informed direction by a prominent intermediate social institution, in this case a university. Hekima identified a lack in community-level capacity and organization that created grave potential for environmental degradation, conflict and worsened insecurity, and adverse economic consequences resulting from extractives. In response, it mobilized a subsidiary approach aimed at systematizing community leadership and capacity to more effectively participate in resource management, including an appreciation for conflict sensitivity.

### **Conclusion**

The Catholic social teaching principle of subsidiarity, which seeks the optimization of social order to promote the common good, has great relevance for addressing problems in the modern mining industry. Mining presents complex challenges that intersect multiple sectors, including governance, international law, human rights, financial regulation, business ethics, and ecology, and it is frequently correlated with violent conflict. In each of these realms, subsidiarity can offer guidance for promoting equity, justice, and peace. It calls for more coherent articulation of international human rights and the strengthening of local capacities to represent those rights; prudent forms of financial regulation and monitoring that does not overly rely on state systems; and the creation of intermediary institutions, especially ones that can address ecologically defined bioregions and offer alternatives to the binary of privatization and government regulation. To effectively address mining, institutions and groups would also do well to exercise subsidiarity by focusing on vertical integration and coordinating different social levels, creating opportunities for horizontal coordination within civil society and across regions, building up capacity, knowledge, and skills for local leaders facing mining development, and developing possible economic alternatives and/or complements to industrial mining to give communities more choices about their development and to promote diversification and sustainability. Many organizations exist that are operating with one, some, or several of these tenets and that can offer lessons for how to advance subsidiary approaches to peace and justice in the mining sector.

## **Endnotes**

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<sup>1</sup> Ostrom specifically outlines eight design principles for successful intermediate institutions to manage common-pool resources: 1) the commons have clearly defined boundaries; 2) rules of managing the commons are appropriate to local conditions; 3) the people affected by the rules participate in creating and modifying them; 4) those who monitor compliance are accountable to the people who appropriate the resources; 5) sanctions for violations are graduated; 6) low-cost mechanisms exist to resolve conflicts; 7) lack of external government interference; and 8) managing activities are organized in multiple nested layers. The present argument is simply to note the importance of such institutions in the matrix of subsidiarity and the fact that there are proven ways to make them effective. Expanding on how each of those eight principles would connect to contexts of mining would be a valuable project, but it exceeds the scope of this paper.

<sup>2</sup> <https://www.repam.net/>

<sup>3</sup> <https://muqui.org/>

<sup>4</sup> <https://www.responsiblemines.org/>

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