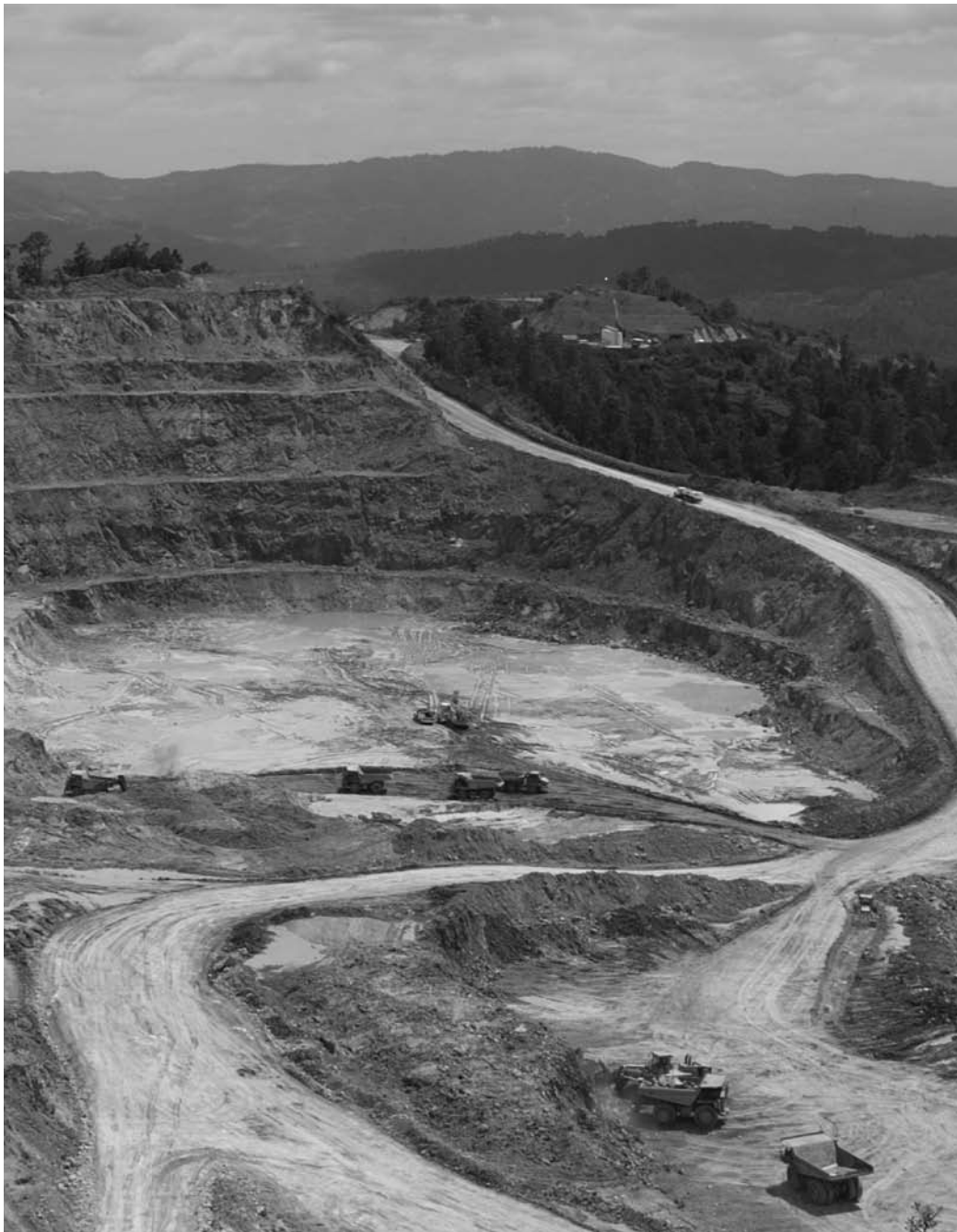


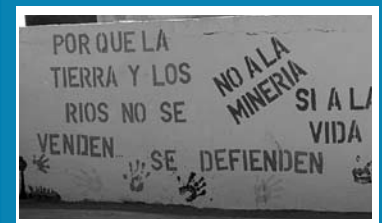
# Mining

## Good for Guatemala?

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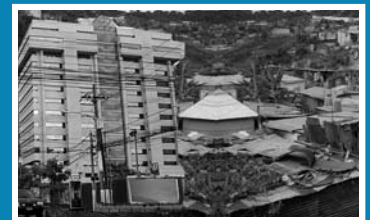


The Marlin Mine, San Marcos © COPAE: 2010.



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## Mining - Good for Guatemala?



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A Goldcorp poster in Guatemala City.

While the current publicity campaign of Goldcorp (Glamis Gold)<sup>1</sup> highlights the positive effects of its involvement in Guatemala, statistics held by the Ministry of Energy and Mining show that in 2006 the mining sector represented just 0.5% of the country's Gross Domestic Product (GDP).<sup>2</sup> With a royalty tax of 1% and an income tax of 5%,<sup>3</sup> little of the wealth accrued by the private mining industry remains in the country. In contrast, capital raised by the predominantly foreign companies, equating to several million dollars of profit, leaves the country each year.

Goldcorp states on its webpage that it has invested "19,989,5094 quetzals<sup>4</sup> in social development, including community support projects" since 2007, through its Marlin mine in San Miguel Ixtahuacán, San Marcos. This amount is equivalent to US\$2.6 million; a small figure when compared with the profits generated by the Marlin mine.

According to the initial calculations of the geologist Robert Moran, one of the world's leading experts in the field, the Marlin project could generate net profits to the value of US\$1,260 million.<sup>5</sup>

These calculations were made in 2005, when the value of gold was approximately \$400 per ounce. At the time of writing this article, the value of gold was three times higher. Moran states that mining provides certain benefits over a limited period of time, while the negative effects remain for decades or even centuries.<sup>6</sup>

### Mining in Guatemala

The most heavily mined minerals in Guatemala are gold and silver.<sup>7</sup> Their extraction requires the use of the chemical cyanide, the toxicity of which is widely recognised. When practised at an open-pit mine, the extraction of other minerals, such as nickel, lead and gypsum, has devastating ecological and social consequences, with water reserves and rivers being contaminated by "acid mine drainage".<sup>8</sup>

### The health and environmental risks of cyanide

Cyanide is the substance used to separate specific particles of mineral from the rest of the rock. When it comes into contact with

1 Goldcorp maintains operations in Guatemala through the following firms: Montana Exploradora of Guatemala and Mina Marlin in San Marcos, and Entre Mares de Guatemala and its Cerro Blanco Project in Jutiapa.

2 Ministry of Energy and Mines (MEM), Política Energética y Minera 2008-2015, Guatemala, October 2007.

3 Ibid.

4 Goldcorp Guatemala webpage, <http://www.goldcorpguatemala.com/index.php?showPage=14> compared with the report from Montana Exploradora of Guatemala S.A., Los 100. Desarrollo Sostenible. Vecinos para el progreso, 2009, <http://www.goldcorpguatemala.com/media/File/loscien.pdf>

The total of 19,989,5094 quetzals appears on the webpage. The ambiguous formulation of the figure makes it difficult to determine whether it means 19 or 199 million quetzals. The document Los 100. Desarrollo Sostenible clarifies that the figure is 19 million quetzals.

5 Botello, R., La mina: ¿motor de desarrollo o beneficio empresarial?, Inforpress Centroamericana, Number 1600, 18 March 2005.

6 Moran, R.E., Mining environmental impacts. Integrating an economic perspective, 2000, [http://www.idrc.ca/uploads/user-S/11174822421CIPMA\\_Articulo3.pdf](http://www.idrc.ca/uploads/user-S/11174822421CIPMA_Articulo3.pdf)

7 Guatemalan Ministry of Energy and Mines, Anuario estadístico minero 2009.

8 Moran, R. E., Op. Cit.

living organisms, it can have damaging effects on health and the environment. How dangerous it is depends on the chemical form in which it is found. Exposure to high levels of cyanide for short periods of time causes cerebral and cardiac damage to humans, and can also lead to coma or death. In smaller doses, the substance may cause chronic poisoning, which can have the following symptoms: respiratory problems, chest pain, vomiting, changes in blood composition, headaches, swelling of the thyroid, irritation and skin blisters.<sup>9</sup>

The most common incidents, and those which pose the greatest risk in mining activity involving cyanide, relate to its transport and storage, and the treatment of waste matter. It is worth remembering the disaster in Baia Mare (Romania), where 100,000 tonnes of water contaminated with cyanide were dumped in the Tisza and Danube rivers. This contaminated the drinking water of 2.5 million people, and killed 1,240 tonnes of fish and other animal and vegetable life (plankton, plants and animals) over an area spanning hundreds of kilometres.<sup>10</sup>

### **The impact of open-pit mining on the environment and health**

The “open-pit” mining technique, regularly used to extract minerals including gold, silver, lead and nickel, also entails risks to environment and human health.

While underground mining is limited to extracting the mineral from a vein in which the mineral is concentrated, open-pit mining moves large quantities of rock, where the concentration of the mineral is relatively low. In practical terms, this technique consists firstly of creating a huge hole in the ground. The rocks are then subjected to mechanical and chemical processes, which seek to separate the small percentages of mineral from the rest of the rock (“waste rock”). Open-pit mining is the technique employed by Montana Exploradora to extract gold in the municipalities of San Miguel Ixtahuacán and Sipakapa in the San Marcos department.

An immediate impact of the open-pit mining technique is the removal of topsoil, which has negative effects on the land and the environment in general. The destruction of forests and agricultural land is a loss of natural heritage, particularly when it affects areas of great biodiversity, such as the natural parks of Talamancas (Costa Rica), Yellowstone (United States) or Huascarán (Peru). Various companies have tried to extract copper, gold and silver at these sites.<sup>11</sup>

The displacement of enormous quantities of rock, which have remained undisturbed for thousands of years, and the exposure of this rock to the open air (rain and atmospheric agents), cause “acid mine drainage”; toxic chemical elements are released, which

are then filtered through the ground, contaminating water reserves, causing serious damage to agriculture, human health and natural ecosystems. Among the elements found in waste rock, which dissolve in rainwater, are heavy metals such as arsenic, lead, copper, cadmium and zinc.<sup>12</sup> When these substances reach the phreatic layers (underground water deposits which humans access via wells) and rivers, they can contaminate crops and, consequently, food destined for both humans and animals.

### **Heavy metals and human health**

Heavy metals found in mine waste can seep into water used directly and indirectly by human beings, and seriously damage their health.

The symptoms of arsenic poisoning include nausea and vomiting, a reduction in the number of red and white blood cells, arrhythmia (abnormal heart rhythms), capillary fragility, and pins and needles in the hands and feet.<sup>13</sup>

Prolonged exposure to lead can affect almost all of the human body's organs and systems. In particular, it can lead to deterioration of the nervous system.<sup>14</sup>

Inhaling high levels of cadmium can seriously damage the lungs. Consuming produce or drinking water with excessively high levels of cadmium causes severe irritation of the stomach, vomiting and nausea. Prolonged exposure to lower levels of cadmium present in the air, food or water results in an accumulation of the metal in the kidneys, which can result in kidney disease. Other potential effects include lung damage and weakened bones.<sup>15</sup>

Consuming large quantities of zinc, even over a short period of time, can cause stomach cramps, nausea and vomiting. Prolonged exposure to zinc can result in anaemia and a drop in cholesterol levels (the form of cholesterol which benefits the human body). Contact with zinc often leads to skin irritation.<sup>16</sup>

### **The Case of Marlin Mine, San Marcos**

The company Goldcorp, Inc – Montana Exploradora of Guatemala, says on its website that it has worked to protect the environment through its Environment Department since 2003 with the necessary permits to operate (Environmental Impact Study and Mining License) and contributed to the reforestation of a large number of hectares, as required by the National Forest Institute (INAB). It says that, on one hand, “the Environment Department monitors water, air and biodiversity to assure that the Marlin Mine operates within the standards of Goldcorp, the Guatemala, and the World Bank”. On the other hand, it conducts internal and external audits “to insure quality in the environmental management of the Marlin Mine”. Finally – at least between 2006 and 2008 – it has carried out analyses of subterranean and surface water quality each trimester, that are

9 US Agency for Toxic Substances and Disease Registry, Toxicological profile for cyanide, 2006.

10 Documentation of the incident is extensive; see for example the following studies: Earthworks and Oxfam America, Dirty Metals, 2004 and United Nations Environment Programme (UNEP), Report on the Cyanide Spill at Baia Mare, Romania, 2000.

11 Earthworks and Oxfam America, Op. Cit.

12 Moran, R.E., Cyanide Uncertainties: Observations on the Chemistry, Toxicity, and Analysis of Cyanide in Mining-Related Waters, Earthworks, 1998.

13 US Agency for Toxic Substances and Disease Registry (ATSDR), [http://www.atsdr.cdc.gov/es/toxfaqs/es\\_tfacts2.html](http://www.atsdr.cdc.gov/es/toxfaqs/es_tfacts2.html).

14 US Agency for Toxic Substances and Disease Registry (ATSDR), [http://www.atsdr.cdc.gov/es/toxfaqs/es\\_tfacts13.html](http://www.atsdr.cdc.gov/es/toxfaqs/es_tfacts13.html).

15 US Agency for Toxic Substances and Disease Registry (ATSDR), [http://www.atsdr.cdc.gov/es/toxfaqs/es\\_tfacts5.html](http://www.atsdr.cdc.gov/es/toxfaqs/es_tfacts5.html).

16 US Agency for Toxic Substances and Disease Registry (ATSDR), [http://www.atsdr.cdc.gov/es/toxfaqs/es\\_tfacts60.html](http://www.atsdr.cdc.gov/es/toxfaqs/es_tfacts60.html).





© James Rodríguez: 2008.

A resident of the village of Agel shows damage to her house probably caused by explosions at the mine.

checked by North American laboratories to ensure they comply with the necessary certification.<sup>17</sup>

The company declares its commitment to sustainable development, for which it has a structure and financing system in place. The Community Development Department is responsible for sharing information about the Marlin Mine with neighbouring communities, listening to their comments or doubts, and responding to formal complaints, as well as working with the communities in processes of development aimed at strengthening local capacity.<sup>18</sup>

The Pastoral Peace and Ecology Commission (COPAE for its initials in Spanish) of the Diocese of San Marcos regularly and systematically conducts chemical analyses in various places near the Marlin Mine to monitor water quality and test results that indicate contamination of the rivers.

Its Second Annual Monitoring Report and Analysis of Water Quality, which bases its conclusions on chemical tests carried out in its own and other independent laboratories, cites evidence of levels of copper, arsenic iron, and sulfate higher than those allowed by the World Bank, the presence of manganese in levels higher than permitted by the U.S. Environmental Protection Agency (EPA), and nitrate levels higher than EPA norms allow and higher than allowed by Guatemalan agencies for the water to qualify as potable.<sup>19</sup>

In addition to the technical analysis carried out by COPAE, it is worth mentioning that a good part of the campesino population

of the municipalities of San Miguel Ixtahuacán and Sipakapa assert that the chemical elements generated by mining activity are responsible for contamination of the communities' water, causing among the most visible effects, hair loss and skin irritation in adults and children.<sup>20</sup> Their houses also show evidence of damage linked to mining activity: photos taken in neighbourhoods around the mine show structural damage to various houses, which the population attributes to the explosions the company carries out to break up the rock in order to process it.<sup>21</sup>

In its 2009 report, the Congressional Special National Commission for Transparency laments the absence of prior consultation with the communities affected by the Marlin mining project, denounces the lack of social information and transparency, and asserts the need to legally regulate consultation, as well as to protect water resources and the health of the citizens.<sup>22</sup>

### *The peoples' response*

With the arrival of transnational mining companies, the indigenous communities have reacted on numerous occasions, organising popular and "good faith" consultations, as allowed for in the International Labour Organisation's Convention 169: "Governments should establish and maintain processes for consultation with interested peoples in order to determine if the interests of these

17 Goldcorp of Guatemala, 'Medio Ambiente'. <http://www.goldcorpguatemala.com/index.php?showPage=16&cache=1>.

18 Goldcorp of Guatemala, 'Desarrollo Sostenible'. <http://www.goldcorpguatemala.com/index.php?showPage=17&cache=1>.

19 Pastoral Peace and Ecology Commission (COPAE), Segundo informe anual del monitoreo y análisis de la calidad del agua, 2009.

20 COPAE, Informe sobre la Visita de la Comisión de Transparencia del Congreso a San Miguel Ixtahuacán, 2009.

21 Congress of the Republic of Guatemala, Informe de la Comisión Nacional Extraordinaria por la Transparencia, 2009, and COPAE, Investigación y análisis preliminares de daños a las casas en las Aldeas de Agel, El Salitre, San José Ixcaniche y San José Nueva Esperanza, 2009, both refer to damages found in the houses.

22 Congress of the Republic of Guatemala, Informe de la Comisión Nacional Extraordinaria por la Transparencia, 2009.

people would be jeopardised and to what degree, prior to beginning or to authorising any program of prospecting or exploitation of resources existing in its lands.” (Art. 15).<sup>23</sup>

Though Guatemala ratified the Convention in 1996, there has been no implementation of processes required by Article 15, and the debate continues about the outcomes of community-organised consultations. To date, no government has recognised as binding the results, which in all cases have reflected a clear opposition of indigenous peoples to mining exploration and exploitation.

In several countries, in the face of noncompliance with ILO Convention 169, organisations and social movements have reacted by denouncing the respective states before the Inter-American system for the protection of human rights, for infringement of the human rights of the indigenous peoples of Mexico,<sup>24</sup> Chile,<sup>25</sup> and Peru,<sup>26</sup> among others.

In Guatemala's case, especially in relation to the operations of Goldcorp in San Marcos, the Inter-American Human Rights Commission (IACHR) issued Cautionary Measure MC-260-07 on 20 May 2010. The measure aims to guarantee the life and personal integrity of communities of Maya people of San Miguel Ixtahuacán and Sipakapa, and requests that Guatemala “suspend mining exploitation activity of the Marlin project and other activities related to the concession granted to Goldcorp/Montana Exploradora of Guatemala, SA, and implement effective measures to prevent environmental contamination until such time as the Commission makes a decision on the basis of the petition that prompted its request for protective measures. The IACHR also asks the state to take the measures necessary to decontaminate as much as possible the water sources of the 18 communities covered by the measure, and to assure access to water that is suitable for human consumption; to tend to related health problems, specifically to start a program of health care and assistance aimed at identifying people who may have been affected by contamination, in order to provide them with the medical attention they need; to adopt any other measures necessary to guarantee the life and physical integrity of the members of the communities; and to plan and implement protective measures with participation of the people covered and/or their representatives.”<sup>27</sup> In June 2010, a number of indigenous and campesino associations from the area met with James Anaya, the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, and denounced before the international community the abuses of which they consider themselves victims.

Another tool the organised communities use is that of challenging the Environmental Impact Assessments (EIA) carried out by the mining companies. Some analysts note that the institutional weakness of the Ministry of Environment and Natural Resources (MARN for its initials in Spanish) and the Ministry of Energy and Mines (MEM), which lack the necessary human, logistic, and financial resources, mean that they only act to evaluate and approve EIAs, neglecting the control and follow-up phases. This significantly contributes to the increasing uncertainty over the true environmental impacts on the communities near the mining projects.<sup>28</sup>

In short, through numerous communiqués and public demonstrations, indigenous people of Guatemala have declared their rejection of mining exploitation as it is carried out today. They particularly express opposition to the fact that the wealth leaves the country, saying that only damage is left locally, or the effects of water contamination - dead rivers, destroyed forests and soil, illness in the population, and damage to living beings, objects, and homes.

23 International Labour Organisation, Convention 169

24 Méndez, A., 'Denuncia el sindicato minero al Estado mexicano ante la CIDH', La Jornada, 16.2.2010, <http://www.jornada.unam.mx/2010/02/16/index.php?section=politica&article=010n1pol>

25 Marín, F., 'Otro caso en la CIDH: Proyecto minero Pascua Lama y atentados a los derechos fundamentales de Comunidades Diaguaita – Huascaltinas', Observatorio Latinoamericano de Conflictos Ambientales, 27.9.2007

26 Servindi Perú, 'CIDH acepta 9 casos de denuncia contra el Estado Peruano presentados por CONACAMI' (National Confederation of Peruvian Communities Affected by Mining)',

25.2.2010 <http://www.servindi.org/actualidad/22768>

27 Inter-American Commission on Human Rights, 'Medidas Cautelares otorgadas por la CIDH durante el año 2010' <http://www.cidh.org/medidas/2010.sp.htm>

28 Rafael Landívar University and Institute for Agriculture, Natural Resources and Environment, 'Perfil Ambiental de Guatemala 2008-2009: las señales ambientales críticas y su relación con el desarrollo, 2009.

# Human rights and the defence of natural resources: community consultations in Quiché



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A mural in Cunén, Quiché.

In the department of Quiché, in the north of Guatemala, indigenous peoples are locked in a struggle for the defence of 'Mother Earth': their land, their natural resources and their human, social and cultural rights. A way to achieve this is the community consultation, a measure rooted in the culture and tradition of the indigenous peoples. Such consultations find support in a number of national and international rights instruments.

## Geography and history

Approximately 89.7% of the population of Quiché is indigenous. According to 2006 figures from the Guatemalan National Institute of Statistics, 81% of the population in Quiché lives in poverty and 25.6% in conditions of extreme poverty.<sup>1</sup> The report 'Xalala Project: Development for all?' produced by the Copenhagen Initiative for Central America and Mexico (CIFCA) makes the recommendation that the social deficit in the department, particularly that of the indigenous population, requires the state to prioritise the rights of indigenous communities.<sup>2</sup>

The present situation in Quiché is intimately linked to its past, according to Magdalena Sarat, general coordinator of the National Coordinator of Widows of Guatemala (CONAVIGUA). She recalls the indelible effects of the armed conflict on many people: the massacres, murders, kidnappings and disappearances. She says there is evidence that the state engaged in the armed conflict as a means to stop the people's struggle for land.<sup>3</sup> The report Guatemala: Never Again also recorded that the majority of the massacres committed during the armed conflict were in Quiché.<sup>4</sup>

## Community and "good faith" consultations: legal framework

When Guatemala ratified the International Labour Organisation's (ILO) Convention 169, it committed itself to "consult interested persons through appropriate procedures, in particular through their representative institutions, whenever legislative or administrative measures may affect them directly."<sup>5</sup> This is reiterated in the UN Declaration of the Rights of Indigenous Peoples (Articles 18, 19, 23, 28 and 29) and in the Political Constitution of the Republic of Guatemala (Articles 97, 121, 125, 127 and 128). The Agreement on the Identity and Rights of Indigenous Peoples, signed between the Guatemalan government and the National Revolutionary Unity of Guatemala on 31 March 1995, also establishes the precondition that the indigenous population support exploitation of natural resources (F, 6,iii). However, although the Guatemalan Municipal Code (Article 64) and the Law of Urban and Rural Development Councils (Art. 26)<sup>6</sup> back the consultation process, there is no dedicated law to regulate the consultation procedure.

In a 2007 judgment, the Constitutional Court (CC) declared the community consultation carried out in Sipakapa, San Marcos, to be non-binding, setting a legal precedent that undermined the potential of community consultations. In 2009, the CC acknowledged the state's obligation to recognise the right of consultation as one of the collective rights of the indigenous peoples, but nevertheless insisted on its non-binding character where agreement are not reached through the consultation and subsequent dialogue.<sup>7</sup>

Diverse international organs have also made statements emphasising the obligation of the Guatemalan state to respect indigenous peoples' right to be consulted. In his preliminary observations following a visit to the country in June 2010, the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, James Anaya, said: "The State of Guatemala has a duty to consult the indigenous peoples concerning any legislative or administrative measure that may have a direct impact on them and, in particular, concerning any project involving investment in infrastructure or prospecting or exploitation of natural resources in indigenous territories."<sup>8</sup> Anaya describes the consultation as a "process that requires a dialogue of good faith between the state and indigenous peoples".<sup>9</sup> In this way, a consultation is more than mere information or a formal

1 National Institute of Statistics (INE), Encuesta Nacional de Condiciones de Vida, ENCOVI. Guatemala, 2006.

2 Reemtsma, K., Briones, S. y Ibero, M., Proyecto Xalala ¿Desarrollo para todos?, CIFCA, Brussels, 2008.

3 Interview with Magdalena Sarat, general coordinator of the National Coordinator of Widows of Guatemala (CONAVIGUA), 21.08.2010.

4 Human Rights Office of the Archdiocese of Guatemala (ODHAG), "Guatemala: Nunca Más", Tomo II: Los Mecanismos del horror, Guatemala, 1998.

5 International Labour Organisation, Convention 169, Art. 6 (1a).

6 PBI, Metal Mining and Human Rights in Guatemala, Guatemala, 2006.

7 Comisión Pastoral Paz y Ecología (COPAE), "Resolución de la Corte de Constitucionalidad ratifica la legitimidad de la consulta comunitaria", 19.06.2007 <http://www.resistencia-mineria.org/espanol/?q=node/45>

8 Preliminary Observations of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, regarding his visit to Guatemala. Guatemala, June 2010.

9 Ibid.



act; Anaya defines it as a negotiation between the state and the indigenous peoples.

Carlos Loarca, Sipakapa's legal representative before the Inter-American Court of Human Rights (IACtHR), views the act of consultation as a mechanism of communal resistance that "coalesces social forces towards a re-balancing of power in the defence of territories and natural resources, against their exploitation by national and international corporations".<sup>10</sup>

For Magdalena Sarat, the consultation is an instrument of struggle and a process that gives communities a voice with which to state their position in relation to megaprojects. She says the community has assumed the responsibility of the consultation, as protected in ILO Convention 169 and the UN Declaration of Indigenous Rights, in the face of the state's own failure to observe it. The consultation thus adopted has been carried out in a traditional form, just as other community matters are governed through consultations and assemblies.<sup>11</sup> The CIFCA report concludes that, pending a specific consultation law, the state should respect the consultations completed and guarantee that the results will be respected.<sup>12</sup>

To date all exploitation and exploration licences granted by the Guatemalan government have been issued without prior information or consultation of the affected peoples.<sup>13</sup>

Magdalena Sarat says it is fundamental that the communities appropriate the results of the community consultations: that it is not solely a Mayan issue but a manifestation of the struggle for territory and land that affects all of the continents' indigenous peoples, because it is their lands that are most affected.<sup>14</sup>

### *Consultations in El Quiché: community consultations in Cunén*

There have been only two community consultations in Quiché: one in Ixcán in 2007 and another in Cunén in October 2009.

The consultation in the municipality of Cunén commenced in January 2009. According to the bulletin *Resistencia de los pueblos* ('Peoples' Resistance'), its preparation and implementation was characterised by openness and inter-community cooperation. It was carried out in the community with the support of the municipality.<sup>15</sup>

Of Cunén's population of 32,903, 18,924 women, men, children and youths took part, representing 58% of the inhabitants of the municipality. The response was unanimous: all answered 'no'

to the question "Are you in agreement that national and international businesses and companies, individual persons or legal bodies appropriate and exploit, in the territory of Cunén, our natural resources such as metallic minerals, water, timber, petroleum and others, in large-scale extraction?" In this way the peoples of Cunén expressed their position on the use of their territory.<sup>16</sup>

On 11 November 2009 community representatives presented the consultation results to the Congress of the Republic and other state institutions. At the time of writing, they had not recognised the consultation as binding.<sup>17</sup> On 5 May 2010, at a public event with representatives of Congress and the government, 130 representatives of the indigenous communities of the north of Quiché formally demanded the cancellation of the licences for mining, hydro-electric and petroleum exploration and exploitation already granted in their lands and territories, as well as the annulment and de-authorisation of pending applications held by the Ministry for Energy and Mines (MEM). They presented a memorandum of the declaration of 134 communities, addressing the exploration and exploitation of the natural resources in their territories.<sup>18</sup> PBI accompanies the Cunén Communities Council, and has accompanied this process, beginning with the preparation for the consultation, its realisation, and in subsequent activities with public authorities.

At this moment consultations are being prepared in the municipalities of Santa Cruz del Quiché, Sacapulas and Uspantán.



**Voting during the community consultation in the municipality of Cunén.**

© Acoguate: 2009.

<sup>10</sup> Loarca, C., 'Consulta comunitaria y participación democrática', *El Observador*, Jule-July 2009.

<sup>11</sup> Interview with Magdalena Sarat, Op. Cit.

<sup>12</sup> Reemtsma, K., Briones, S. y Ibero, M., Op. Cit.

<sup>13</sup> *Resistencia de los pueblos*, 'Memorial de manifiestos', agosto 2010, <http://resistenciadlp.webcindario.com/pdf/manifiestosixiles.pdf>.

<sup>14</sup> Interview with Magdalena Sarat, Op. Cit.

<sup>15</sup> *Resistencia de los Pueblos*, Op. Cit.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

# Curbing violence and stimulating the Guatemalan economy



Photomontage of The Zone 10 and The Zone 18.

According to the Binational Chambers of Commerce Association (ASCABI for its initials in Spanish), violence in Guatemala affects investments and consequently the economy and development of the country (see “States of Prevention: a solution or cause of violence?” Bulletin 20 PBI). ASCABI is proposing a State of Prevention (EdP) as a solution. Nevertheless, various Guatemalan social organizations and international organizations have expressed that an EdP is not the solution, rather it is one of the causes of violence.<sup>1</sup>

Some national and international institutions have investigated different factors affecting the Guatemalan economy, laying out alternative solutions for curbing violence and stimulating the economic development of the country. We summarise some of these below.

## Corruption delays development

Stephen Zimmerman, director of the Office for Institutional Integrity of the Inter-American Development Bank (IADB), agrees with ASCABI in that “crime and violence are the two factors that most hinder development”.<sup>2</sup> However, Jeffrey Avina, a specialist from the United Nations Office on Drugs and Crime (UNODC)

points out that “corruption plays an important role in the world of crime. It constitutes one of the principal obstacles to the process of development ... Corruption discourages national and foreign investment.”<sup>3</sup>

The Canadian credit exports agency, Export Development Canada (EDC), classifies Guatemala as one of the most corrupt countries in the region.<sup>4</sup> This view coincides with that of the USA, whose State Department reports that corruption in Guatemala continues to be a serious problem.<sup>5</sup>

To stimulate development, foreign investment and economic growth, Antonio María Costa, executive director of UNODC, says the priority must be to strengthen the judicial system and banish corruption.<sup>6</sup>

## Fiscal reform to curb violence

Gustavo Porras, the sociologist who in 1996, as a government representative, was one of the Peace Accord signatories, and Orlando Blanco, the current Minister of Peace, agree that fiscal reform is the most forgotten commitment of the Peace Accords.<sup>7</sup>

The US Ambassador, Stephen McFarland, believes fiscal reform in Guatemala is essential for bringing about security

1 Peace Brigades International: Guatemala Project, ‘States of Prevention: a solution or cause of violence?’, Bulletin 20, first bulletin 2010.

2 Zimmerman, S. ‘Opening Words’, Síntesis del Seminario de IADB/UNDP/OAS: Crimen y Violencia en el istmo Centroamericano, 24.05.2007.

3 Avina, J. ‘Opening Words’ en Síntesis del Seminario de IADB/UNDP/OAS: Crimen y Violencia en el istmo Centroamericano. 24.05.2007

4 Rave, J. Export Development Canada, ‘Guatemala’, [http://www.edc.ca/english/docs/guatemala\\_e.pdf](http://www.edc.ca/english/docs/guatemala_e.pdf)

5 U.S. State Department, Bureau of Economic, Energy and Business Affairs, 2009 Investment Climate Statement February 2009.

6 Costa, A.M., United Nations Office on Drugs and Crime (UNODC), ‘Preface: Crime and Development’, Crimen y Desarrollo en Centroamérica: atrapados en un cruzajada. 03.2007.

7 Coronado, E. ‘Evaluán logros y rezagos a 13 años de los acuerdos’, Diario de Centro América. 29.12.2009



and curbing the violence. “The state of Guatemala is cronicallly underfunded,” he says.<sup>8</sup> EDC concludes that scarce financial resources due to low levels of taxation limit the country’s capacity to carry out an effective strategy against crime.<sup>9</sup> In an article by Barbara Schieber, the Guatemala Times reported that Guatemala’s private and business sectors objected to any increase in tax levels that could strengthen the state’s capacity to tackle security or other national problems. Carlos Castresana, the former director of the International Commission against Impunity in Guatemala (CICIG), says: “Guatemala has the security and justice that it pays for.”<sup>10</sup>

### Ensuring human development

According to the Centre for Economic and Social Rights (CESR) and the Central American Institute for Fiscal Studies (ICEFI for its initials in Spanish), Guatemala also receives the human development for which it pays. Its report concludes that fiscal policy (the country’s low social and government spending) is considered a determining factor in the systematic violation of economic and social rights in Guatemala. Guatemala has one of the lowest government spending levels in Latin America. Its human development indicators are among the lowest of the continent.<sup>11</sup> According to figures from 2009, more than 50.9% of the Guatemalan population is poor, and 15% is extremely poor. 74.8% of the indigenous population is poor. There are approximately 2.1 million malnourished people in the country. The poorest departments are those with least access to health services. For example, the department of El Quiché has one doctor for every 11,948 inhabitants, while the department of Guatemala has one doctor for 384 inhabitants.<sup>12</sup>

Experts say that poverty also affects violence. Stephen Zimmerman argues that the poor are those most affected by violence: “Even though criminality affects society in general, it marginalises to a greater extent those people with scarce economic resources.”<sup>13</sup>

A study produced by the United States Agency for International Development (USAID) asserts that poor people do not generate more violence by being poor, but that inequality is one of the most important causes of violent conflict. The report concludes that the high concentration of income in some groups increases the perception of deprivation by others, generating social disintegration. Policies relating to land distribution, taxation and public spending, that create inequality, can exacerbate competition and

conflicts.<sup>14</sup> Both the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Programme (UNDP) observe that Guatemala is one of the most unequal countries in Latin America.<sup>15</sup>

Antonio María Costa insists the roots of violence should be tackled through long-term socioeconomic development.<sup>16</sup> The USAID report explains that many governments consider economic policies that reduce poverty to be undesirable because they see them as affecting their interests. It follows that the interests of the government and the elite are powerful forces against change, and a frequent cause of conflict. Nevertheless, experts conclude that economic policies need to reduce poverty and tackle inequality if they are to solve the violence problem. The policies should be formulated and implemented with broad participation of marginalised groups. The governments should strengthen mechanisms that protect poor communities’ important goods, such as homes and land, and assure that they have access to impartial justice systems.<sup>17</sup>

According to Jesús Hernández Pico, an investigator with the Latino-American Social Science Faculty of Guatemala (FLACSO for its initials in Spanish), Guatemala continues to be “the land of the criollo”.<sup>18</sup> He says the country has not improved since the Peace Accords, in part because its ruling class has not modernised, maintaining a permanent conflict between formal democracy and authoritarian and fundamentalist temptations.<sup>19</sup>

“We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.”<sup>20</sup>  
Kofi Annan, former Secretary General of the United Nations

8 Morrison, D. ‘A Conversation with Stephen McFarland, United States Ambassador to Guatemala’. The inter-american dialogue 20.10.2009.

9 Rave, J., Op cit.

10 Schieber, B. ‘Taxes and Violence in Guatemala’, Guatemala Times , 4.03.2010.

11 CESR & ICEFI, ‘Presentación’, Derechos o Privilegios: El compromiso fiscal con la salud, la educación y la alimentación en Guatemala. Guatemala, 2009.

12 United Nations Office of the High Commissioner for Human Rights (OHCHR), Informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos sobre las actividades de su oficina en Guatemala. Guatemala, 2009.

13 Zimmerman, S., Op cit.

14 Pottebaum, D. Conflict, poverty, inequality and economic growth: pro-poor growth, Tools & Key Issues for Development Specialists, January 2005.

15 OHCHR, 2009, p. 13; United Nations Development Programme (UNDP), Resumen Ejecutivo: Informe Regional sobre Desarrollo Humano en América Latina y Caribe 2010: Actuar sobre el futuro: romper la transmisión intergeneracional de la desigualdad, 2010. Op cit.

16 Costa, A.M., Op cit.

17 Pottenbaum, D., Op cit.

18 A descendent of the Spanish colonial class.

19 Hernández P.J., Terminar la guerra, traicionar la paz., 2007.

20 UNODC. Crime and Development in Central America: Caught in the Crossfire, May 2007, United Nations Publication, p.11

## News of our work

Figures from the National Institute of Forensic Sciences (INACIF for its initials in Spanish) suggest that the high levels of violence and insecurity afflicting Guatemala have stayed constant during the last two years.<sup>1</sup> Different analyses indicate that the work of Guatemalan human rights defenders makes them especially vulnerable to violence. International accompaniment has proven to be useful in dissuading attacks against them.

Due to this situation, we have intensified our accompaniment of some of the organisations that we already accompany. For example, in July we agreed to accompany more closely the **Verapaz Union of Campesino Organisations, (UVOC)**, within the

framework of its work defending the labour and land rights of various campesino communities. We

have accompanied UVOC in its work supporting the communities of the San Miguel Cotoxjá estate, in El Estor, Izabal. In 2003, the communities of San Miguel were illegally evicted from the estate, returning at the end of June 2010. They

have made public statements about their fear of a new eviction after a group of 400 armed men tried to enter the estate. UVOC has been providing legal advice to the communities about their situation. PBI has also been observing roundtable negotiations on land conflicts in Cobán, Alta Verapaz. The talks aim to resolve conflicts relating to land and labour rights and participants include the Secretary for Agrarian Affairs, the Land Fund (FON-TIERRA), the Land Registry, and campesino communities and organisations such as UVOC.

The situation of insecurity and risks facing indigenous and campesino communities and organisations appeared to intensify before the visit of James Anaya, the United Nations Special Rapporteur on the situation of human rights and fundamental

freedoms of indigenous peoples. Anaya visited Santa Fe Ocaña, in the municipality of San Juan Sacatepéquez on 15 June 2010. PBI observed the event, which drew tens of thousands of people from all over the country. 30 indigenous organisations made presentations highlighting the problems facing their peoples and communities due to megaprojects on the lands they inhabit, and demanding compliance with Convention No.169 of the International Labour Organisation.

Before Anaya's visit, the situation in the community of San Antonio Las Trojes I, in San Juan Sacatepéquez, became extremely violent. The community is home to members of **Qamoló ki**

**Aj Sanjuani-People of San Juan Unite**, an organisation that joins together residents of several communities of the municipality, who are affected by "Project San Juan". The project consists of a cement factory and quarry that the Guatemalan company Cementos Progreso (which owns 80% of the project), and the Swiss multinational

Holcim (which owns 20%), wish to build in the area. Due to the escalation of violence during June, PBI published an "Alert", both within and outside of Guatemala, about the situation.<sup>2</sup> We also maintained an almost constant presence in the area between 3 June and James Anaya's arrival, accompanying the communities and demonstrating international presence in the region to dissuade new acts of violence.

The insecurity is also palpable in Zacapa, where we accompany the **Association for the Protection of Las Granadillas Mountain (APMG)**. The Association works mainly to end logging in the mountain's forests, and to have it declared a protected area. During the last few months, members of the organisation have been intimidated and followed, and some have even received



A PBI volunteer observing during the visit of the UN Special Rapporteur on indigenous rights and liberties, James Anaya, in Santa Fe Ocaña.

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<sup>1</sup> According to INACIF, in the first half of this year, 3,235 autopsies were carried out on deaths caused by firearm, knife and suffocation. In the first half of 2009, the number was 3,337. INACIF, "Necropsias realizadas, resumen 2009", January-July 2009, and "Necropsias realizadas, resumen 2010", January-July 2010. <http://www.inacif.gob.gt/index.php?showPage=159>

<sup>2</sup> Peace Brigades International, emergency alert about attacks, threats and intimidations occurring in the communities of San Juan Sacatepéquez in Guatemala, June 2010. [http://www.pbi-guatemala.org/fileadmin/user\\_files/projects/guatemala/files/english/ALERT\\_PBI\\_Guatemala\\_-\\_San\\_Juan\\_Sacatepéquez.pdf](http://www.pbi-guatemala.org/fileadmin/user_files/projects/guatemala/files/english/ALERT_PBI_Guatemala_-_San_Juan_Sacatepéquez.pdf)

ved death threats, which they interpret as acts meant to inhibit their work protecting the mountain. APMG has also identified a clear campaign of criminalisation against them. In July, we observed a march the Association organised to publicly denounce the criminalisation of environmental campaigners.<sup>3</sup>

PBI also accompanies the lawyer and human rights defender Edgar Pérez Archila. We accompany him in his work to end impunity, bringing high-profile cases of human rights violations from the internal armed conflict, in which he represents communities, families and victims.

In recent months we have specifically accompanied Edgar Pérez to hearings in the case of the Dos Erres massacre. In December 1982, dozens of kaibil soldiers (members of the army special counter-insurgency force) massacred the inhabitants of the Dos Erres community, in La Libertad, Peten. They killed more than 250 people, who they accused of being members of guerrilla groups.

Investigations aimed at bringing the perpetrators to justice began in 1994. Two survivors (who were children at the time of the massacre) gave statements, and two ex-kaibils prepared to testify were also found. In 2000, they gave the names of other ex-kaibils who had been involved in the massacre, and arrest warrants were issued, but a series of appeals presented by the defence prevented the arrests.

The process of resolving these appeals held up the process for almost ten years, leading social organisations to complain of a lack of will. Alongside this process, in 1996, the case was presented before the Inter-American human rights system, and in 2009, the Inter-American Court of Human Rights (IACtHR) declared the Guatemalan state responsible for the violation of the human rights of the victims, ordering a serious and effective investigation to judge and punish those responsible. Following this ruling, the Superior Court of Justice proceeded to reactivate the case. To date, however, only three of the 17 soldiers accused have been arrested and one more implicated in the case. Recently the First Court of High Risk resolved to prosecute the three accused.

We have also been present in the hearings of the *Bámaca Velásquez Vs. Guatemala* case, in which the state is accused of participating in the disappearance, torture and murder of the guerrilla commander Efraín Bámaca Velásquez. After his disappearance, a case was opened against the state and the army, but in 1998 the judge dismissed the case, finding in favour of the soldiers. The case was then brought before international authorities. The IACtHR issued several rulings holding the Guatemalan state responsible for the violation of the human rights of Efraín Bámaca and his family, and ordering a new, more serious and thorough investigation. In 2009, the Criminal Chamber of the Supreme Court

of Justice ordered the implementation of the ruling, reopening the case in the Guatemalan legal system. In response, the defence representing the accused parties submitted a total of six injunctions (*recursos de amparo*). The plaintiffs appealed against these injunctions before the Constitutional Court (CC), and they were repealed. However, recently the CC overturned the decision of the Criminal Chamber to reopen the case. The CC also decided to allow one of the injunctions submitted by one of the 13 accused soldiers. Efraín Bámaca's widow was never notified of this last injunction, despite the fact that on the other occasions she has acted as the aggrieved party, and despite the fact that she has brought the internal actions before the Inter-American human rights system.



Two PBI volunteers accompany lawyer and human rights defender Edgar Pérez Archila.

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**WE RECTIFY:** for an involuntary mistake in the bulletin not. 20, I articulate ' Megaproject plans in Chiquimula ', we write that Mr Rigoberto Ramirez Lopez is a member of COMUNDICH, but he is a member of COMACH.

<sup>3</sup> At a cost of US\$12,000 million, the project aims to join the Atlantic Ocean with the Pacific in Guatemala with a four-lane highway that will cross Chiquimula, Zacapa, Izabal and Jutiapa. It will also include a railway and a gas pipe. Nocete Marta. 'En competencia dos proyectos de canal seco'. Inforpress No.1844, April/May 2010





## PEACE BRIGADES INTERNATIONAL GUATEMALA PROJECT

**PBI** is an international non-governmental organization (NGO) which protects human rights and promotes nonviolent transformation of conflicts.

At the request of threatened social organizations, it provides international accompaniment and observation. The presence of international volunteers backed by a support network helps to deter violence.

In this way, **PBI** creates space for local activists to work for social justice and human rights.

### PBI in Guatemala

**PBI** maintained a team of volunteers in Guatemala from 1983 to 1999. During those years, it carried out accompaniment work with human rights organizations, unions, indigenous and campesino organizations, refugees and churches. In 1999, after an evaluation process, it was decided to close the project since the country had greatly advanced in the opening of space for the work of human rights organizations. Nevertheless, **PBI** continued attentive to the happenings in Guatemala through a follow-up committee.

From the middle of 2000, **PBI** began receiving a number of requests for international accompaniment. Due to these requests, **PBI** carried out an investigation in the field that made evident a turn in the direction and a losing of space for human rights defenders. In April of 2002, **PBI** decided to reopen the Guatemala Project in order to carry out international accompaniment and observation in coordination with other international accompaniment NGOs. In April 2003, the new **PBI** office was opened in Guatemala.

The accompaniments realized by **PBI** after receiving a petition by the Guatemalan organizations are focused in three areas: fighting impunity, right for land and negative effects of the economic globalization on human rights.

### Mission

To improve the human rights situation in Guatemala and contribute to the democratizing process of the country through an international presence that works to maintain open political space for human rights defenders, lawyers, union members, campesino and indigenous organizations, and civil society groups that are suffering repression due to their work supporting human rights.

### Objectives

1. To provide an international presence that contributes to the opening and protection of the political space of Guatemalan organizations that are working for an end to impunity, national reconciliation and compensation to the victims of human rights violations and the fulfillment of the commitments achieved through the Peace Accords.
2. To sensitize the international community of the human rights situation in Guatemala through the regular communication of information as well as frequent contact with international authorities and the diplomatic community both within and outside the country.
3. To sensitize the International Community of the need for creating and applying policies, tools, and mechanisms for the protection of human rights defenders.
4. To share experiences and tools with Guatemalan Organizations that help in achieving the general objectives of **PBI** in Guatemala.

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