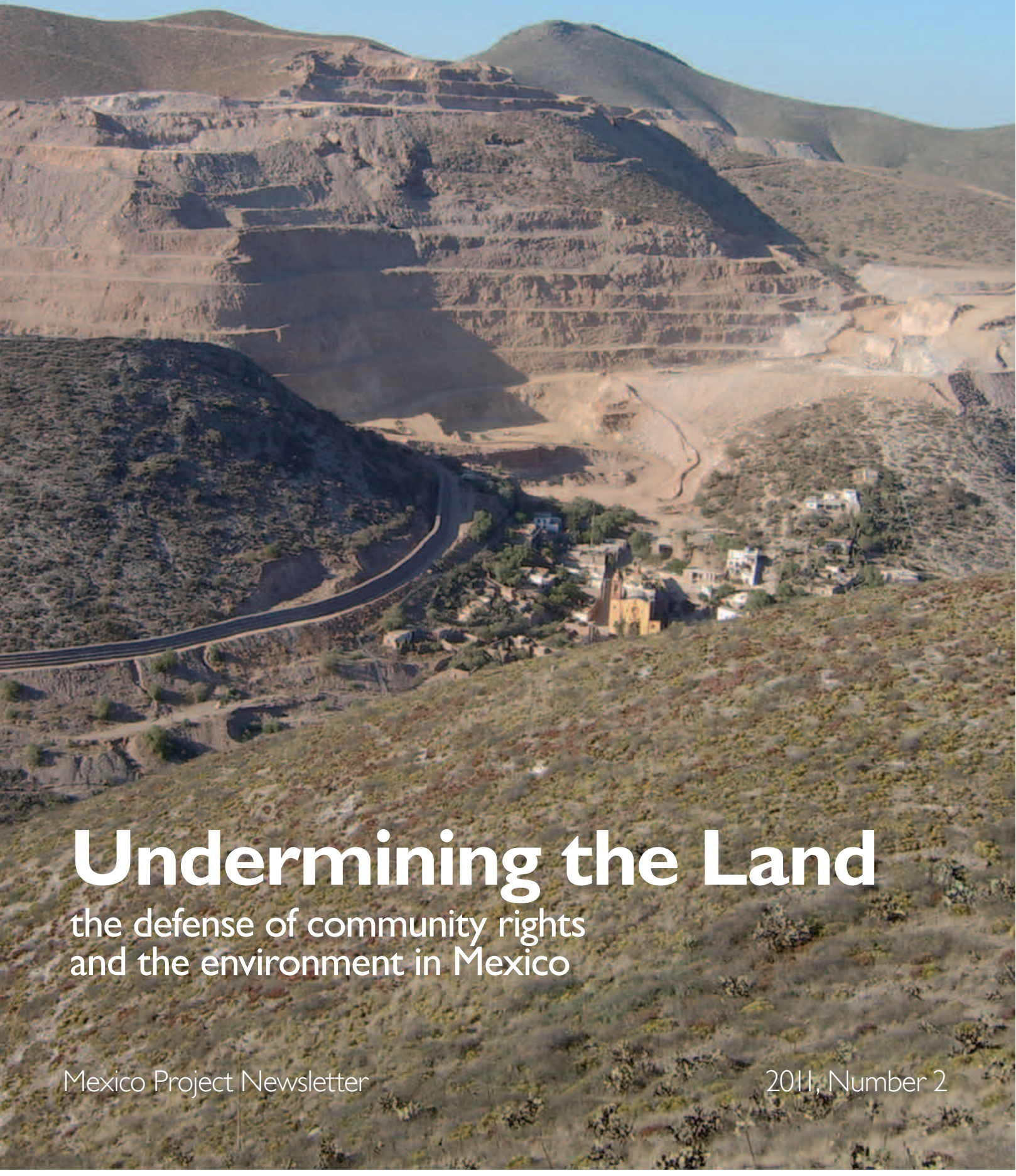




PEACES BRIGADES
INTERNACIONAL
MEXICO PROJECT



Undermining the Land

the defense of community rights
and the environment in Mexico

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Mineral resources are an important source of wealth in Mexico. The extraction of these resources is frequently a source of conflict amongst the affected communities, organizations that defend human rights, mining companies, and public authorities.

Due to the recent financial crisis and instability of international report currencies, the value of gold, and to a lesser extent other metals, has soared. As a result, previously unprofitable mining activities, have become very lucrative. The Mexico Chamber of Commerce for Mining (Cámara Minera de México, Camimex) states in its 2011 report that over the previous year, profits rose to 15,474 million US dollars, 51% more than in 2009. Since then, Mexico is also the world's top producer of silver.

These figures are in contrast with the situation of campesino and indigenous communities affected by mining exploitation and exploration activities. Extraction of mineral resources often causes conflict within these communities, and between organizations defending human rights, the mining companies and the authorities.

The reform to Article 27 of the Mexican Constitution, and the Regulatory Law for mining in 1992, allowed the acquisition and use of land to private interests. Together with the North American Free Trade Agreement, these legislative changes paved the way for the transformation of the industry, allowing increased access to mineral rich land, use of the soil, use of water to process the minerals, as well as environmental pollution and foreign investment.

Rural communities that live on territories with high mineral content say that they are not adequately consulted about these projects and that they do not receive economic compensation proportionate to the profits gained by the company, nor to the impact that extraction has on their lifestyle. If they oppose the mining projects, they often face violence. One example is the case of Mariano Abarca Roblero, member of the Mexican Network of People Affected by Mining (Red Mexicana Afectados por la Minería, REMA), killed in Chicomuselo, Chiapas in November 2009. As a result of this situation, there has been increased debate surrounding the mining industry and the resulting conflicts and human rights violations.

Peace Brigades International (PBI) accompanies human rights defenders in the states of Guerrero and Oaxaca, some of whom work in conflictive contexts to demand a greater respect for the rights of communities faced with mining projects. During the IV Regional Forum in the Sierra Sur of Oaxaca, PBI heard the demands expressed by communities and civil society organizations. These organizations said that many of their rights have been violated, including the right to consultation, to a clean environment, to food, to manifest their own culture, and to the International Covenant on Economic, Social, and Cultural Rights.

In this publication, PBI gives a voice to the human rights defenders who are faced with big economic interests and who are fighting for their right to the land and to a clean environment. Many of them have been the object of violence because of their work. PBI also wants to provide visibility to the contradictions, the interests at play, and the human rights violations that take place in the context of these mining projects. During the development of this publication, PBI spoke with experts and human rights defenders that promote and protect the rights of communities affected by mining in the states of Guerrero, Oaxaca, San Luis Potosí, Baja California and Durango. ■



View of the Mine in Cerro San Pedro,
San Luis Potosí © FAO

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Mining legislation in Mexico

by Agustín Bravo Gaxiola (CEMDA), Baja California



Paredones Amarillos mining project, Baja California © Niparájá, A.C.

Agustín Bravo Gaxiola is a lawyer who specializes in environmental protection, and he is the regional coordinator of the Northwest Office of the Mexican Center for Environmental Law, A.C. (Centro Mexicano de Derecho Ambiental, CEMDA). CEMDA provides legal counsel to the environmental sector in La Paz and Los Cabos, Baja California Sur, where they are working together to annul the illegal permits issued by the Ministry of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales, SEMARNAT) for the mining project known as Paredones Amarillos, or Concordia. These permits would allow Concordia to do open pit gold mining in the Sierra de La Laguna Biosphere Reserve, a region where contaminating the Biosphere Reserve is prohibited by law.

Article 27 of the Mexican Constitution states that all minerals in the Mexican territory belong to the public domain. According to the federal Mining Law,¹ private parties must obtain a concession from the federal government in order to gain access to these resources. The following are some of the most important aspects of this law:

1. Land use by the mining industry, including exploration, extraction and processing [of minerals], is given priority over any other use of the land.²

2. Minerals are federal property, not private property; the extraction of minerals is granted through federal concessions. The General Office of Mines, part of the Ministry of Economy, is the competent authority in this matter. The concession may be granted to any Mexican physical person or legal entity (legal entities may be 100% foreign owned).

3. The concession may be granted on any piece of land without providing the owner with prior legal notice or a prior hearing.

4. The main rights granted by the concession are:

The right to extract and use mineral resources. In Mexico, there are no mining royalties (an amount paid for the extraction of non-renewable resources).³

The right to temporary occupancy, easement, or expropriation of the land. This does not require authorization from the landowner.

The right to use water for exploration or mineral extraction.

The right to transfer the concession.

5. Mining concessions may be granted for up to fifty years, and they may be renewed for the same number of years. In order to receive the concession, the title holder must pay the federal government for the "right" to this concession. The mining industry cannot be taxed by states or municipalities.⁴

LEGAL ISSUES AND FUNDAMENTAL RIGHTS

Legal provisions that grant preferential use of land for mining activities violate both the Mexican Constitution and international treaties on human rights ratified by Mexico. Consequently, these laws, concessions, and mining rights that have been granted can be challenged in court.

The mining concession grants rights to the owner of the concession that contrast with the rights of the landowner or the person who has possession of the land. The latter is not given the right to a hearing, in other words, the landowner does not have the right to defend himself before a judge. These provisions are unconstitutional.

Even after a mining concession has been granted, it may not be executed until SEMARNAT authorizes an environmental impact study and an official change in the way the land may be used.⁵ ■

1. For more information about minerals and exceptions see Article 27, paragraph four of the [Constitution](#) (in Spanish) and catalogue of article 4 of the [Mining Law](#). The list of exceptions refers to deposits that have a nature similar to that of the land, for example, sand, rock, limestone, or other bedrock material used for construction.

2. Article 6 of the Mining Law.

3. "Mining royalties are dollar amounts that mining companies pay the states as compensation for the depletion of natural resources extracted for the production of minerals / metals. Usually this money is allocated for the creation or promotion of alternative economic activities to replace the mine when it closes." Wiki Minera, Latin American Mining Organization.

4. Articles 6 and 15 of the Mining Law.

5. Article 28 § III of the General Law of Ecological Equilibrium and Environmental Protection [[Ley General del Equilibrio Ecológico y la Protección al Ambiente](#)] and Article 117 of the General Law of Sustainable Forest Development [[Ley General de Desarrollo Forestal Sustentable](#)].

Rurik Hernández (FAO), San Luis Potosí: “They are buying gold with blood”

The Broad Opposition Front (Frente Amplio Opositor, FAO) is a group of grassroots organizations and environmentalists who denounce that San Xavier, a company that is part subsidiary of the Canadian transnational corporation New Gold Inc., is carrying out illegal mining activities. San Xavier operates in Cerro San Pedro, San Luis Potosí. Many members of FAO have suffered from attacks and threats as a result of their petitions to close the mine.



Panoramic view of Cerro San Pedro, San Luis Potosí © Antonio Turok

Cerro San Pedro is a small municipality located a short distance from the city of San Luis Potosí. It is in a nature reserve that in 1993 was designated for the protection of wildlife, and it is part of the recharge area of the aquifer that supplies San Luis Potosí. The population has historically been involved in the extraction of

member of the Mountain Project (Proyecto Cerro), a cultural organization that is also a member of the FAO, points out that “there was no consultation, they just informed the population that this project would take place; they invited the population to work in the mine, and they told the people that they had to leave their homes because they were going to destroy the village. The whole community objected and said no to the mine.”

According to the FAO, although the company has bought a ‘good image’ in the media, in reality, the picture it leaves is increasingly bleak: two landmark hills have been completely destroyed and many species of plants and animals have disappeared. “The mining industry tells us that they recycle and reuse almost all the water and that they have water treatment and desalination plants. Their main argument, which is false, is to tell us that they use almost the same daily amount of water used by the agricultural sector. But we do

not eat gold and silver coins. Agriculture does put water to good use,” Rurik says. Hundreds of acres are covered by acid drainage,⁶ and a large amount of land has been poisoned with cyanide. The inhabitants of the area face increased risks of disease, and due to the huge amounts of water used by the mine, water scarcity is increasing.

The FAO reports that the dispossession of land in the area is another serious problem. “The collective owners of the land (ejidatarios) of Cerro San Pedro’s communal lands (ejido)⁷ do not agree with the operation of the mine, however the company, through government agencies, has been able to work in the ejido lands even though the ejidatarios never rented or sold this land.” Through the Ministry of Economy, the company obtained a permit for ‘temporary occupation’, which means that the land still belongs to the ejidatarios, but the right to occupy and use the land is granted to the mining company. In other words, the ejidatarios are the owners of the land, but they are not allowed to use their land; while the mining company may use the land by paying an annual fee in court for its use.

VIOLENCE AGAINST MEMBERS OF THE FAO AND NONCOMPLIANCE WITH LEGAL JUDGMENTS IN THEIR FAVOR

Rurik warns that the division and confrontation caused by the mine has allowed the company to successfully draw attention away from the impact of the mine, since people are now focused on their own internal conflicts. “The social fabric has been severely broken. From the beginning they bribed people with money, threatened and pressured the opposition, and sought political favors to block the activists.” According to Rurik, the attacks and violence aimed at the opposition have been constant. “There has been physical aggression, assaults with firearms, with machetes. All FAO members have received death threats from the families of lo-



Satellite view of Cerro San Pedro, San Luis Potosí © FAO

minerals in the area, especially gold and silver.

In 1995, the San Xavier mining company presented a mineral extraction project to the community. San Xavier already had the corresponding mining concessions and therefore, the approval of the Mexican federal government. Rurik Hernández,

cal political bosses, and from the leader of the miners' union who works with the company. Criminal complaints have been filed; there is evidence of gunshots on our homes and trucks; we have recordings, medical reports, but none of the allegations have been investigated."⁸

The legitimacy of the FAO's complaints has been reinforced by several judgments from the highest federal courts that state that the mine cannot operate because it violates Mexican environmental law.⁹ However, the company continues its work and won an appeal in court. The company was able to ensure that the entity responsible for executing the sentence, the Federal Attorney General's Office for Environmental Protection (Procuraduría Federal de Protección al Ambiente, PROFEPA), does not visit the mine or inspect the facilities, as ordered in the sentence. "The PROFEPA claims it cannot carry out an inspection because it would be in contempt of this court order, and this could create legal liability for public officials. However, they are also defying an order from a higher court, the Federal Court of Fiscal and Administrative Justice, which ruled that the mine does not have permission, that it is illegal, that it cannot operate, and that the authorities must close it down."

A COMMUNITY ORGANIZATION THAT DEMANDS RESPECT FOR THE POPULATION'S RIGHTS

The FAO provides training and education for communities affected by mining projects in Baja California Sur, Veracruz, Oaxaca, Guerrero, Chiapas, Morelos, Chihuahua, Michoacán, and Hidalgo. It also actively participates in the Wirikuta Defense Front, and provides accompaniment to other communities such as the Families of the victims of Pasta de Conchos mine in Coahuila.

The Cerro San Pedro has been one of the first community groups to oppose a mine in Mexico. "We have been hit hard politically, legally, in the media, and physically because of this struggle and because we took a mining company to court and won. If we are able to mobilize and close the San Xavier mine, we will set a precedent [...] on a national level, and this could be

"We are not willing to let them destroy the planet we live on. We inherited this land from our grandparents who cared for the land, and we cannot destroy it because we must pass it on to our grandchildren"

the spark that lights the fire for the defense against the mining industry in the country. [...] In the end [...] we are fighting against the Mexican State, who grants permits and who has spent decades changing mining laws so that companies can operate freely, so that the minerals and water are given to these companies, and so that land can be privatized, thus eliminating the ejido lands and the communities, and so that companies can have legal certainty that nothing will happen to them no matter what they do. We must build something at the national level so as to ban the mega mining industry as it is, and absolutely prohibit the use of toxic chemicals and the excessive use of water."

INTERNATIONAL RESPONSIBILITY

Rurik Hernandez states that most mining companies operating in Mexico have transnational capital, and he therefore con-

siders that the international community's responsibility is undeniable. "If gold prices go up in the international stock exchanges, more mining companies come to Mexico and destroy us. Everyone buys gold now to secure their savings these days, or for ornaments, or as a gift. The international community must understand what extraction means; it should know that what is being purchased destroys places where people live and the lives of others. They are buying gold with blood." ■



Signs against mining operations © PBI Mexico

6. Acid mine drainage is caused by the reaction of superficial water and groundwater with sulfide minerals in mining waste. Rain water dissolves and flushes chemical compounds in mine waste that contain high levels of acid and metals. This causes heavy pollution of superficial and groundwater. For more information, see [Drenaje Ácido de Mina](#) [Acid Mine Drainage] ECOAMERICA-CA.CL, ECOAMERICA.CL, May 2007.

7. "The ejido is a geographic and political entity holding ownership in a tract of land similar to a rural commune or village. Prior to 1993, ejidos were owned by the Mexican government or by the collective group who lived on the land and usually farmed it. The ejido had a well-defined government consisting of a board of directors and a communal office (comisariado ejidal). [...] The Mexican government began in 1993 to privatize ejido land by allowing the ejido groups to divide the land among members and later to issue titles to individual land parcels to ejido members, enabling individuals to sell or convey ownership in their parcels." [Foreign Property — Ejidos in Mexico](#), Program Operations Manual System, U.S. Social Security.

8. Amnesty International (AI): Urgent Action (UA) [41/066/2009](#) (December 22, 2009), [AMR 41/033/2008](#) and [AMR 41/052/2007](#) (August 22, 2007)

9. [Minera San Xavier Pierde Juicio](#), Committee for Human Rights in Latin America, May 2009.

San José del Progreso

Ruptured social fabric, attacks against human rights defenders, and a mine in operation

Father Martín from Barca-DH, during an interview with PBI © PBI Mexico

San José del Progreso is a community in the Central Valley of Oaxaca that has maintained strong ties to the extraction of gold and silver for centuries. However, it was not until the arrival of Fortuna Silver in 2006 that mining began to cause problems in the community. Fortuna Silver is a Canadian company that operates through the Mexican subsidiary Cuzcatlán. Mexican and international organizations report that the company obtained a permit for extraction from local authorities, without informing the community, violating their rights to consultation and to free, prior and informed consent.¹⁰

Since then, the sector of the community that is against the mine has been subjected to constant attacks, including threats, arbitrary arrests, and campaigns against human rights defenders. Father Martín Octavio García is one victim of these aggressions.¹¹ After providing information to the public about the consequences of the mining project, he was the victim of a smear campaign in the media and he was kidnapped and beaten in June 2010. This took place on the same day that the municipal president (mayor) and the councilman for health of San José del Progreso were killed during confrontations near the town. Shortly thereafter, Father Mar-

tín was placed in pre-charge preventive detention.¹² He was accused of the murder of these two men, and later released on June 30 due to the lack of evidence against him.¹³

More than one year later, the people responsible for the violence and other human rights violations against Father Martín and other inhabitants of San José del Progreso have not been prosecuted due to the generalized impunity in the region. Father Martín cannot return to the area because it is not safe. The community suffers from a deep internal division, their right to consultation and consent continue to be violated, and the mining company continues its work. ■

HUMAN RIGHTS DEFENDERS AT RISK

In its Report on the situation of human rights defenders in the Americas, the IACHR recognizes that certain groups are at greater risk, including “trade union leaders, [...] campesino and community leaders who stage or organize public demonstrations, indigenous leaders who defend the rights of their peoples, and judicial officers [...]”.¹⁴

Also, the Office of the UNHCHR, highlights the lack of recognition for defenders of environmental, social and cultural rights in Mexico due to “the fragility with which the Mexican legal framework recognizes [these rights] and because some authorities refuse to see them as human rights.”¹⁵

10. They Have Destroyed the Life of this Place: Megaproyectos, Human Rights Violations, and Environmental Damage in Mexico, Walter Leitner of International Human Rights Clinic (WLIHRC) & Miguel Agustín Pro Juárez Human Rights Center (PRODH), 2011, p. 34.

11. Father Martín is a member of the Advisory Council of the [Bartolomé Carrasco Briseño Human Rights Center](#) (Barca-DH), and has received PBI accompaniment since October 2010.

12. AI: [UA “Detainees at risk of torture and unfair trial”](#), AMR 41/046/2010, June 25, 2010.

13. AI: [UA “Mexican priest released on bail”](#), July 21, 2010.

14. [Report on the Situation of Human Rights Defenders in the Americas](#), Inter-American Commission on Human Rights (IACHR), Organization of American States, OEA/Ser.L/V/II.124 Doc. 5 rev.1, paragraph 208, March 7, 2006.

15. [Defender los derechos humanos: entre el compromiso y el riesgo](#) [Defending human rights: caught between commitment and risk], Report on the situation of human rights defenders in Mexico, Office of the United Nations High Commissioner for Human Rights in Mexico (UNHCHR), paragraph 60, Mexico, 2009.

Bardomiano Morales (BARCA-DH), Oaxaca

“The people can defend their right to the land and they can say no”



Bardomiano Morales,
attorney for Barca-DH © PBI Mexico

In the Sierra Sur region of Oaxaca, the Grupo Acerero del Norte company, by way of its subsidiary Altos Hornos de Mexico S.A., owns concessions to extract iron deposits in several areas, including Santa Maria Zaniza,¹⁶ considered one of the largest deposits in Latin America.¹⁷ The Regional Human Rights Center “Bartolomé Carrasco Briseño” (Barca-DH), an organization that receives PBI accompaniment, provides legal advice and training to the affected population.

There have been reports of possible concessions for the Tehuantepec Mining Project in the Sierra Sur of Oaxaca since 1998 to extract iron in several municipalities. The largest area to be mined is located in Santa Maria Zaniza, where exploratory work took place in 1998-1999. At that time, the community assembly was against the mining project after observing the damage to the environment and health caused by the project (such as pollution of water streams and respiratory diseases),¹⁸ and the terrible conditions for workers who were hired from the community. The company threatened to call on the Mexican Army in order to force the community to accept the mine. The assembly of Santa Maria Zaniza recently reiterated its opposition to this project and asked for support from human rights organizations.¹⁹

Bardomiano Morales, a lawyer with Barca-DH and expert on the rights of indigenous peoples, states that “Santa Maria Zaniza has 16,000 hectares of land, and they are going to expropriate 11,000 hectares. They are leaving the community with 5,000 acres. The territory of the community is practically going to disappear.” According to Bardomiano, “the concession of Zaniza and Textitlán would become one of the largest projects in Latin America.”

The work of Barca-DH seeks to strengthen communities and their institutions: “We provide information about the pros and cons of these projects. [...] We talk to them about the promises that companies often make, as well as the impact on the environment and their health, so that the community realizes what is involved.” Bardomiano makes it clear that “we’re doing preventive work

because once a conflict is generated within the community, there is no solution. One example is what happened in San José del Progreso. It is impossible to return to the way they were 10 or 20 years ago.”

Barca-DH’s work includes workshops about the rights that are affected, including the community’s rights as indigenous people, and agricultural rights. “We explain the rights and obligations that they have as communal land owners, and the duties of the [community authorities including] the Commissioner of Communal Property and the Community Assembly. We tell them about the rights they have as indigenous people according to state law, the Constitution, and international treaties and conventions. We want them to know that the people can defend their land rights and can say ‘no’.” ■



PBI provides accompaniment to staff from Barca-DH during the IV Regional Forum of the Sierra Sur in Zenzontepec, Oaxaca © PBI Mexico

16. Santa Maria Zaniza is an indigenous Zapotec municipality that belongs to the Sierra Sur region of Oaxaca. According to public data issued by the government of the state in 2009, 95% of the population lives on agriculture, livestock, and forestry.

17. *Minería, comunidades y medio ambiente, Investigaciones sobre el impacto de la inversión canadiense en México*, [Mining, communities, and the environment, Investigation on the impact of Canadian investments in Mexico], FUNDAR, Center for Analysis and Investigation, Mexico, July 2002.

18. In order to extract iron, the soil must first be finely ground, a magnet is then passed over the ground to attract the iron. The remaining dust usually has a high content of minerals and heavy metals and is easily swept away by the wind, which can cause health risks. Extract from an interview published in *La resistencia contra la minería (I)*, [Resistance against mining], August 3, 2011.

19. The Tehuantepec Mining Project affects the municipalities of Santo Domingo Teojomulco, San Lorenzo Texmelucan, Santiago Textitlán, Santa Cruz and Santa Maria Zaniza Zenzontepec. *This document was prepared in the context of a visit to Mexico by Rodrigo Escobar Gil, Rapporteur for the Inter-American Commission on Human Rights*, Red TdT, September 2011.

20. The IACHR found that, despite the differences established by most legal systems, “indigenous peoples” and “rural communities” are facing similar problems: “access to land and territory; natural resources and participation in development projects; forced labor, debt bondage and slavery; and access to justice. [...] Indigenous people and peasant communities continue to suffer discrimination while government institutions have provided no effective response for the exercise of their human rights, and in particular their economic, social and cultural rights.” *Access to justice and social inclusion: the road to strengthening democracy in Bolivia*. OAS Doc / Ser. L / V / II, Doc 34, June 28, 2007.

The struggle against the mining industry

The Community Police in Guerrero

The state of Guerrero is one of the richest areas in the country in terms of mineral resources, a richness that contrasts with the poverty of the population. In 2010, Guerrero produced 11.5% of the gold and 7.8% of the zinc in the country.²¹ Repeatedly, the affected villages have objected to these projects after their right to a consultation was denied. The landowners do not receive economic benefits proportional to the profits generated by the mining company or to compensate for the changes that take place on the mined land, land that is normally used for agriculture or forestry. Now, communities across the state are organizing against the presence of these companies in their territories.

The Community Police is an organization of indigenous people (Tlapaneco, Mixteco, and Nahuatl people) and mestizos in the Costa Chica and Montaña regions of Guerrero, which encompasses a total of 65 communities. The Community Police was created in 1995 to protect public safety, prosecute and administer justice, and re-educate offenders. It is part of the Regional Coordinator of Community Authorities (Coordinadora Regional de Autoridades Comunitarias, CRAC), the entity responsible for implementing and administering community justice based on indigenous practices and customs. In 2010 and 2011 the CRAC started to lead the movement to fight the entry of mining companies in the Costa Chica and Montaña.

PBI interviewed the 12 regional coordinators of the CRAC, its advisor Valentin Hernandez Chapa, and the head of the Community Radio, "La voz de los Pueblos" [Voice of the People].

Why did the CRAC decide to start working on issues related to the mining industry?

We are interested in this issue because the companies that come to exploit [the land] come to undo what we have on our land: the forest, wildlife, land, water, and air. They come to pollute the rivers and

this will affect the people as a whole, including their territory, resources, culture, identity, and history, in this way damaging, for example, sacred sites. They will do harm to us and our children. We therefore invite all the villages of these territories to keep the companies out. Gold, silver, and zinc belong to the people, and we have the right to make decisions about them.

Which communities have mostly been affected by this situation?

The Montaña Alta is the area with the largest number of concessions. Maybe the companies will provide compensation for polluting the water, but all the water then goes to the coast. Therefore, they will not only affect the inhabitants of the Montaña Alta but also the municipalities of Marquelia, San Luis Acatlán, and other cities in the Costa Chica region. All of the river basins will be affected. That is why people are organizing throughout the region. We see it as defense of the whole territory. If a single mine is installed, it will cause harm in the whole region.

Has there been any dialogue with the mining companies?

Several years ago permits were issued in

secret. We were formally notified very late in the process, in November 2010. People from the company told us that they would do fly-overs of some communities that already had concessions. That is how we discovered that the federal government had granted concessions. We started to disseminate information and we created a commission of agricultural authorities from the affected areas.

So far, the companies have not spoken to us. On one occasion, by chance, some community members met with representatives from the mining companies. The representatives from the company said that the people were being given incorrect information and that they wanted to talk about what they would be doing at a community assembly, but this never took place. They are not interested in our damages, only in their own benefits.

Who are the stakeholders?

Private companies are given permission to enter a region with the support of the federal, state, and municipal governments. In the municipality of San Luis Acatlán there are 7 or 8 concessions.



Discussion group during the CRAC's XVI anniversary © PBI Mexico



"No mining!" outside the office of the CRAC in Guerrero © PBI Mexico

FORUM IN DEFENSE OF THE LAND

On July 1 and 2, 2011, during the seventeenth anniversary of the "Tlachinollan" Human Rights Center, the "Forum in defense of the land" took place.²⁴ Representatives of several villages opposed to mining and other mega projects in Guerrero and Oaxaca, including representatives from the Montaña and Costa Chica in Guerrero, shared their stories. They explained that in the Montaña Alta, the agrarian communities of Colombia Guadalupe, Iliatenco, San Miguel del Progreso, and Totomixtlahuaca formed a new organization called the Coordination of Agricultural Authorities. There is a similar situation in the lower areas of the Montaña region where communities have voiced their opposition against 17 of the 22 concessions in the area.

The forum concluded with the creation of the Front of Community and Ejido Lands Commissioners in Defense of the Land which includes representatives from the affected territories.

Municipal authorities say that it is a federal issue and that they cannot interfere. In the register of the Ministry of Energy, concessions appear to be under the name of a dummy. Municipal authorities deny any knowledge of the matter. However, their silence indicates that they are complicit.

What can you tell us about the campaign *A corazón abierto, defendamos nuestra Madre Tierra en contra de la minería* [With an open heart, let's defend our Mother Earth against the mining industry]

The campaign was created during the sixth anniversary of Radio Ñomndaa²² in December 2010 and it was launched on March 28, 2011.²³ It is broadcast on the radio, in newsletters, newspapers and audios. The CRAC coordinates this campaign with other community radio stations that the government also wants to shut down. We work to disseminate information: women, children, youth, senior citizens should know why they should not

allow the entry of the mining industry. Why children? Because the concessions are for 50 years; they can be filed away for a while and be reactivated again in 30 years' time. In 30 years we are not going to be around. For this reason, we also want the information to be disseminated outside the country.

We are also working on a legal battle. The agrarian communities, based on agrarian law, defend the rights of the landowners and community members to deny entry by the companies. They want to initiate an international legal battle claiming non-compliance with the International Labour Organization's Convention No. 169 and other conventions. There are several legal instruments that favor the people because their right to consultation has been violated, and all levels of the Mexican government are responsible for this, including the legislative, the executive and the judicial branch. ■

21. [Guerrero statistical perspective](#). September 2011. National Statistics and Geography Institute, Mexico, September 2011, p.58.

22. [Radio Ñomndaa](#) (La Palabra del Agua - The Word of the Water) is a community radio station located in the state of Guerrero. It was created from the community project of the nannuce ñomndaa people (also known as Amuzgo people) in the year 2004, in the municipality known as Suljaa' (Xochistlahuaca).

23. For more information on the work of CRAC and the campaign "With an open heart, let us defend mother earth against the mining industry", see (in Spanish) www.policiacomunitaria.org.

24. For more information on the conclusions from the forum see (in Spanish) www.sipaz.files.wordpress.com/2011/07/resolutivos-del-foro-2011.pdf

Wirikuta: where the Sun rises

Interview with Tunuary Chávez (AJAGI), JALISCO

“Ever since the creation of the Wixárika world, our heart, our life, and our ancestors are in Wirikuta. We make a pilgrimage every year to honor and make offerings to our ancestors, so that life will continue and so that the [flames] of life will be renewed, not only for our ancestors, but also for our people and the lives of all people on this planet”

Wirikuta is a sacred place for the indigenous Wixárika (also known as Huichol) people. Wirikuta is located in the municipalities of Villa de Ramos, Charcas, Santo Domingo, Villa de la Paz, Villa de Guadalupe, Matehuala and Real de Catorce, in the state of San Luis Potosí. It is also the place where the Mexican government has granted 22 mining concessions to the Canadian company First Majestic Silver Corp. and their Mexican counterparts, Minera Real Bonanza and Minera Real de Catorce, to explore and extract silver and other minerals.

The Jalisco Association in Support of Indigenous Groups (Asociación Jalisciense de

Apoyo a Grupos Indígenas, AJAGI) is one of the organizations that is following this case and supporting the Huichol people. PBI interviewed Tunuary Chávez, coordinator of development, environmental analysis and forest management, for the Wixárika people and other Mexican indigenous communities supported by AJAGI.

“The Huichol people are the indigenous people that have preserved their traditions and ancient ways of living in their purest form. Their ways of self-government are alive; they have traditional authorities that are above public authorities, and they have a strong relationship with the

land,” says Tunuary. AJAGI was created in August 1990, entrusted by the Wixárika communities to legally recover and rehabilitate the approximately 85,000 hectares of Huichol territory that had been invaded by mining companies. AJAGI started working in two areas: legal defense to recover the lands, and sustainable development in order to forge the environmental and economic recovery of the land. After 20 years of work, AJAGI has recovered 65,000 of the 85,000 hectares.

Wirikuta was declared a Natural Protected Area in 1994 by the Government of San Luis Potosí; in 2004, it was placed on a tentative list for UNESCO’s World Network of Natural Sacred Sites. In 2008 the Mexican government signed the Hauxa Manaká Pact with the Wixárika Union of Ceremonial Centers in Jalisco, Durango, and Nayarit, and the traditional and agrarian authorities of the Wixárika people, thereby committing to respect, protect, disseminate and preserve their sacred sites. However, the mining concessions granted by the federal government overlap with an important pilgrimage route that has been used by many Wixarika communities from several states for over a thousand years. This route contains many sacred places of great cultural and religious significance where the Huichol do ceremonies and collect peyote for ceremonial use.²⁵

“Wirikuta represents the indigenous people’s claim to their ancestral lands that goes beyond political customs of the Government. Their struggle could set a precedent for all indigenous people in Mexico”

In August 2010, the Santa Catalina community confirmed that there were concessions already granted in Wirikuta and that they faced an imminent mining threat. AJAGI accompanied the first on site inspection requested by the indigenous community of Santa Catalina and performed an analysis of the environmental and social impact that would be caused by the mining operations by First Majestic. According to information provided by the



Panoramic view of the Sierra de Real de Catorce in San Luis Potosí © Mercedes Aquino

company, the proposed mining project is a subterranean mine that will use flotation to separate the minerals. However, AJAGI investigations show that this is not strictly true. “It is not possible that they will only do underground mining, given the permits they have in Canada. First Majestic negotiated the extraction of 22 million ounces of silver in Wirikuta, however there are only 16 million ounces of silver in the subsoil: this means that the project would automatically be canceled based on their Ca-

dams.” The tailings dams contain residue of toxic waste material that accumulates over the years, and contain extremely dangerous heavy metals such as lead, antimony, or arsenic. Tunuary says that “the official norms and scientific research indicate that healthy limit of antimony is 9 parts per million before it begins to cause damage to a living organism. In a sample of sludge collected in the area of Real de Catorce and analyzed in a laboratory at the University of Guadalajara, we found 54



Land deposits in El Potrero, Real de Catorce © Mercedes Aquino

nadian permits and if they can only access the subsoil. Approximately 13 million ounces [of silver] are on the surface and another 4 million ounces are in the remains of the tailings dams²⁵ from an old mine.”

AJAGI further states that both subterranean mining and open pit mining have major implications for the environment. “Subterranean mining has a very serious history in the area. In the past, this method diverted all the groundwater channels in the region, and this caused the springs and underground waters that feed the wells to dry up – these wells are used by people living in the lower part of the Sierra.”

The flotation method also has serious environmental consequences due to the emission of dust and toxic waste. Tunuary explains that it “is a method that first involves an initial extraction of all materials from the subsoil, and then the metals are separated. Once the silver is removed, everything else is left in the tailings

parts per million of antimony.”

AJAGI also conducted a study using a scientific sampling method to analyze the level of contamination of the tailings dams. “We found that in a place close to Real de Catorce there was widespread contamination of the entire food chain, as evidenced by the amount of antimony and arsenic in different parts of the ecosystem, such as in an eagle feather or in plant leaves. Heavy metal contamination is permanent and it is virtually impossible to remove once it has entered the food chain; it is persistent and irreversible and this is proven in Wirikuta.” ■

According to AJAGI, the sacred area known as Wirikuta faces the threat of mining by the transnational company First Majestic Silver in the Sierra de Catorce, the place known as the birthplace of the sun. But there are other examples that are just as serious, such as the threat posed by the transnational company West Timmins Mining and its Mexican counterpart, Minera Golondrina. Here they are planning to extract gold in the sacred region known as Kayumaritsie or Bernalejo, the main area where peyote is collected and where the deer, the older brother of the Wixárika people, rests. “This is an attack that ultimately destroys the Wixárika people’s identity and their origin: the elders of this town say that this could be the most profound threat they have faced in history.”

25. “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.” Article 25 of the [United Nations Declaration on the Rights of Indigenous Peoples](#).

26. Tailings dams are also known as mine dumps. These contain the materials that are left over after separating the minerals from the rest of the soil.

Adelfo Regino Montes, Minister of Indigenous Affairs in Oaxaca: “This is a democratic government and it must respect the will of the people”

Adelfo Regino Montes, Minister of Indigenous Affairs for the Government of the state of Oaxaca, has a long career as a promoter and defender of the rights of indigenous people. He has collaborated with the Mixe People Service Organization, and in 1995 and 1996, he participated in the Dialogues of San Andrés in Chiapas. He has also participated in the drafting the United Nations Declaration on the Rights of Indigenous Peoples.

What is the situation for indigenous people in Oaxaca?

Oaxaca has the largest indigenous population in the country with 15 constitutionally recognized groups. Of the 572 municipalities, 418 are governed by their own political system based on community assemblies. Similarly, most of the land in this state is communal land. For thousands of years, indigenous peoples have taken advantage of their land and natural resources, and have also faced historical exclusion – this is because the founders of the Mexican state aspired to create homogeneity.

How can the extraction of mineral resources affect indigenous communities?

Approving mining activities must be a decision of the people. To do this, we must ensure compliance with international standards: the right to consultation and free, prior, and informed consent. The State, civil society organizations, and international agencies must ensure that these two standards are respected. They must also make sure that the consultation decisions are also respected. In this sense, the new Advisory Council of Indigenous Peoples is an initial step to build a system that allows for the participation and consultation of indigenous peoples. We have to work on a law regarding free, prior, and informed consent for Oaxaca. We must work to make these international agreements a reality and not just discourse.

How will the Declaration on the Rights of Indigenous Peoples be implemented in Oaxaca?

The Inter-American Court of Human Rights is already invoking the articles of

the Declaration in its rulings. This is how it eventually becomes binding, when it is invoked by various courts, at both a national and international level. Now, the challenge is how to make the implementation of the Declaration in the context of Oaxaca a reality.

What is your opinion regarding the Support Fund for Unregistered Agrarian Communities (FANAR)?²⁷ Civil society organizations believe it is a way to divide communities.

We have made it clear that these programs tend to individualize the land and this is contrary to the traditional forms of organization of the indigenous peoples, which usually involves collective ownership of land.

What is the new state government's policy in terms of investments?

If the investment is guaranteed with respect to international standards and state and national regulations, there is a greater chance of a positive outcome, not only for those who invest but also for indigenous peoples. We must remember that international standards require a fair and equitable distribution of benefits. How is it possible that indigenous people give their water, land, natural resources, risk their

human and cultural integrity, and yet they are not the direct and primary beneficiaries of the investment they have made?

What role might the mining business have in the future in Oaxaca?

Whatever comes in the future will depend on the demands and the response of indigenous peoples. What a Government cannot do is come and divide people, as in other cases. This is a democratic government and it must respect the will of the people. This is our challenge; we have said that we are a democratic government, and now we have to prove it. ■



Minister of Indigenous Affairs for Oaxaca, Adelfo Regino Montes, during an interview © Ministry of Indigenous Affairs

27. Agrarian National Register Program for the regulation of unregistered land. For more information, see (in Spanish) www.ran.gob.mx

Between conflict and negotiation

Carrizalillo (APECT), Guerrero



Mining project los Filos-Bermejil in Mezcala, Guerrero © Tlachinollan

In 2005, the North American company Goldcorp and its Mexican subsidiary LuisMin, obtained a concession to extract gold from an open pit mine in “Los Filos,” in the municipality of Eduardo Neri, in the Mezcala region of Guerrero. The conflicts quickly began. The company began to operate in areas in which it had no permission for ‘temporary occupation’ and the community claimed that it had not been informed or consulted properly. In 2007, the agricultural community of Carrizalillo created the Permanent Assembly of Landowners and Workers of Carrizalillo (Asamblea Permanente de Ejidatarios y Trabajadores de Carrizalillo, APETC), rejecting the mining of the land.

When the Permanent Assembly of Landowners and Workers of Carrizalillo (APETC) was formed, Goldcorp was already operating in the municipality. However, the community had not been informed about the scope of the mining project or the consequences it could have on the population. Valeriano Celso Solís, representative of APETC says: “We did not know about the damages this would cause. We made errors due to ignorance, because we did not study the facts, but we decided to organize as a people. We wanted to avoid the destruction of the hills, but the only thing left to do was to repair the damage.”

The Carrizalillo community saw how they could no longer cultivate the land. Before they “lived off corn and mescal production, but not anymore because the company destroys the fields.” In addition, the labor rights of miners, many of whom reside in Carrizalillo, were not being respected.

The Assembly demanded fair payment for the use of the communal land as well as adequate wages and working conditions for workers in the mine. The community claims that the authorities had not adequately consulted the community: “There was a coalition between the different levels of the state. The federal level granted the permit with the support of the state Government. At the local level, a former leader of ours supported the company and allowed it to enter. [...] Without even realizing what happened, they already had a 50 year agreement. Our hills, our lands were sold. Even so, we wanted to demand fair payment for the rent of our ejido lands.”

In this context, the inhabitants of Carrizalillo decided to organize and demand a more equitable distribution of the profits from gold extraction.²⁸ According to Valeriano “we forced the company to work differently.” The community organized a series of protests against the company: “We did a sit in, and in response the State Government sent us the police.” Several of the community members were arrested and imprisoned.²⁹

In 2007, the community began to negotiate new conditions for the use of the ejido land. The community demanded an increase in rent as well as improvements in infrastructure: roads, transportation, health care, and working conditions. The community members knew they needed to form alliances, since they knew they could not fight for their rights by themself-

ves. They therefore sought legal advice and ways to provide more visibility to the case. “In this struggle we turned to the Tlachinollan Human Rights Center,³⁰ who supported us nationally and internationally.”³¹

However, Carrizalillo was not the only affected community, “the communities involved are also Mezcala and Xochipala, but we don’t have a common organization [together]. Here in Carrizalillo, we asked for our rights for our communal land. Afterwards, other communities demanded the same rights. We have never organized the entire village.” The corporations take advantage of the difficulties in organizing. “There was never a formal agreement from the entire population. There are people for and against the project. The companies benefit from the fact that there is no one to advise us,” said Valeriano. He adds: “We feel a lot of pressure.”

Mining companies in the Mezcala region continue to receive permits for exploration and extraction. According to the corporation’s 2010 report, the “Los Filos” mine currently provides Goldcorp with the largest gold production in Mexico.³² Braulio Sotelo Vargas, commissioner of the nearby community La Fundición (Cocula municipality), informed PBI that the company Teck Cominco and its subsidiary in Mexico, Media Luna, are currently exploring this community, and the possibility of carrying out mining activities here. ■

28. For more information on the disproportionate distribution of benefits and the reaction of the local population in this case, see [Goldcorp y la reciprocidad negativa en el paisaje minero de Mezcala, Guerrero](#) [GoldCorp and negative reciprocity in the mining landscape of Mezcala, Guerrero state], No. 30 May. / Jun. 2009, Center for Research in Environmental Geography (CIGA), National Autonomous University of Mexico (UNAM).

29. On January 25, 2007, state and preventive police from Zumpango forcefully evicted the community members and imprisoned 70 farmers for almost four hours. A complaint was filed with the Commission for the Defense of Human Rights (CODDEHUM) - file number Coddehum/028/2007-1, which led to recommendation 21/2007.

30. [Tlachinollan](#)’s work focuses on the indigenous municipalities in the Montaña and Costa Chica of Guerrero. It primarily works to defend and promote the rights of the indigenous people. Website: [www.tlachinollan.org](#)

31. For more information on the organizing process of the Carrizalillo community, see XIII REPORT, June 2006 - May 2007, [Por los Caminos de la Resistencia](#), ‘Tlachinollan’, Tlapa de Comonfort, Guerrero (Mexico), June 2007, p. 17 to 36.

32. Goldcorp Inc.: Annual Report 2010, Building our Future, p. 4.

Mining projects and collective rights

by Rosalinda Márquez (PRODESC), Mexico City

Rosalinda Márquez García is a member of the Project on Economic, Social, and Cultural Rights, A.C. (Proyecto de Derechos Económicos, Sociales y Culturales, ProDESC), a human rights NGO that defends and promotes social, economic, and cultural rights through strategic litigation, legal analysis, strengthening organizational processes, research, and political advocacy.



The Sierrita community protests for a more equitable distribution of resources © Prodesc

At ProDESC, we have identified practices by the mining companies and the government that violate certain rights, starting with the procedure for granting concessions. The Mexican Government ignores its obligation to inform and consult with communities and landowners. This happened to a group of small landowners in Cuetzalan del Progreso, Guerrero. The Canadian company Goldcorp came to the land in 2007 without authorization and carried out exploratory work – they said they had a mining concession to carry out this work. After two years of defending their land and territory, the landowners in Cuetzalan del Progreso obtained payment for damages caused by the company and got the company to leave the land.

In many cases, the land is either cooperatively (ejido) or communally owned, and the Ejido Assembly must authorize any activity on the land, however this authorization is often not properly obtained. Such is the case of La Sierrita in Durango. In 2004 the Canadian company Excellon Resources Inc. was able to rent 4 hectares of land. Subsequently, the mining company offered “to buy” 2,700 hectares, however they only paid for 1,100 hectares, and threatened to “expropriate” the land if they did not sell it. The community decided to organize and was able to get a temporary occupancy contract with social, economic, and environmental clauses.

The mining company is obliged to respect the rights of their workers, but companies tend to violate both Federal Labor Law and standards in safety and hygiene, as

well as international treaties ratified by Mexico.³³ The Government fails to monitor compliance with these standards.

Another example is the case of workers from the Los Filos-El Bermejil project in Mezcala, Guerrero, who are subjected to poor treatment by the supervisors of the company. They decided to form a coalition to improve their working conditions. The company accepted these conditions after 500 workers went on strike. These workers are now part of Section 269 of the Miners Union³⁴ and their collective contract is one of the best in the mining industry.

ProDESC has also seen how transnational corporations encourage division between the affected communities and the workers. At the La Platosa mining project, which belongs to Excellon Resources Inc. in Durango, workers organized to form a union and to claim their rights, due to the deplorable health and safety conditions in which they were forced to work. The company argued that the union was putting the mining project at risk and threatened to leave the country. This created a state of confusion and ejido landowners and workers were confronted. Cu-

rently negotiations are taking place between the company and the union.

In our experience, we have found that one of the best ways to protect economic, social, and cultural rights and to fight for a life with dignity, does not come from the individual, but instead through solidarity and collective organizing. ■



Farmer from Carrizalillo protests against mining © Tlachinollan

33. [The Inter-American Convention on Human Rights](#), the [International Covenant on Economic, Social, and Cultural Rights](#), and Conventions by the [International Labour Organization](#).

34. SNTMMSSRM: National Union of Mine, Metallurgical, Steel and Allied Workers of Mexico [[Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana](#)].

Recommendations



In the recent Constitutional Reform on Human Rights, Mexico elevated fundamental rights ratified in international treaties to a Constitutional level, including the right to free, prior and informed consent, specified in the International Labour Organization's Convention 169,¹ which was ratified by Mexico in 1990. However, the current Mining Law does not establish mechanisms for consulting affected communities, and this violates international treaties.

Peace Brigades International highlights some of the recommendations made by international bodies and mechanisms that support the claims made by indigenous and rural organizations opposed to mining projects:

The United Nations Human Rights Committee recommended in 2010 that Mexico should "consider reviewing the relevant provisions of the Constitution reformed in 2001, in consultation with indigenous peoples. It should also take all necessary steps to ensure the effective consultation of indigenous peoples for decision-making in all areas that have an impact on their rights."²

In 2009, in the context of the United Nations Universal Periodic Review (UPR) for Mexico, recommendations were made regarding the protection of indigenous people.³ Specifically, to "adopt appropriate legislation in full conformity with international standards on the rights of indigenous peoples [...], and take necessary measures to ensure the right of indigenous peoples and other communities affected by business or development projects to be adequately and fairly consulted, in accordance with the commitments undertaken by ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples."⁴

The Committee on Social, Economic, and Cultural Rights recommends that Mexico ensure "the full integration of economic, social and cultural rights in its social development and poverty reduction strategies, specifically address the needs of disadvantaged and marginalized individuals and groups, and allocate sufficient funds for the implementation of these strategies. [And,] intensify its efforts to address the wide disparities between rich and poor, North and South, and between rural and urban areas."⁵

The Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples is a product published after of the Mission to Mexico led by Rodolfo Stavenhagen. This report highlighted, amongst other recommendations regarding agricultural and environmental conflicts, and states that "indigenous groups and communities should have priority access to natural resources for the purpose of direct consumption and subsistence, ahead of any economic or commercial interests."⁶ ■

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Design and layout: Nando Cornejo
Photographs: PBI; Frente Amplio Opositor (FAO), Proyecto de Derechos Económicos, Sociales y Culturales, A.C. (ProDESC); Mercedes Aquino; Niparáj, A.C.; "Tlachinollan" Human Rights Center, Oaxacan Ministry of Indigenous Affairs.

Backpage photo: Placards against San Xavier mining company, Cerro San Pedro (San Luis Potosí) © FAO

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1. Right to consultation: Article 15(2) of the [ILO Convention No. 169](#). According to the Convention, "governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands."

2. Concluding observations of the Human Rights Committee, [Consideration of the reports presented by the States Parties by virtue of Article 40 of the International Covenant on Civil and Political Rights, Mexico](#), CCPR/C/MEX/CO/5, United Nations, paragraph 22, April 7, 2010.

3. Recommendations 75, 76, 77, and 78 of the [Universal Periodic Review \(UPR\) of Mexico](#) before the UN Human Rights Council (2009). These recommendations are found among the recommendations accepted by the Mexican government.

4. Recommendation 77, UPR of Mexico, recommendation made by Argentina, Bolivia, Denmark.

5. [Concluding observations of the Committee on Economic, Social, and Cultural Rights, Mexico](#), E/C.12/MEX/CO/4, paragraph 42, June 9, 2006.

6. Recommendations 73 to 80, [E/CN.4/2004/80/Add.2](#), December 23, 2003.



Peace Brigades International (PBI) is a nongovernmental organization with 30 years of experience in international accompaniment and has been present in Mexico since 1999. International accompaniment is a conflict transformation tool and PBI's goal is to protect the political space for people and organizations that promote human rights in a non-violent manner and who suffer repression for their legitimate work.

PBI only works at the request of local organizations and does not replace efforts by Mexican human rights defenders to promote respect for human rights. Rather, it merely seeks to support their initiatives by standing next to them.

PBI regularly visits conflict areas, distributes information, and dialogues with civil and military authorities, as well as with human rights organizations and other civil society actors in Mexico. To promote international attention to the Mexican situation, and to help create the necessary conditions for human rights defenders to continue with their work, PBI also maintains a dialogue with the international community and international organizations such as the United Nations, disseminates information, and generates support from abroad in order to ensure the safety of Mexican defenders.

More information about PBI's work in Mexico can be found on our web site: www.pbi-mexico.org



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