

GOLD MINING IN GUATEMALA

EMERGENCY PETITION FOR "PRECAUTIONARY MEASURES" FILED WITH INTER-AMERICAN COMMISSION OF HUMAN RIGHTS CONCERNING POSSIBLE REPRESSION IN MAYA MAM COMMUNITIES AFFECTED BY GOLDCORP Inc's "MARLIN MINE"

BELOW: two letters filed with the Commission, requesting Precautionary Measures, building on larger, substantive cases before the Commission dealing with the negative harms of Goldcorp in the municipalities of Sipakapa and San Miguel Ixtahuacán.

WHAT TO DO: see below.

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Guatemala, June 12, 2009

Santiago Cantón
Executive Secretary
Inter-American Commission on Human Rights
1889 F Street NW
Washington, DC 20006

Re: Request for Precautionary Measures to protect the families of the community of Ágel in the Municipality of San Miguel Ixtahuacán.

Dear Mr. Cantón:

The Association for the Integral Development of San Miguel Ixtahuacán (ADISMI), along with the Guatemalan Association of Mayan Lawyers and Notaries and the Multicultural Centre for Democracy of Guatemala (CDP), request from the Inter-American Commission, Precautionary Measures to protect the families of Saqmuñ in the community of Ágel, Municipality of San Miguel Ixtahuacán, Department of San Marcos, Guatemala.

We seek Precautionary Measure in response to serious physical threats to their lives and physical integrity caused by aggression on the part of security guards working for the Marlin Mine, owned by the Montana Corporation .

On Wednesday, June 10, the security personnel arrived in private security vehicles, along with 6 National Civil Police vehicles and 4 Military vehicles and began to threaten the local families who are protecting their community water source. If force is used against community members, there could be irreparable damage and it could lead to violent confrontations similar to those in Peru where indigenous peoples of the Amazon have been attacked.

We present the following information to support our request:

First: As the Inter-American Commission knows, in the Municipalities of Sipakapa and San Miguel Ixtahuacán, the Montana Mining Corporation has caused serious problems such as damage to some 120 houses, contamination of water by cyanide used by the mine, lack of consultation in good faith, and criminalization of community authorities, amongst other things.

Second: Presently, the company has occupied a territory where families have maintained a Community Agreement to protect the water source. The Agreement does not allow non-community members (including the mining company) to occupy the territory. However, the company has used deceitful tactics to manipulate a family so as to occupy the said territory.

As a result, the other families are now being threatened by the company, as it carries out exploration studies of the spring that provides water to the community. The community now fears that the source will be contaminated by the mining operations.

As the Inter-American Commission knows, the San Miguel communities are suffering from serious illnesses resulting from environmental contamination caused by the mining company.

Third: On a number of occasions, the community has requested that the company not occupy their lands. However, the company's insistence on occupying the lands has provoked violence and disturbance in the community.

Fourth: Faced with this occupation of their lands by the mining company, the community demands that the company withdraw its drilling equipment from the territory known as Saqmuj. On Wednesday, June 10, at 1PM, in response to the community's demand, the Montana Corporation brought in 2 National Civil Police cars and 4 military vehicles.

PETITION TO THE INTER-AMERICAN COMMISSION

We request:

That the Government of the Republic of Guatemala refrain from using security forces and the Army for the purpose of private security or to protect the occupation of lands by the Montana Corporation in the Maya Mam territory of San Miguel Ixtahuacán.

That the Inter-American Commission (as in the case regarding the petition of the Saramaka peoples) request information from the Guatemalan Government as to if they have carried out a consultation with the community of San Miguel Ixtahuacán, Department de San Marcos, where the Marlin Mine is located and is occupying indigenous territory and also to ask if the Ministry of Energy and Mines or the Municipality have carried out a consultation in good faith, ensuring that the company carries out its operations according to the following articles of the Constitution:

Article 67. Protection of Indigenous Lands and Agricultural Cooperatives. The lands of cooperatives, indigenous communities or whatever other forms of communal tenancy or collective agrarian ownership, as well as the family patrimony, will enjoy the special protection of the State and preferential credit and technical assistance that guarantees their possession and development, toward the end of assuring all inhabitants a better quality of life. The Indigenous Communities, and others possessing lands that historically

belong to them and that they have administered in a special traditional manner, will maintain this system.

Article 68. Lands for Indigenous Communities. Through special programs and adequate legislation, the State will provide state lands to the indigenous communities that need them for their development.

And from the Municipal Code:

Decree 109. Communal lands. The municipal government will establish, based on consultation with community authorities, mechanisms that will guarantee that members of the community can use, conserve and administer community lands which have been traditionally administered by the municipal government.[1] In all cases, the mechanisms should be based on Título IV, Capítulo I the Code.[2]

With respect to preceding article, guaranteeing the Constitutional Right to Communal Property of the Mayan Mam of San Miguel Ixtahuacán, the presence of the mining company, the police and military forces on this territory is illegal.

In conclusion, the water source in Saqmuj belongs to the community. As such, non-community members can only gain access if approved by a Municipal Community Consultation, as per Article 21 of the American Convention and ILO Convention 169. In this case, neither the municipal nor central government is complying with the regulations of the Inter-American Commission or Court on Human Rights.

Therefore, as a "Good Faith" Community Consultation has not been held, as per the American Convention on Human Rights, the Constitution and the Municipal Code, the Montana Mining Corporation is not authorized to gain access to the territory where the community water source is located, nor can it engage in exploration activities or any other sort of activity.

The families of Ágel are fearful of the consequences against their lives and physical integrity, especially of their children, including infants, given the threats used by the political and military forces and the contamination of their community water source.

Thus, we request the Commission to ask the Government to respect the community decision not to grant consent to the personnel of the Montana Corporation to occupy the territory where the water source of Saqmuj is located. We also request that the central government and the municipal government order the mining company to remove its equipment and whatever personnel from the company are occupying the territory, and as well, that the central government order the Police and the Army to leave the area and abstain from using any type of force against the civil population [3] of San Miguel Ixtahuacán.

For further information please contact:

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Carlos Loarca, Legal Consultant

NOTES:

[1] A communiqué, sent by the petitioners in the Sipakapa Case, in which the Alcaldía Comunitaria of San Miguel Ixtahuacán and residents of Ágel signed on to petition P-1566-07 of the Sipakapa Case, informed the IACHR of the title of the Maya Mam people of San Miguel to their property, which they held from 1674 to 1908, the date on the last community property title, which is still valid today.

[2] This Decree has to do with Community Consultations by the Municipal Council; with the request for consultation by the communities; with the municipal consultations requested by communities or indigenous authorities; as well as other modalities of consultation.

[3] This can constitute a crime against humanity according to the Inter-American Commission jurisprudence.

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Guatemala, June 16, 2009

Santiago Cantón
Executive Secretary
Inter-American Commission on Human Rights
1889 F Street NW
Washington, DC 20006

Re: Request for Precautionary Measures to protect the families of the community of Ágel in the Municipality of San Miguel Ixtahuacán.

Dear Mr. Cantón:

On Friday, June 12, I sent you a request for Precautionary Measures for the families of San Miguel Ixtahuacán, who are defending their lands from the Montana Corporation, a mining company that continues mining exploration and exploitation in the territory where the community water source is located.

Last night I was informed that the Prosecutor's office, police and military authorities are looking for Señora Gregoria Crisanta Pérez Bámaca of the community of Ágel to carry out an order to detain her.

As you were informed in an April 2009 letter regarding the Sipakapa Case #P-1566-07, and a request for precautionary measures (MS-260-07) in the same case, we sent a request for precautionary measures to protect the communities affected by the mine because of the grave risk to the life and health of the people resulting from demonstrated irreparable damage that has occurred.

In Section III of that document, we sent you a list of petitioners from the Concejo Municipal de Alcaldes Municipales and representatives of the communities of Ágel and San Jose Ixcaniche, where Señora Gregoria Crisanta Pérez Bámaca is a community representative of the community of Ágel that supports the petition.

Doña Crisanta is one of the 8 women from San Miguel Ixtahuacán who, because of their attempt to defend their land from occupation by the Montana Company, received repeated death threats, despite formal denunciations made to the Public Ministry that have never been investigated.

Last night, Mr. Javier de Leon of the ADISMI informed me that prosecutors, police and the army came to the ADISMI office to ask for Señora Crisanta.

Mr. Javier de Leon is a human rights defender. Since last Friday, he has received death threats on his cell phone. As a result he has had to leave his home and his community to find refuge in another place.

The ADISMI offices are located in the community of Maquivil, San Miguel Ixtahuacán. Mr. Javier de Leon is from San Miguel and is Director of this non-governmental indigenous human rights organization.

In conclusion, we wish to state that the life and integrity of Señora Gregoria Crisanta Pérez Bámaca and Mr. Javier de Leon are in grave danger.

Finally, I wish to remind Mr. Cantón that in his recent visit to Guatemala, the Special Rapporteur on the Human Rights of Indigenous Peoples, Víctor Abramovich, stated (communiqué #37/09) that he had received information concerning the high level of violence in the country, the high level of social exclusion affecting most seriously the indigenous people and the serious situation affecting the administration of justice. According to publicly available statistics, in Guatemala, the level of impunity has reached 98%.

With respect to the situation of defenders of human rights, the delegation received information concerning the increase of threats and attacks against these rights. With regard to protection of human rights defenders, the Special Rapporteur was informed that adequate measures have not been taken to analyze patterns of threats and attacks and allow for efficient investigation of denunciations. The Rapporteur received information that indicates that inter-institutional coordination for the implementation of precautionary measures by the State has not been effective.

The Rapporteur was informed that the Constitutional Court declared the consultation processes, carried out by the municipalities, to be non-binding. The Rapporteur repeated that the American Convention on Human Rights obliges the States to carry out previous, free and informed consultation to obtain the consent of the people and indigenous communities potentially affected by development programmes and investment projects in their territories.

PETITION TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Confronted by these violations of the American Convention and the serious danger in which Señora Gregoria Crisanta Pérez Bámaca and Mr. Javier de Leon find themselves, we request the Inter-American Commission on Human Rights to ask the Government of the Republic of Guatemala to put an end to all persecution and to comply with its international obligations.

We also request that the Inter-American Commission ask the Guatemalan State to adopt precautionary measures to protect Señora Gregoria Crisanta Pérez Bámaca, and to suspend the order to detain her, ensuring that her life and physical and moral integrity are not endangered.

We further request that the Inter-American Commission ask the Guatemalan State to adapt precautionary measures to protect Mr. Javier de Leon, to protect his life and physical and moral integrity.

Carlos Loarca, Legal Consultant

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WHAT TO DO

TO MAKE TAX-DEDUCTIBLE DONATIONS for indigenous and community organizations resisting the harms of large-scale "development" projects (mining, tourism, hydro-electric dams) and implementing their own development projects (schools and scholarships, health clinics, solidarity economy, etc), human rights and environment projects, make check payable to "Rights Action" and mail to:

* UNITED STATES: Box 50887, Washington DC, 20091-0887

* CANADA: 552 - 351 Queen St. E, Toronto ON, M5A-1T8

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READ: Eduardo Galeano's "Open Veins of Latin America"; Howard Zinn's "A People's History of the United States"; Naomi Klein's "The Shock Doctrine"; Paolo Freire's "Pedagogy of the Oppressed"

WWW.RIGHTSACTION.ORG / info@rightsaction.org: Based in Guatemala, Rights Action (with tax-deductible status in Canada and USA) funds and works with indigenous, development, environment and human rights organizations in Guatemala and Honduras, and also in El Salvador, Haiti, Oaxaca and Chiapas; and educates about and is involved in activism related to global development, environmental and indigenous and human rights struggles.