

Rights Action – August 21, 2012

## **TAHOE RESOURCES (GOLDCORP Inc) IN GUATEMALA AND THE “CRIMINALIZATION” OF COMMUNITY HUMAN RIGHTS AND ENVIRONMENT DEFENDERS**

Rights Action commentary  
August 21, 2012



(In 2012, 3 separate Rights Action delegations met with Oscar Morales, from the community of San Rafael las Flores, department of Santa Rosa.

Along with the Committee in Defense of Life,

Oscar is resisting the mining interests owned by Tahoe Resources and Goldcorp.

Now, he – and others – face trumped up criminal charges.)

### BELOW:

- Urgent action, from Front Line Defenders, about manipulated criminal charges
- Statement from Catholic Diocese of Santa Rosa, concerning trumped up charges and community divisions that Tahoe Resources' (Goldcorp Inc.) mining interests are causing

Through the mid-2000s, Goldcorp Inc. ([www.goldcorp.com](http://www.goldcorp.com) - includes phone numbers, email addresses, etc) affiliated companies began to develop the “Escobal” silver and gold mining project in the community of San Rafael las Flores, department of Santa Rosa, with no consultation with or permission from the local communities.

Until 2008, Kevin MacArthur was President and CEO of Goldcorp Inc. (overseeing operations of the infamous “Marlin” mine in western Guatemala, while exploring other mining opportunities around Guatemala). In 2008, MacArthur stepped down from Goldcorp. Soon after, Tahoe Resources (<http://www.tahoeresourcesinc.com/> - includes phone numbers, email addresses, etc) was founded and incorporated by MacArthur who is CEO and

President, and Tahoe took over the "Escobal" project from Goldcorp that retains a 40% interest in Tahoe Resources.

[The CPP (Canada Pension Plan) invests \$26 million in Tahoe Resources, and \$177 million in Goldcorp]

**TACTIC OF REPRESSION:**

Under MacArthur's watch, at Goldcorp, one tactic of repression used in the mining harmed communities of western Guatemala, by the Marlin mine, was the criminalization of community human rights and environmental defenders - ie, using the corrupted legal system to lay trumped criminal charges against people opposed to mining, or denouncing environmental and health harms and other human rights violations. At the time, Rights Action documented and denounced the laying of trumped up criminal charges against the Goldcorp 7 (7 [Mayan Mam men in 2007](#)), the Goldcorp 8 (8 [Mayan Mam women in 2008](#)) and the Goldcorp 5 (5 [more local community members in 2009](#)).

Now that MacArthur heads Tahoe Resources, trumped up criminal charges have been laid against courageous Guatemalans at the national level, and locally near the "Escobal" mine, who are peacefully and publicly advocating in favour of the human rights of local citizens, in defense of the environment, and for the right to carry out a public, binding consultation process.

In May and July of this year, Rights Action brought 3 delegations of North Americans to meet with community members in San Rafael las Flores opposing the illegal operation of MacArthur's latest mining venture, including three of the men now face these charges. Rights Action has been sending emergency relief funds to the local Committee in Defense of Life and Peace.

WHAT TO DO: see below

TAX CHARITABLE DONATIONS NEEDED: see below

**QUESTIONS / COMMENTS:**

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- Please re-post and re-publish this information
- Get on/off listserv: [www.rightsaction.org](http://www.rightsaction.org)
- [www.facebook.com/RightsAction.org](http://www.facebook.com/RightsAction.org)

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**GUATEMALA - REPEATED ATTEMPTS TO CRIMINALISE HUMAN RIGHTS DEFENDERS**

From: [caitriona@frontlinedefenders.org](mailto:caitriona@frontlinedefenders.org); <http://www.frontlinedefenders.org/>

21 August 2012

On 16 August 2012, human rights defenders Dr Yuri Giovanni Melini Salguero, Messrs Rudy Pivaral, Oscar Morales and Gustavo Martínez and Ms Andrea Marcilia Hernández Melini initiated legal proceedings aimed at overturning the provisional ruling of a judge which declared that they had committed the crimes of "violence against women" and "threats".

This provisional ruling is the latest in a series of attempts to criminalise human rights defenders seeking to realise the right to free, prior and informed consent in relation to the

Escobal Mining Project, located between San Rafael Las Flores, Santa Rosa, and Mataquescuintla, Jalapa.

CALAS (CENTRE FOR LEGAL, ENVIRONMENTAL AND SOCIAL ACTION IN GUATEMALA): Yuri Melini was the recipient of the 2009 Front Line Defenders Award for Human Rights Defenders at Risk and is the Director of Centro de Acción Legal, Ambiental y Social de Guatemala - CALAS (the Centre for Legal, Environmental and Social Action in Guatemala), an organisation which works to promote environmental issues, community participation and respect for the collective rights of indigenous communities in relation to environmental concerns.

COMMITTEE IN DEFENSE OF LIFE AND PEACE: Rudy Pivaral, Oscar Morales, Gustavo Martínez and Andrea Marcilia Hernández Melini are members of the Comité en Defensa de la Vida y la Paz de San Rafael Las Flores (Committee in Defence of Life and Peace in San Rafael Las Flores), which promotes the carrying out of community consultations in accordance with the right to free, prior and informed consent.

On 16 August 2012, Mr Rafael Maldonado, a member of CALAS and the legal representative of the aforementioned human rights defenders, submitted a motion for review to Judge Estuardo de Jesús Barrientos Archila, Justice of the Peace of San Rafael Las Flores. It was subsequently rejected by the judge, in contravention of the law, who argued that he did not have to hear the case. The judge went on to issue a writ against Rafael Maldonado, saying that the lawyer had slandered him and threatening to report him to the relevant authorities should he initiate similar actions in the future. The human rights defenders plan to submit a fresh legal challenge on 22 August.

On 8 August 2012, Judge Estuardo de Jesús Barrientos Archila provisionally ruled that Yuri Melini, Rudy Pivaral, Oscar Morales and Gustavo Martínez had committed the crime of "violence against women", and that Andrea Marcilia Hernández Melini had committed the crime of "threats". This conclusion was arrived at in spite of the fact that Yuri Melini has never met any of the 13 women who lodged the official request for protective measures and the other aforementioned human rights defenders are only acquainted with two or three of them.

The complainants allege that the human rights defenders attempted to force them to leave the associations they are affiliated with and that their lives, and the lives of their immediate family members, are at risk due to threats they have allegedly received. Each of the complainants claim that they represent organisations established following the commencement of the process analysing the appropriateness of community consultations.

A number of attempts to criminalise human rights defenders who promote the carrying out of community consultations were made in previous months. On 18 July 2012, a complaint against Andrea Marcilia Hernández Melini was made to the Honour Tribunal of the Bar Association. Ms Gloria Cruz Pivaral, the complainant, claims that Andrea Marcilia Hernández Melini exceeded her authority when she included the term "civil society" in the drawing up of a notarial deed pertaining to a meeting of people that promote the holding of community consultations.

Moreover, on 25 April 2012, a complaint of "usurpation of functions" was made against Rudy Pivaral and Oscar Morales to the Public Prosecutor for Administrative Crimes. The complainant alleges that the human rights defenders committed an offence by representing civil society at the commission established to analyse the appropriateness of the request for community consultations. Both of these cases remain open.

On 12 April 2012, a writ of amparo was submitted against Father Néstor Melgar, who was presented as the representative of the local people requesting that the local authorities consult with those residing in the vicinity of San Rafael Las Flores regarding the mining project. Notwithstanding the fact that only the actions of public authorities, and not of private individuals can be the subject of a writ of amparo, Judge Ligia Aracely Pérez Véliz processed the writ and gave the indicted authority a period of time to respond. The Amparo Tribunal subsequently closed the case.

In October 2011, human rights defender Mr Amadeo de Jesús Rodríguez Aguilar, leader of the Local Committee in the Defence of Life, was accused of "kidnapping". This accusation was made after he interrupted a meeting between shareholders of the foreign companies financing the mining project and their local representatives in order to explain to the shareholders in English some of the problems being caused by the project.

Front Line Defenders believes that the attempts to criminalise the aforementioned human rights defenders is directly related to their legitimate and peaceful work in defence of human rights, particularly their efforts to realise the right to free, prior and informed consent in relation to the Escobar Mining Project. Front Line Defenders is concerned by what it perceives to be a clear strategy being employed by certain actors who wish to block community consultations, which aims to delegitimise human rights defenders by creating the impression that they do not represent the wider community and by accusing them of criminal acts.

Front Line Defenders urges the authorities in Guatemala to:

1. Immediately drop all charges against the above-mentioned human rights defenders as it is believed that these measures have been taken against them solely on account of their legitimate and peaceful work in defence of human rights;
2. Carry out an immediate, thorough and impartial investigation into the concerted efforts being made to criminalise human rights defenders seeking to realise the right to free, prior and informed consent, and take all necessary steps to prevent the judicial system from being used with the sole aim of restricting the work of these human rights defenders;
3. Guarantee in all circumstances that all human rights defenders in Guatemala are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions including judicial harassment.

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**COMMUNIQUE OF THE DIOCESE OF SANTA ROSA DE LIMA  
IN RESPONSE TO THE RECENT PUBLICATIONS  
AGAINST CODIDENA, ENVIRONMENTAL ASSOCIATIONS AND CERTAIN  
MUNICIPALITIES  
OF THE DEPARTMENT OF SANTA ROSA**

Brothers and sisters of the Diocese of Santa Rosa de Lima and of our beloved Guatemala, receive a greeting of peace and goodness.

Our country is passing through a difficult time of violence, lack of jobs, food crisis, problems in areas of health and education, narcotraffic, human trafficking, etc.. The Catholic Church has always offered its presence in dealing with these issues and proposed alternatives that accompany the people in the search for justice and peace.

A fundamental part of our mission is to preach the Gospel which shows the true face of God and which does not desire that anybody lose their dignity. An evangelization that likewise

places the emphasis on justice as Jesus demonstrated throughout his life and which, in the end, led him to the cross.

Likewise, there are many projects which the Catholic Church offers to the communities where needed—projects covering health, education, human rights, support for farmers, assistance to the sick, to the elderly, to those with special needs, to children and youth. With hard and untiring work we move forward resolving problems together and finding new paths which bring dignity to human life.

Recently, and stemming from the presence of the Minera San Rafael [Tahoe Resources' mining company] in our territory, we have been victims—along with some environmental associations and one municipality of Santa Rosa—of defamation, comments made with harmful intent, and false accusations which seek to divide the communities and spur confrontation between Church and society when, in reality we have attempted to walk together in promoting humanity.

We are being accused of not wanting development for the people when we are making evident the desire to seek the truth and show it with all realism. We use pacific means and are accused of causing revolts and destroying the peace. We make use of the right of all citizens to free expression, and they don't want us to express ourselves. We accompany the people in their right to information, and we are told that it is not our role in life to do so. Sadly, we see how some persons make use of the media, investing a great deal of money to defame and divide.

As the Church in Santa Rosa we defend life and truth, justice and peace, which are clear and precise commandments from God for God's people. We will continue working in the construction of the Reign of God, in defense of human dignity and the environment. We will not allow ourselves to be intimidated by unfounded comments which seek to destabilize society in order to profit, instead of seeking justice and development for all.

We encourage the Catholic communities, and all men and women of good faith, to seek always the truth and not to allow ourselves to be deceived by currents of disinformation that do harm to our country. We thank the people who work each day to build peace and who seek a human development that is respectful of the natural environment.

With all the priests of the Diocese we declare our concern for the growing social conflicts which are destabilizing more than one parish in our diocese. At the same time, we come together in prayer for those who seek to divide us, hoping that they change their hearts and be more considerate of life and their people.

God bless everyone.  
Diocese of Santa Rosa de Lima  
August 14, 2012

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**TO MAKE TAX-DEDUCTIBLE DONATIONS (in Canada and the U.S.)**

for courageous community-based organizations in Guatemala working and struggling for community controlled development, the environment, human rights and justice, make check payable to "Rights Action" and mail to:

UNITED STATES: Box 50887, Washington DC, 20091-0887  
CANADA: (Box 552) 351 Queen St. E, Toronto ON, M5A-1T8

CREDIT-CARD DONATIONS can be made (in Canada and U.S.):

<http://www.rightsaction.org/tax-deductible-donations>

BE A MONTHLY CREDIT CARD DONOR (in Canada and U.S.):

<http://www.rightsaction.org/tax-deductible-donations>

DONATIONS OF STOCK can be made: [info@rightsaction.org](mailto:info@rightsaction.org)

### **THESE ARE “OUR” PROBLEMS**

Please send copies of this information, and your own letters, to your own Canadian and American politicians (MPs, Congresspersons, Senators) and other government officials, and to your own media and the companies themselves. North American resource extraction companies operate around the world with the full support of North American governments. Please send copies to pension funds across North America – like the Canada Pension Plan – that are invested in and profiting from most North American resource extraction companies around the world, with no real concern for environmental, health or human rights concerns.

### **MORE INFORMATION about these and other mining related struggles:**

[info@rightsaction.org](mailto:info@rightsaction.org)

[www.rightsaction.org](http://www.rightsaction.org)

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