

Metal Mining and Human Rights in Guatemala

The Marlin Mine in San Marcos



Peace Brigades International

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Foreword



In 1983, Peace Brigades International (PBI) opened a project in Guatemala, establishing a stable team of volunteers after receiving petitions for international accompaniment from Guatemalan human rights organizations. PBI would continue in Guatemala for 16 years.

Over these 16 years, PBI provided accompaniment to human rights organizations, unions, indigenous, peasant, refugee and church groups. In 1999, PBI closed the project after an exhaustive evaluation determined that the country had made advances in opening a space in human rights organizations could work. Nevertheless, PBI continued to closely monitor events in the country through a Security Committee.

Starting in mid-2000, we began to receive international accompaniment petitions from Guatemala again. We conducted a preliminary investigation that showed a deterioration of the situation and, in some cases, a closing of the space in which human rights defenders were working.

After several exploratory missions, PBI decided to reopen the project in 2002 to carry out accompaniment and observation work in collaboration with other international accompaniment NGOs. In April 2003, a new PBI office was opened in Guatemala City.

At the end of 2003, the issue of metal mining came to a head on the national level. At the same time, harassment of environmentalists and grass-roots leaders working on this issue increased, which led to petitions for PBI to accompany various organizations and individuals receiving threats.

Since then, PBI has been investigating the mining issue more extensively by gathering information in Guatemala. The report we present to you here is the fruit of the PBI-Guatemala team's work over these past few years.

No research report can cover all aspects of this complex and problematic issue. Therefore, we tried to explain the general aspects of the mining industry to provide an understanding how mining companies set up and operate in Guatemala, and the consequences. We decided to use the Marlin mine as an example because we have been maintaining a presence in that area with international accompaniment and observation. We think this case illustrates the problem very well and it has been at the center of national debate since Glamis Gold Ltd. arrived in Guatemala.

Acknowledgements

This report was prepared by the Peace Brigades International team in Guatemala. However, it would not have been possible without the support and collaboration of many other people.

This space is dedicated to all those who collaborated at different times so that this report could be published, to all those who found the time to meet with us, answer our questions and share their interest in our work, and to all others within PBI who made their own contribution to this effort.

It is also dedicated to all those whose lives we have touched along the way in Guatemala.

Methodology

The methodology for preparing this report consisted of the following:

- a. **Study of various reports, books and documents on the subject of strip mining of metals.**
- b. **Research of articles published in various news media:**
 - Inforpress Centroamericana
 - Prensa Libre
 - El Periódico
 - Siglo Veintiuno
 - La Hora
 - La Cuerda
 - PBI Guatemala Bulletin
 - Solidarité Guatemala (Collectif Guatemala, France)
- c. **Interviews with the individuals listed below to gather information on the subject:**
 - *Monseñor Álvaro Rammazzini Imeri*, Bishop of San Marcos, Chairman of the Conference of Catholic Bishops of Guatemala (CEG), and member of the High Commission on Mining.
 - *Jorge Antonio García Chiú*, Vice Minister of Energy and Mines and representative of the Ministry to the High Commission on Mining.
 - *Magali Rey Rosa*, representative of Madre Selva and member of the High Commission on Mining.
 - *Carlos Humberto Guarquez*, Coordinator of the Program to Reinforce Municipal Government of the Maya Foundation.
 - *Mario Perfecto Tema Bautista*, President of the Association of Indigenous Peoples of America and program coordinator of the Sipaka Linguistic Community.
 - *Yuri Giovanni Mellini*, General Director of the Center for Legal, Environmental and Social Action of Guatemala (CALAS).
 - *Martín Sacalxot*, Indigenous Peoples Advocate of the Guatemala Human Rights Ombudsman's Office (PDH).
- d. **Interviews with the following persons regarding the technical aspects of the report and access to information:**
 - *Maria Eugenia Solís*, legal advisor of Madre Selva.
 - *Luis Solano*, journalist.
 - *Amilcar de Jesús Pop Ac*, President of the Mayan Lawyers and Notary Publics of Guatemala (ANMAG), lecturer at the universities of San Carlos and Landívar.
 - *Eric Holt-Giménez*, of the Banking Information Center (BIC).
 - *Miguel Ángel Albizures*, spokesman for the Center For Human Rights Legal Action (CHRLA).
 - *Domingo Matías* of Rights Action.
 - *Marc Drouin*, of the Québec-Guatemala Accompaniment Project
- e. **Analysis and discussion of the information gathered. Preparation of a draft document.**
- f. **Feedback on the first draft from people within our organization who are familiar with the subject.**
- g. **Preparation of the second draft to include all of the feedback.**
- h. **Preparation of the final document.**

As we were preparing this document, we encountered some limits that should be taken into account when reading it.

This report was written in February 2006 at a time when the national debate on this issue was coming back to the forefront. Therefore, due to time restraints, the text is limited to the situation prior to that date and leaves out events that took place afterwards, as it was impossible to continuously update the document. We also encountered some problems when attempting to combine all of the documents, notes and explanations into one document, given the significant amount of opinions and documents on the subject.

The contributions of everyone who collaborated in preparing this report have been invaluable. We hope we were able to express in one way or another most of the multitude of opinions provided, and we apologize if some were not included.

As a result of this great collaboration, we present a document which we hope will help those entities, enterprises and organizations interested in the future of Guatemala and thus in human rights and the space in which those who take a position on this very controversial subject work.

[It should be noted for readers that the spelling used to enunciate “Sipacapa” varies depending on the source. Guatemalan’s state institutions prefer “Sipacapa”. However, Mayan linguists use “Sipakapa” (see Academia de Lenguas Mayas de Guatemala, 2001, Toponimias Mayas Sipakapenses, Guatemala, ALMG). In this document, “Sipacapa” is used to refer to the municipality, and “Sipakapa” to refer to the residents of the community.]

Introduction

At the end of 2003, a national debate on metal mining began in Guatemala. This debate was sparked by the arrival in the department of San Marcos of the mining company Montana Exploradora de Guatemala S.A., a subsidiary of Glamis Gold Ltd., based in Reno, Nevada. Since it is an activity that poses elevated health and environmental risks, while a very profitable industry at the same time, metal mining raised many questions and comments about how to strike a balance between the benefits and risks involved. Such issues as local development, citizen participation and environmental impact were debated. Strong opinions on both sides of the issue quickly led to a polarization of opponents and supporters at all levels of Guatemalan society.

The Guatemalan government, the Catholic Church and representatives of Civil Society, popular leaders, entrepreneurs and newspaper columnists have engaged in a “war of words” to disparage or praise the merits of metal mining in the country. In the most extreme cases, the intense conflicts generated by the debate led to acts of violence and harassment against opponents of the mines.

In view of the confrontation provoked by the controversy, Guatemalan President Oscar Berger Perdomo proposed a dialogue between the various actors in the conflict. In February 2005, the High Commission on Mining was established to discuss possible changes to Guatemalan legislation to establish adequate means to regulate metal mining. In addition, its intention was to debate and propose a mining policy that would satisfy all actors involved in the conflict, i.e. the State, the mining companies and the affected populations.

I. The History of Mining in Guatemala.

I.1 Before EXMIBAL

In Guatemala, metal mining goes back to pre-colonial days. Originally, the metals were used as raw materials for making tools, weapons¹, bartering items or ornaments². Mineral mining for profit, as practiced today, began in the colonial period. One aspect of mineral mining to emphasize is the exploitation of the indigenous people in the production centers. Today, little is known about the majority of these centers, since they were hidden by the operators at that time. Some have been discovered near Guatemala City or Zunil³.

Social conflicts arising after Guatemala became independent (1821) led to a decline in mining activities. This was due to the unrest resulting from repeated clashes between the various independence movements in the region. A half century later, the Liberal Reforms of 1871 opened Guatemala's borders to trade. Mining activities then depended on the prices of metals on the international market. At the beginning of the 20th Century and beyond, mining experienced ups and downs in accordance with market fluctuations⁴.

I.2 EXMIBAL: Shaping Guatemala's History

In the mid-20th Century, metal mining increased significantly (mainly gold and silver⁵), giving rise to the legal basis on which the activity has been regulated since. After the CIA-orchestrated coup d'état that toppled Jacobo Árbenz in 1954, mining codes were systematically enacted which made clear, according to Luis Solano⁶, that the State intended to facilitate the interests of mining companies⁷.

At the end of 1962, the Canadian-based International Nickel Company (INCO), parent company of Exploraciones y Explotaciones Metálicas de Izabal, S.A.

(EXMIBAL), proposed that the Guatemalan regime, then governed by General Idigoras Fuentes (1958-1963), enact a new mining law, arguing that this would stimulate investment in the industry⁸. Thus, in 1965 as the internal armed conflict began intensifying in Guatemala, mining companies, in particular EXMIBAL⁹, played an active role in drafting the new national mining code. To do this, INCO hired the Peruvian engineer Emilio Godoy, an expert in mining legislation.

In April 1965, under the new regime of Col. Enrique Peralta Azurdia (1963-1966), who also participated in the coup, a mining code based on INCO's proposals was approved. The text defined the legal framework that, four months later, allowed Col. Peralta to grant INCO 410 square kilometers to INCO in concessions in the departments of Alta Verapaz and Izabal for 40 years. INCO thus became one of the major land holders in the area.

In the late 1960s, Guatemalan President Julio César Méndez Montenegro (1966-1970)¹⁰ proposed a review of the relationship between INCO and the previous regime after meeting with university staff who opposed the concessions granted to the company. These university officials were members of the Faculty of Economic Sciences of the University of San Carlos (USAC) and were members of a commission investigating mining activities in Guatemala. The university commission was led by USAC's dean, Rafael Piedra Santa Arandi¹¹.

However, after the military returned to power in 1970, the privileged negotiations between mining companies and the regime were more open¹². Companies such as EXMIBAL knew that they must respond to the interests of the military to earn favors from the State. For its part, according to Solano, the military wanted direct connections with foreign investors in order to maintain economic control over the growing mining industry.¹³

1. Ministry of Energy and Mines, November 2004, *Caracterización de la Minería en Guatemala*, Guatemala, MEM.

2. Friends of Lake Izabal Association, ASALI, December 2004, *Estudio sobre Industrias extractivas con enfoque en extracción minera y petróleo*. Oxfam América. Guatemala.

3. Op cit ASALI, 2004.

4. Ibidem

5. Op cit MEM, 2004.

6. Luis Solano, economist, investigative journalist and social researcher. (Solano, Luis, 2005, *Guatemala: petróleo y minería en las entrañas del poder*, Guatemala, Inforpress Centroamérica).

7. See Annex I: Metals present in Guatemala and their use.

8. Letter from Robert C. Boone (Administrative Director of EXMIBAL) to Julio Montano Novella (General Director of Mines and Hydrocarbons,

Ministry of Energy and Mines). Guatemala, 27 November 1962 (as quoted by the Instituto de Investigaciones Económicas y Sociales de la Universidad de San Carlos (IIES), 1979, "EXMIBAL contra Guatemala", Guatemala, USAC, serie Defensa del Patrimonio Nacional, 2a ed., vol 1).

9. La EXMIBAL se dedicó a la extracción de níquel en el municipio de El Estor, departamento de Izabal (for more information, refer to op cit, ASALI, 2004).

10. The only civilian president of Guatemala between 1954 and 1986.

11. Instituto de Investigaciones Económicas y Sociales de la Universidad de San Carlos (IIES), 1979, "EXMIBAL contra Guatemala", Guatemala, USAC, serie Defensa del Patrimonio Nacional, 2a ed., vol 1

12. Solano, Luis, *Guatemala: petróleo*

13. Ibidem.



EXMIBAL – Mineral drying and transformation plant. Courtesy of Madre Selva .

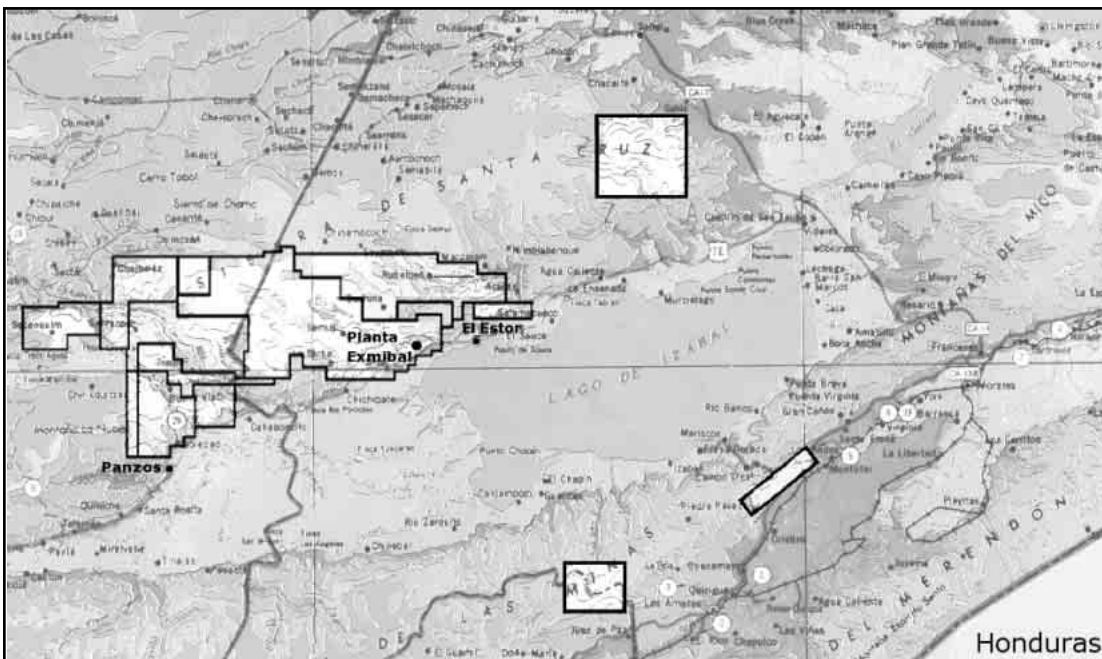
According to Solano, those who opposed metal mining were living in dangerous times. To oppose mining activities meant not only confronting the mining companies, but the repressive military juntas as well.

With a political backdrop of social crisis and armed conflict, and the military dominance of political power, the line between repressing mining opponents and repressing the insurgency became blurred¹⁴.

EXMIBAL was located in a zone influenced by the guerillas in the department of Izabal¹⁵, and its installations were

sabotaged on several occasions.

Coming to power in July 1970 was General Carlos Arana Osorio, who was known in the previous decade for his iron fist in dealing with insurgents in Izabal, where the first concessions were granted to INCO. In November 1970, just four months after Arana Osorio took power, and again in January 1971, two of the four members of the aforementioned university commission investigating mining activities were assassinated, while a third miraculously survived.



Concession of EXMIBAL, 1965-2005. Source: Guatemalan Office of Mining and Hydrocarbons

14. Ibidem.

15. The Guerilla Army of the Poor (EGP) operated in this area.

The fourth, Rafael Piedra Santa, fled into exile¹⁶.

The involvement of the mining company in the violent acts against its opponents was documented by the Historical Clarification Commission (HCC), which was charged with investigating crimes committed during Guatemala's 36-year armed conflict.

In its report, *Guatemala, Memoria del Silencio*¹⁷ (Guatemala, Memory of Silence, the HCC mentions the participation of EXMIBAL personnel in violent acts between 1978 and 1982¹⁸, a period in which the State's counterinsurgency campaign was at its height. These acts were committed with impunity and remained unpunished to this day.

Furthermore, the HCC's report mentions a link between the company and the brutal repression of a peasant protest in the village of Panzós (Alta Verapaz) on 29 May 1978. Despite the lack of evidence linking EXMIBAL directly with the massacre, the HCC documents that large landowners (and INCO) negotiated the army's presence in the area at the time. In addition, several of the peasants murdered by the army that day had denounced the plundering of their lands by the company¹⁹.

In 1982, a rise in oil prices and a drop in the price of nickel on international markets caused the company to shut down its activities.

According to Luis Solano, the main reason EXMIBAL decided to leave was the refusal of the regime to meet the new demands of the company to reduce royalties and the cost of electricity²⁰. Solano points out that EXMIBAL paid no taxes to the State during the 15 years of its operation²¹.

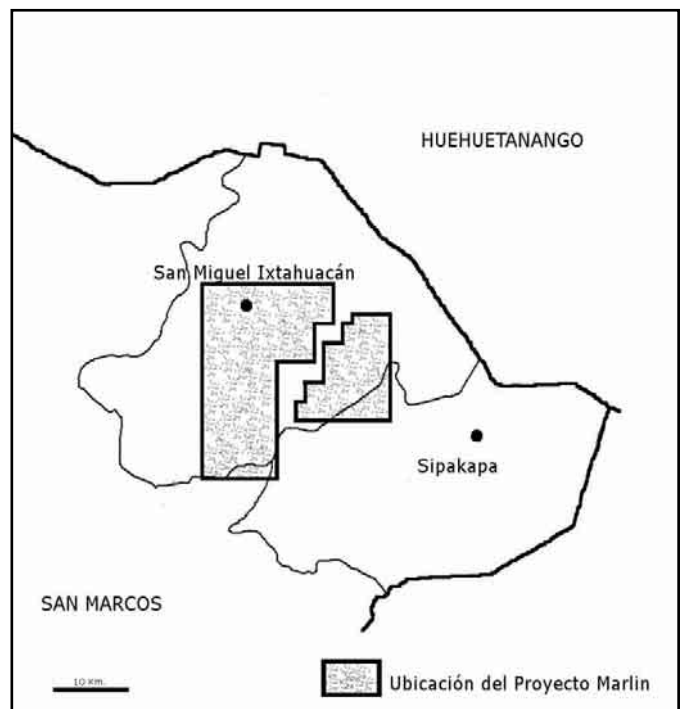
1.3. The Arrival of Glamis Gold Ltd.

During an apparent pause in mining activities the 1980s and 90s, a period characterized by the armed conflict and initial peace negotiations, the metal mining issue returned to the public arena at the end of 2003, when the Guatemala government granted a mining permit to the company Glamis Gold Ltd.

1.3.1. The Marlin Project

The Marlin Project for mining gold and silver was set up between the towns of San Miguel Ixtahuacán and Sipacapa in the department of San Marcos, and it is owned by Glamis Gold Ltd. based in Reno, Nevada, in the U.S. The company is listed on the New York and Toronto stock exchanges. It was established in 1972 and has been involved in gold and silver mining since 1981²². Their first projects were developed in the state of California in the U.S. during the 1980s and 90s.

Starting in 1998, the company adopted a strategic plan to pursue growth opportunities in the Americas to lower production costs. The strategy included buying other companies of the sector operating outside of the U.S.²³ The same year, its acquisition of Marwest Resources Ltd. brought Glamis Gold to the San Martín²⁴ gold mine in Honduras, operated by the company Entre Mares, its new subsidiary.



Location of the Marlin mining project (courtesy of Madre Selva)

16. On 30 November 1970, lawyers Alfonso Bauer Paiz and Julio Camey Herrera were attacked. Camey Herrera was killed. Alfonso Bauer Paiz survived this attack and another attempt on his life at the hospital. On 13 January 1971, lawyer and congressional deputy Oscar Adolfo Mijangos López was assassinated. The fourth member of the commission, Rafael Piedra Santa Arandi, fled into exile (Solano, 2005).

17. Report of the Historical Clarification Commission, 1999, *Guatemala, Memoria del Silencio; Tz'inil Na'Tab'd*. UNOPS, Guatemala.

18. Op cit. *Guatemala, Memoria del Silencio*, cases 1145, 1149, 9401 and illustrative case No. 100.

19. Op cit, CEH, Annex I, illustrative case 9.

20. Refer to op. cit. According to Solano, EXMIBAL's decision to leave was also influenced by the refusal of *Basic Resources* to grant a preferential price for crude oil. p. 38

21. Op cit

22. At <http://www.glamis.com>

23. At <http://www.glamis.com>

24. The *San Martín* gold mine is in the department of Francisco Morazán, north of Tegucigalpa. The concession includes 14,100 square hectares, and its potential yield is an estimated at 1.1 million ounces (see <http://www.glamis.com/>). The installation was built in 1999 and began extracting gold in the summer of 2000.

The San Martín project was the first business venture of Glamis Gold outside of the US. and Canada, and the first of its new-generation mines of large size and low cost.

Continuing its growth strategy, Glamis Gold acquired the Canadian-based Francisco Gold Corp. (Vancouver) in July 2002. The Francisco Gold Corp. was working in the El Sauzal gold mine in the Mexican state of Chihuahua and had just merged with another Canadian company, Montana Gold Corp, owner of the Marlin gold and silver mine in the department of San Marcos, Guatemala.

The Marlin mine became Glamis Gold's most significant source of gold²⁵. It is estimated that the Marlin mine has a potential yield of 2.3 million ounces of gold, and 36 million ounces of silver. The company plans to extract around 217,000 ounces of gold and 3.5 million ounces of silver annually²⁶. The total sales of raw and exported product (not refined in Guatemala) is estimate at US\$893 million.

The total capital investment in the project has reached US\$ 140 million. For this reason, the World Bank granted financing of US\$45 million through the International Finance Corporation (IFC), which provides loans to the private sector.

The mining permit for the Marlin project was approved in November 2003, and since May 2004, the Guatemalan company Montana Exploradora S.A., a subsidiary of Glamis Gold, has been operating the mine²⁸.

1.3.2. Mining at the Center of Debate

With Glamis Gold's arrival in Guatemala, the conflict surrounding the mining issue intensified again. Politicians, civil society representatives and journalists took positions on the benefits and risks of strip mining, with two opposing views slowly forming.

The country's development was the main argument to justify metal mining in Guatemala. The companies, as well as the government of Oscar Berger argued that mining was an opportunity that Guatemala should take advantage of. They said it would ensure the well being of the population in the area of the mining activities. "Mines not only bring investment," said Vice-Minister of Energy and Mines

Carolina Roca, "but also rural development and jobs."²⁹

Opponents, on the other hand, suspected that these arguments are deceitful. Since January 2004, Luis Chávez of the Association of Social Organizations of San Marcos (COSAM) has criticized the little consideration given to the environmental impact of mining.

He has decried the minimum benefits that this activity would have for the population, and noted that the population most affected by the mining operations were not included in the process of defining their own path to development³⁰.

Since December 2003, the environmental group Madre Selva has been calling attention to past practices of Glamis Gold in Central America³¹. In particular, they denounced the environmental and social damage caused by the aforementioned San Martin mine in Honduras.

The company Entre Mares has been accused of ignoring all public referendums on their activities in the affected populations³². Regarding health issues, the Honduran environmental organization Madre Tierra reported a significant increase in skin diseases among residents of towns near the mine, as well as respiratory, neurological and eye diseases³³. It was suspected that contamination of water supplies was the cause of health and environmental problems attributed to the mining operations. This was confirmed by the results of water-quality tests requested by the Archdiocese Parish Services Office and the non-governmental organization Cáritas. The tests revealed that the levels of arsenic and mercury were higher than the permissible level³⁴.

In addition, a water shortage due to a lack of rain (caused by deforestation of the area) had a negative impact on local agriculture.

Residents had to buy their basic necessities (corn, beans, etc.), as they were unable to live off of crops, a situation that has put the entire area at risk³⁵. Glamis Gold, by contrast, argued that the Honduras project has had a positive impact, especially around the mine. The company cited social projects it has implemented and the improved quality of life of its employees³⁶.

25. At <http://www.glamis.com/>

26. Ibidem

27. The International Finance Corp (IFC) is one of five institutions that make up the World Bank Group. Each of these 5 institutions has a particular function. The IFC's mission is "to promote economic development through the private sector. With business partners, it invests in sustainable private enterprises in developing countries and provides long-term loans, guarantees and risk-management and consulting services to its clients. The IFC invests in projects in regions and sectors that receive insufficient investment from private sources. It attempts to find new resources to take advantage of promising opportunities in markets that are considered too risky by business investors without the participation of the Corporation (at <http://web.worldbank.org/>).

28. at <http://www.glamis.com/>

29. *El Periódico*, Thursday, 18 March 2004.

30. *Prensa Libre*, Wednesday, 21 January 2004.

31. *El periódico*, Friday, 26 December 2003.

32. Cuffe, Sandra, 2005, *Un Desarrollo Patas Arriba y al Revés: actores globales, minería y resistencia comunitaria en Honduras y Guatemala*, Rights in Action.

33. Report of Madre Tierra, directed by Dr. Juan Almeyda Bonilla, Brigadas medicas. (quoted in Op cit. Sandra Cuffe).

34. Op cit, Cuffe

35. Ibidem

36. <http://www.glamis.com/>

The Catholic Church in Guatemala, as in Costa Rica, Panama, Peru, Argentina and Honduras, have taken up the issue of mining, considering the facts and arguments³⁷. Metropolitan Archbishop, Cardinal Rodolfo Quezada Toruño, expressed concern to the government over future water problems, and the use of the highly-toxic cyanide³⁸.

President Oscar Berger offered to explain the advantages of mining to church officials personally. He told the bishops that, after he explained the project to them, they would come away “blessing anyone who carries out such projects.”³⁹ The president added that he considered the cardinal’s view on mining to be old-fashioned and populist.⁴⁰

The cardinal was quick to respond that making “*the best choice for the poor is not populism.*”⁴¹ The debate between Berger and the cardinal was discussed in minute detail in the press. Edgar Rosales summed up the situation in his column of 3 October 2004 titled “*Conflicto a cielo abierto*” (literally: “openair debate”)⁴².

As the differences between supporters and detractors of

mining intensified, a large part of the Guatemalan people remained at the margins of the debate, with little information about how the issue affected them. To change this situation, in March 2004, the Ministry of Energy and Mines (MEM) began a campaign to inform the communities around areas being explored for gold and silver “to avoid problems with residents.”⁴³

Throughout the year, part of the population protested metal mining. Starting in February, for example, residents of San Marcos began mobilizing to demand that the permit for operating the Marlin mine be revoked⁴⁴.

Likewise, indigenous and other popular leaders expressed concern for the people affected. Indigenous leader and former Congressional deputy Rosalina Tuyuc insisted that the “state is responsible for ensuring the health and survival of the people,” and “mining concessions violate this principle.”⁴⁵ In May 2004, Rosalina Tuyuc declared that the affected communities were prepared to engage in acts of passive resistance against the mining companies⁴⁶.

In her article, “The Blessings of Mining,”⁴⁷ Magali Rey Rosa ⁴⁸

A large police and army force escort a cylinder being transported through Los Encuentros to the Marlin project

Photo:Prensa Libre



37. *Prensa Libre*, 10 September 2004.

38. *Siglo Veintiuno*, 30 August 2004.

39. *Siglo Veintiuno*, 31 August 2004.

40. *Siglo Veintiuno*, 26 September 2004.

41. *Siglo Veintiuno*, 26 September 2004.

42. *Siglo Veintiuno*, 3 October 2004.

43. Statements by Carolina Roca, Vice-Minister of Energy and Mines (quoted in *El Periódico*, 18 March 2004).

44. *Prensa Libre*, 21 February 2004.

45. *Prensa Libre*, 1 May 2004.

46. *Ibidem*.

47. *Prensa Libre*, 3 September 2004.

wrote about the hardships suffered by Guatemalans as she expressed her opposition to the mining activities.

In addition, the environmentalist warned about how the communities would react if their concerns were not heard. They “will not stand by watching passively as their water, quality of life and dignity are carried off.”⁴⁹

These comments were published just prior to a confrontation in the village of Los Encuentros between the people of Sololá and state security forces in January 2005.

It was for this very reason that the need to inform the Guatemalan public about the issue was taken up at the First National Forum on Mining organized by MEM in December 2004⁵⁰.

1.3.3. The Incident at Encuentros, December 2004 / January 2005

According to Carlos Guarquez, since February 2004, the people of Sololá had heard that mining companies would be coming to their area.⁵¹ The residents, the majority of whom opposed the activity, remained vigilant.

In December 2004, machinery of the company Montana Exploradora de Guatemala arrived in the village of Los Encuentros, which is located in Sololá at kilometer 127 on the Inter-American Highway.

Workers were transporting a cylinder that was 7 meters in diameter and weighed 52 tons, and had begun dismantling a pedestrian bridge in the way at Los Encuentros.

The people of Sololá protested, complaining that they were not consulted about the dismantling of the bridge, which the town had built. The cylinder remained on the side of the road.

Carlos Guarquez said that when people asked where they were taking the cylinder, employees of the company Cropa Panalpina (the transport company hired by Montana) said

that it was going to be used to build a bridge in Huehuetenango⁵², which aroused the suspicions of the people of Sololá.

People pointed out that this type of cylinder was never used to build a bridge. Another version of the transport company was that the cylinder was going to be used by a mining company at La Estancia de la Virgen in the department of Huehuetenango⁵³. As the public become more and more skeptical, a rumor began to spread that the cylinder was going to be used by a mining company in Sololá.

The rumor provoked an immediate response from the people and they continued to block the passage of the cylinder, demanding that the government negotiate with them to cancel any existing concessions in Sololá. However, according to Guarquez, the negotiations never took place. Instead, on the night of 6-7 January, the government ordered a dozen police officers to the location to clear they way for passage of the cylinders⁵⁴.

When the people of Sololá learned of this, around 2000 more of them gathered in Los Encuentros and La Cuchilla⁵⁵ to reinforce the blockade.

Once again, the people demanded talks with the responsible authorities, criticizing the attempt by the transport company Cropa Panalpina to deceive them. Sololá Mayor Esteban Toc Tzay proposed a dialogue with the government to clear up the situation and find a solution⁵⁶. However, on 11 January at 7 a.m. the government sent more than 1500 National Civil Police (PNC) officers backed by approx. 300 soldiers to move the cylinder by force.

Security forces and residents clashed during the entire day and into the night. In the confrontation, shots were exchanged. One resident, Raúl Castro Bocel, died and 16 police officers were injured⁵⁷.

The cylinder finally advanced, arriving at the Marlin plant the next day.

48. Activist with Madre Selva and columnist with *Prensa Libre*.

49. *Prensa Libre*, 3 September 2004.

50. On 1 and 2 December 2004, the Ministry of Energy and Mines (MEM) organized the *First National Forum on Mining* to debate the issue and provide more information. Scientists, economists and politicians provided technical information on the feasibility of metal mining (see article by Alberto Ramírez Espada, Ana Lucía Blas and Cristian Peer, “Debate por extracción de oro,” in *Prensa Libre*, Friday, 3 December 2004). On 2 December, the alternative Forum Against Metal Mining was held. It was organized by Madre Selva, Plataforma Agraria, Trópico Verde and Mesa Global. The participants focus on the little profit that the activity brings to Guatemala, the destruction of the environment from extracting the metals, and the concern of the affected population regarding water and

social problems. The final conclusions of both forums emphasized the need to better inform the public about the issue.

51. Interview with Carlos Guarquez, member of FUNDAMAYA and advisor to the indigenous mayor of Sololá. Guatemala, 8 December 2005.

52. Cit. Interview Carlos Guarquez.

53. *El Periódico*, 5 December 2004.

54. Cit. Interview Carlos Guarquez.

55. Intersection of the roads that lead to Sololá and to San Marcos via Quetzaltenango.

56. *El Periódico*, 8 January 2005

57. *El Periódico*, 12 January 2005.

2- Mining laws and conventions on mining Guatemala

Guatemalan legislation establishes the conditions for national or international mining companies to operated in Guatemala. It also establishes the requirements to be met regarding fundamental human rights, such as access to water, the right to a clean environment and the right of the population to be consulted and participate in its own development. National laws may mediate, on paper, the interests of companies and the local population.

2.1 The Guatemalan Constitution

Guatemala's Constitution was approved in 1985 during the presidency of Vinicio Cerezo Arévalo (1986-1990). Article 125 declares "the technical and rational exploitation of (...) minerals to be useful and a public necessity." Article 121 establishes that the State is the owner of the national subsoil and, therefore, in accordance with Article 125, must regulated the activity, i.e. establish and favor "the appropriate conditions for its exploration, use and sale."

Regarding the environment, Article 97 urges the state, municipalities, and the Guatemalan people to carry out development in harmony with the environment and establish a regulatory framework so that the use of natural resources is rational and avoids ecological damages⁵⁸.

Regarding water, Article 127 defines all waters as *inalienable, non-forfeitable assets in the public domains*⁵⁹. Article 128 establishes that the use of water, for purposes of development, "is at the service of the community and not any private person."⁶⁰

2.2. The Mining Act (Decree 48-97)

The Mining Act was approved on 1 July 1997 during the presidency of Álvaro Arzú Yrigoyen (1996-2000). The salient parts of this act are the following:

- **Jurisdiction:** The Mining Act designates the Ministry of Energy and Mines (MEM)⁶¹ as the political and administrative body responsible for enforcing the government's mining policy (Article 2). MEM grants mining permits to applicant companies, verifies compliance with the law and, when necessary, imposes sanctions such as fines or suspension of operations. The Ministry of the

Environment and Natural Resources is responsible for monitoring and following up on compliance with environmental regulations.

- **Permits:** The law defines three types of metal mining permits:

- i. Reconnaissance permit (Title I, Chapter III): allows the holder to *identify and locate potential areas for exploration* ⁶²
- ii. Exploration permit (Title I, Chapter IV): allows the holder to "locate, study, analyze and evaluate deposits"⁶³.
- iii. Exploitation permit (Title I, Chapter V): allows the holder to "exploit the deposits" ⁶⁴.

- **Environmental impact:** The Mining Act recognizes that the environmental impact is different in the case of reconnaissance and exploration permits, or operation permits. The holders of reconnaissance and exploration permits must submit to the Ministry of Energy and Mines a mitigation study⁶⁵ that establishes the basis of a work plan to reduce the potential environmental impact (Art. 19 and 20).

Applicants for an operating license must prepare and submit an Environmental Impact Study (EIS). Roughly, the report must contain a description of the project from start to finish, the potential environmental impact and the strategy to mitigate it, and the companies social program. The EIS must have the backing of the Ministry of the Environment and Natural Resources for the operating permit to be approved for the company (Article 20).

- **Royalties:** Article 6 defines royalties the following way: *Financial compensation paid to the State for the exploitation of mining products or construction material, and not considered a tax.* The percentage of royalties on the company's profits shall be 1%. Of this percentage, half goes to the state and the other half to the municipalities (Article 63).

2.3. The Environmental Protection and Improvement Act (Decree 68-86)

Approved on 28 November 1986, the Environmental Protection and Improvement Act complements the

58. *Guatemdan Constitution. Artículo 97.- Environment and ecological balance.* "The State, municipalities and the inhabitants are obliged to favor social, economic and technological development that prevents contamination of the environment and maintains the ecological balance. All of the necessary regulations shall be issued which guarantee that the exploitation and use of animals, plants, land and water is carried out rationally, avoiding their depredation."

59. *Guatemdan Constitution Article 127.- Water regime.* "All waters are inalienable and non-forfeitable assets of the public domain. Their exploitation, use and enjoyment are granted in the form established by law in accordance with the interests of society. A specific law shall regulate this matter."

60. *Guatemdan Constitution. Article 128.- Use of water, lakes and rivers.* "The use

of water, lakes and rivers for agricultural, livestock, tourism or any other purpose that contributes to the development of the national economy is at the service of the community and not any private person, but the users are obliged to reforest the corresponding shores and riverbanks, as well as to facilitate access roads."

61. Including its various agencies; the General Directorate for Mining, and the Auditing and Oversight Department of the Ministry of Energy and Mines.

62. See Article 21 of the Mining Act.

63. *Mining Act. Article 24*

64. *Mining Act. Article 27*

65. *Article 6 of the Mining Act. Mitigation Study.* Technical report that describes the field reconnaissance and exploration operations and the effects on the environment with a view to its protection and conservation.

provisions of the Constitution to prevent the deterioration of the environment. The law regulates everything related to environmental impact, emphasizing prevention.

Regarding responsibility for its enforcement, in Articles 15 and 16, the law designates the government as responsible for establishing regulations regarding potential damage to hydrocarbon resources, soils, and lithic systems (i.e. rocks and minerals). Article 30 stipulates that “a public action may be filed with authorities for any event, act or omission that causes contamination or the deterioration or loss of natural resources, or that affects the quality of life.”

2.4. Convention 169 of the International Labor Organization (ILO) on Indigenous Peoples and Tribal in Independent Countries.

Adopted by the ILO in 1989, ratified by Guatemala in 1996, Convention 169 establishes guidelines for protecting the rights and integrity of indigenous peoples, and it defines them as the main actors in their own development. Article 7 of the Conventions states: “The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use.” Article 15, Section 2, states: “In cases in which the State retains the ownership of mineral or sub-surface resources, or rights to other resources pertaining to lands, 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 program for the exploration or exploitation of such resources pertaining to their lands.”

Regarding the methods for consulting the people, Article 6, paragraph a. states that governments shall:

“(a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly.

(b) Establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programs which concern them.”

Finally, Article 5 urges respect for the values and social, cultural, religious and spiritual practices of the peoples concerned⁶⁶. These cultural aspects must be considered in the measures adopted to initiate a program that may affect these communities.

66. Article 5 - “When enforcing the provision of this Convention: a) Social, cultural, religious and spiritual practices of the peoples must be recognized and protected, and the types of problems they pose for them both collectively and individually must be duly taken into consideration; b) The integrity of the values, practices and institutions of these peoples must be respected; c) Measures aimed at alleviating the problems

2.5. Municipal Code (Decree 12-2002)

The Municipal Code is one of the tools with which the State delegates the taking of decisions to its municipal branches regarding local development.

Article 64, “Referendum at the Request of Residents,” establishes “that residents have the right to request that the Municipal Council hold referendums on general issues that affect all residents of the municipality.” Article 65, along the same lines as Convention 169, states: “When the nature of the matter affects the rights and interests of the indigenous community of the municipality in particular or their own authorities, the Municipal Council shall hold referendums at the request of the communities or indigenous authorities, and shall apply the criteria established by the customs and traditions of the indigenous communities themselves.”

2.6. Urban and Rural Development Councils Act (Decree 11-2002)

The Urban and Rural Development Councils Act stipulates that there should be democratic participation in local development, respecting the different cultures of Guatemala. The law designates local representatives of the people throughout the country (development councils) divided in to sections representing the Guatemalan national administration⁶⁷. “Consultations of the Mayan, Xinca and Garifuna peoples regarding development measures initiated by the Executive Body and directly affecting these peoples may be carried out through their representatives on the development councils” (Article 26).

2.7. Decentralization Act (Decree 14-2002)

This law requires administrative powers of the central government to be delegated to municipalities and communities. It seeks to promote citizen participation in local and regional policymaking. Article 1 summarizes the spirit of the law: “The purpose of this law is to implement the constitutional obligations of the State to systematically promote economic administrative decentralization for the country so it can develop adequately and in a progressive and regulated manner to transfer administrative, economic, political and social responsibilities from the Executive Body to the municipalities and other state institutions.” Article 2 defines decentralization of control from the central government to municipalities, including the transfer of “decision-making powers (...) financial resources for the application of national public policies via the implementation of municipal and other local policies with the broadest possible participation of citizens.”

experienced by the peoples when faced with new conditions of life and working conditions should be adopted with the participation of said peoples.”

67. National, regional, departmental, municipal and community representation (Article 4 – Integration of the Development Council System).

3. Effects of the Metal Mining Activities

3.1 Environmental impact

According to several reports by environmental organizations and experts, opencast or strip mining of metals involves significant alteration of the site being worked and the surrounding area. The environmental group Madre Selva paints a very negative picture of the activity and warns about the destruction of animals and plants in the mining area, the use of significant amounts of water, deforestation, contamination of rivers, air pollution from dust, the removal of tons of rock⁶⁸. In addition, there are concerns about the problem of storing toxic waste from the mine, as well as the medium- and long-term risks from this once the mining project has been closed.

3.1.1. The use of cyanide: potential ecological catastrophes

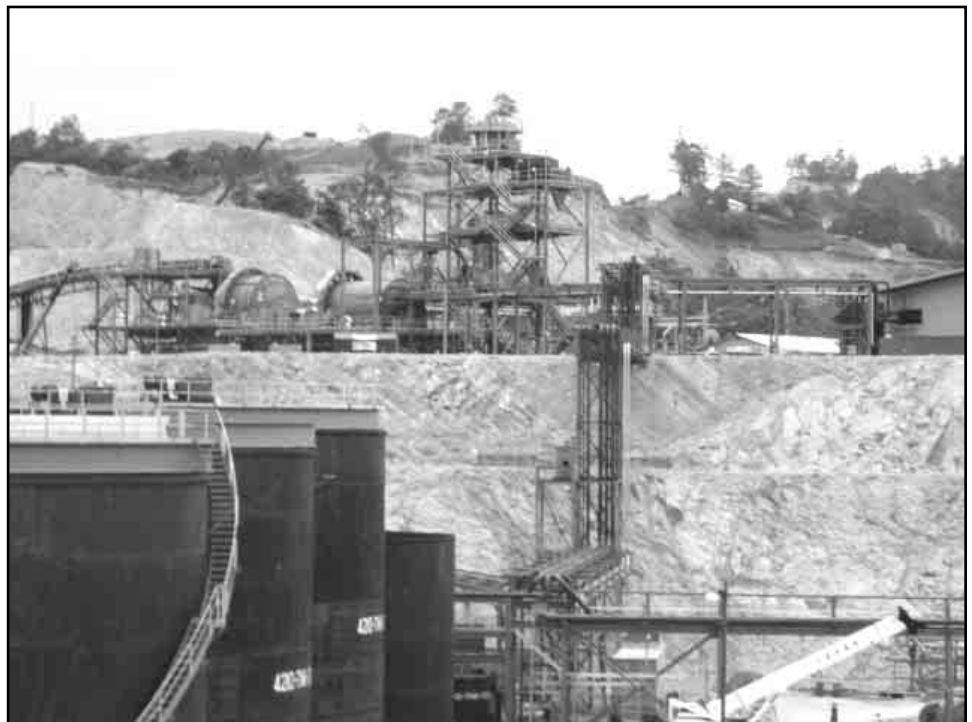
In metal mining, cyanide is used to separate metal extracted from rock. The process, called lixiviation, involves submerging a rock from which gold is to be extracted in a solution of water and cyanide. The use of cyanide in metal mining is considered very dangerous, since the chemical is extremely toxic⁶⁹. It can cause skin diseases for those who come in contact with it, and can be deadly if ingested.

Montana Exploradora de Guatemala intends to use a system of steel tanks for lixiviation. To separate the gold from the rock, 6 tons of cyanide will be required each day. One ton of rock must undergo this process to obtain one ounce of gold⁷⁰. According to the Environmental Impact Study (EIS), after lixiviation, the rock must be undergo a process to eliminate its toxicity, converting the cyanide into cyanate⁷¹. At the end of the chain, the toxic waste from these processes is stored in a "tailings dam," which is normally a dam made of earth and rock used to contain mining waste, but in the case of the Marlin Project is a steel tank inserted in another tank of

cement. The tank will not only be used to contain the toxic waste while the Marlin mine is in operation, but will remain on the site after it is closed.

Regarding potential ecological catastrophes, it should be noted that the site is located some 30 kilometers from the Polochic fault line, and there is a high risk of earthquake, which could damage or break the tailings dam or cause a toxic spill. However, the EIS certifies this storage system as safe. Vice-Minister of Energy and Mines Jorge García said the steel tailings dam inserted into a concrete tank will not fail in a catastrophe such as an earthquake⁷². U.S. Hydrogeologist Robert Moran disagrees, however.

Having worked more than 30 years with companies in the mining sector, he is an expert on ecological disasters resulting from strip mining⁷³. Moran expressed reservations vis-à-vis the optimism of Vice-Minister García, noting that the Marlin project is in an area of frequent seismic activity. He criticized Montana for studying only the short-term earthquake risk, having based his own conclusions on an analysis of the last 19 years, "a period of extremely destructive earthquakes in Guatemala"⁷⁴.



The Marlin mining project treatment plant. Photo: Madre Selva

68. In the case of the Marlin project, obtaining 1 ounce of gold may require the pulverizing of up to 1 ton of rock. It is estimated that the planned 200-meter excavation will generate 38 million tons of rock waste. See Environmental Impact Study *Montana Exploradora de Guatemala S.A.*

69. Interview with Magali Rey Rosa (Madre Selva), 30 January 2006.

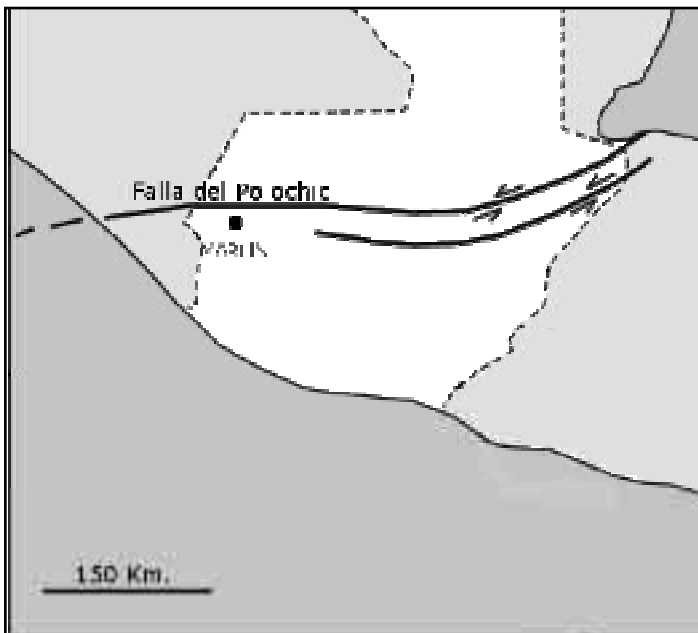
70. Environmental Impact Study, *Marlin Project*

71. This process is called *INCO*.

72. Interview with Jorge García, Vice-Minister of Energy and Mines, 5 December 2005.

73. Robert Moran analyzed in detail the Environmental Impact Study of the *Marlin* project at the request of Madre Selva. (In Moran, Robert E., 2004, *New Country, Same Story: A Review of the EIS of the Glamis Gold Marlin Project, Guatemala*).

74. *Op cit* Moran, 2004.



Fault lines in Guatemala. Source: CRID

In fact, the Polochic fault was the cause of the terrible earthquake that occurred in Guatemala in 1976⁷⁵. Moreover, Moran, like Madre Selva, is concerned about the toxic rock that will remain at the site. The rock will be full of cyanate, for which potential environmental problems cannot be discarded, since cyanate is not 100% safe, as Magali Rey Rosa explained. The environmentalist said that cyanate is less toxic than cyanide, but it is still toxic. Most worrisome is its capacity to convert into cyanide again if it comes into contact with diesel or chlorine⁷⁶. Magali Rey Rosa said she has learned that these products are very easy to obtain in San Miguel Ixtahuacán and Sipacapa, which means the potential for reactivation of the cyanide and an ecological disaster is very real.

According to Robert Moran, the EIS of the Marlin project does not consider the natural toxicity of the rock. The rubble from the processed rock that remains on the site contains a high level of naturally occurring sulfur,⁷⁷ As Magali Rey Rosa noted, the sulfur is not dangerous if it remains trapped in the rock. However, when the rock is pulverized to extract gold, the sulfur remains suspended in the air. Rainwater coming into contact with the sulfur is contaminated, affecting surface and ground water in its path in a phenomenon known as “acid drainage.” In Moran’s opinion, the probability of acid drainage in this case is very high, given the seismic activity in the region and the natural toxicity of the rock extracted. Vice-Minister of Energy and Mines Jorge García said the rubble will be stored in a type of well which is insulated with clay. However, he acknowledged that it could not be fully

guaranteed that all of the 24 to 27 million tons of waste rock produced by the project could be stored. He added that, for this reason, the Ministry of Energy and Mines demanded a deposit from the company to cover the event of an ecological disaster. The company provided a deposit of 6 million quetzales (approx. US\$827,000) and this figure will be reviewed each year, depending on the amount of waste produced, according to García. Moran estimated that a disaster such as acid drainage could cost hundreds of millions of dollars⁷⁸. If the deposit does not cover all of the damage caused by an ecological disaster, the cost should be paid by the Guatemalan government.

3.1.2. The water issue

In addition to water contamination from acid drainage, metal mining could cause problems for the use and access to water for the neighboring population. Mining companies require a significant amount of water for lixiviation. According to Madre Selva, this amount is enormous in comparison to the amount used by the local population. According to the EIS, the Marlin project will require 250,000 liters of water per hour. According to Madre Selva, a typical family in the area consumes around 30 liters a day⁷⁹. Therefore, it would take a family 22 years to use the same amount of water used by the mining company in one day. In light of this, Robert Moran expressed doubts about the viability of sharing water resources between the Marlin project and small farmers and residents of the area. Moran predicted competition between the company and the local population, which will become worse during the dry season. Part of the population has already complained about insufficient water since the Montana company began operations⁸⁰.

3.2. Mining and development models.

Metal mining projects are often described as a means of stimulating development, particularly for the population around a mining project. In the areas of Guatemala with great mining potential, the issue of development has particular weight since these are generally poor areas continue to suffer the economic and social consequences of the armed conflict. They are primarily agricultural areas where most of the population is indigenous.

3.2.1. Glamis Gold’s Interest in Guatemala

After a demonstration by hundreds of residents of San Miguel Ixtahuacán on 20 February 2004, protesting the presence of the Montana company, Rolando García, a mining engineer with the Marlin project stated publicly that those opposed to the mining project “are ill informed, because the only thing it brings is development to the communities.”⁸¹

75. Coordination Center for the Prevention of Natural Disasters in Central America (CEPRENAC), http://www.ceprenec.org/04_temas/sismo/boletin2.htm

76. Cit. Interview Magali Rey Rosa,

77. Moran, 2004.

78. Ibidem

79. Madre Selva, 2005, *Minería de Metales en Guatemala*, www.madreselva.com.gt.

80. Caracol Producciones, 2005, *Sipakapa no se vende* (Sipakapa is not for sale), Caracol Producciones, Guatemala (video documentary).

Glamis Gold Ltd., according to its operations manager, Sergio Sáenz, is a private for-profit mining company⁸². Since 1998, Glamis Gold has been developing a growth strategy⁸³ based on mining metals at a lower cost. It seeks new sites where production is cheaper. In its 2002 Annual Report, the company explicitly states its goal of reducing gold production costs to US\$150 an ounce⁸⁴. In a comparison of the cost per ounce at the various mines of Glamis Gold, the Marlin project in Guatemala has the lowest production cost, estimated at between 90 and 100 U.S. dollars an ounce⁸⁵. This makes it evident why the company wants to relocate its business in the south.

However, in addition to the low production costs found by Glamis Gold in Guatemala, Luis Solano notes that there was a significant upward trend in gold prices when the exploitation permit was approved for Marlin. This trend continued afterward. It is predicted that the sale price of gold will reach US\$500 per ounce in 2006, a level that has not been reached for 25 years⁸⁶. Given the amount of gold found at the site, the very favorable production cost in Guatemala and the record prices of an ounce of gold on the international market, the Marlin project is very profitable for the company.

3.2.2. Municipal wealth and development

When private mining companies are permitted to operate on Guatemalan soil, the question of how the Guatemalan government, the municipalities and the town itself will benefit must be asked. The consistent answer from the government and the mining companies is that metal mining will bring investment to the surrounding area and will be a source of local development. The development offered by a mining company is defined as the creation of jobs, the informal contribution of the company and its employees, the implementation of local development programs, and the payment of taxes by the mining company to the state, as well as the payment of royalties.

a) Creation of jobs

Regarding the jobs created by this activity, the Vice-Minister of Energy and Mines himself acknowledges that these are few. In the case of Montana, the company had generated 1,527 jobs (permanent and temporary) at the end of 2004⁸⁷. Of these, 873 went to the people of

Sipakapa and San Miguel Ixtahuacán, i.e. to 12% of the families in the mining area⁸⁸. Nevertheless, with the start of the extraction phase (end of 2005), the jobs will be reduced by a fourth, with just 230 people under contract⁸⁹. According to the Archbishop of San Marcos Monsignor Alvaro Ramazzini, since the installation phases concluded and the exploitation phase began in October 2005, the number of jobs has been drastically reduced⁹⁰. Moreover, the exploitation phases requires specialized labor skills, which excludes the participation of the local population, which has very few qualifications⁹¹. Therefore, of the initial 12%, the percentage of town families benefiting may fall to 1.5%⁹².

b) Informal investment in the area

With the set-up of a company such as Montana Exploradora de Guatemala, there will be parallels investment in the region as distinguished from the project investments (such as machinery, technology, personnel salaries). The employees of the company, for example, will become consumers who will invest in local businesses, pay health expenses, use local transportation, etc. The Montana company argues that each direct job created will indirectly generate 5 jobs more⁹³. However, Guatemala's Human Rights Ombudsman says the 5 indirect jobs will require the creation of 10 direct jobs by the company⁹⁴. Moreover, the ombudsman noted that the direct investment is relative to the useful life of the mine. Once the company is gone, informal local investment goes with it.

c) Royalties and taxes

In the case of the Marlin project, the Montana company estimates that royalties will reach 4.5 million Quetzales (US\$500,000) per year in San Miguel Ixtahuacán⁹⁵. According to Yuri Mellini, Director General of the Center for Environmental and Social Action (CALAS), the municipality has an annual budget of 1.2 million Quetzales (US\$150,000)⁹⁶.

Thus, the mining royalties are nearly 4 times the amount of the town budget (practically the same in Sipakapa). Mellini noted that the royalties give Montana significant economic weight in the area, considering that around 97% of the population in Sipakapa and San Miguel Ixtahuacán live in poverty⁹⁷.

81. *Prensa Libre*, 21 February 2004.

82. Cit. "Sipakapa no se vende"

83. Glamis Gold Ltd, *Construyendo el Futuro*, Annual Report 2002.

84. *Ibidem*

85. Marigold Mine (Nevada, USA) – US\$180 an ounce; Rand Mine (California, USA) – US\$270 an ounce; El Sauzal Mine (Mexico) – US\$110 an ounce; San Martín Mine (Honduras) – US\$106 an ounce; Marlin Mine (Guatemala) – US\$90 an ounce. (at <http://www.glamis.com/spanish/properties/index.html>, "Lo nuevo en Marlin").

86. Op cit. Solano, table 8, p.107.

87. International Finance Corporation, March 2005.

88. A razón de un empleado por familia (in Rossana Gómez, 2005, *Explotación de oro y plata, una veta para la inversión extranjera*, Guatemala, University of San Carlos, Guatemala).

89. Op cit. Gómez, 2005.

90. Interview with Monsignor Ramazzini, Bishop of San Marcos, 27 January 2006.

91. Human Rights Ombudsman of Guatemala, 2005, *La Actividad Minera y los Derechos Humanos en Guatemala*, Guatemala, PDH.

92. Op cit. Gómez, 2005.

93. Op cit. PDH, 2005.

94. *Ibidem*.

95. <http://www.glamis.com/>

96. Interview with Yuri Mellini (Center for Legal and Environmental Action, CALAS), 6 February 2006.

97. Secretary of Economic Planning, (as quoted in *El Periódico*, 26 December 2003).

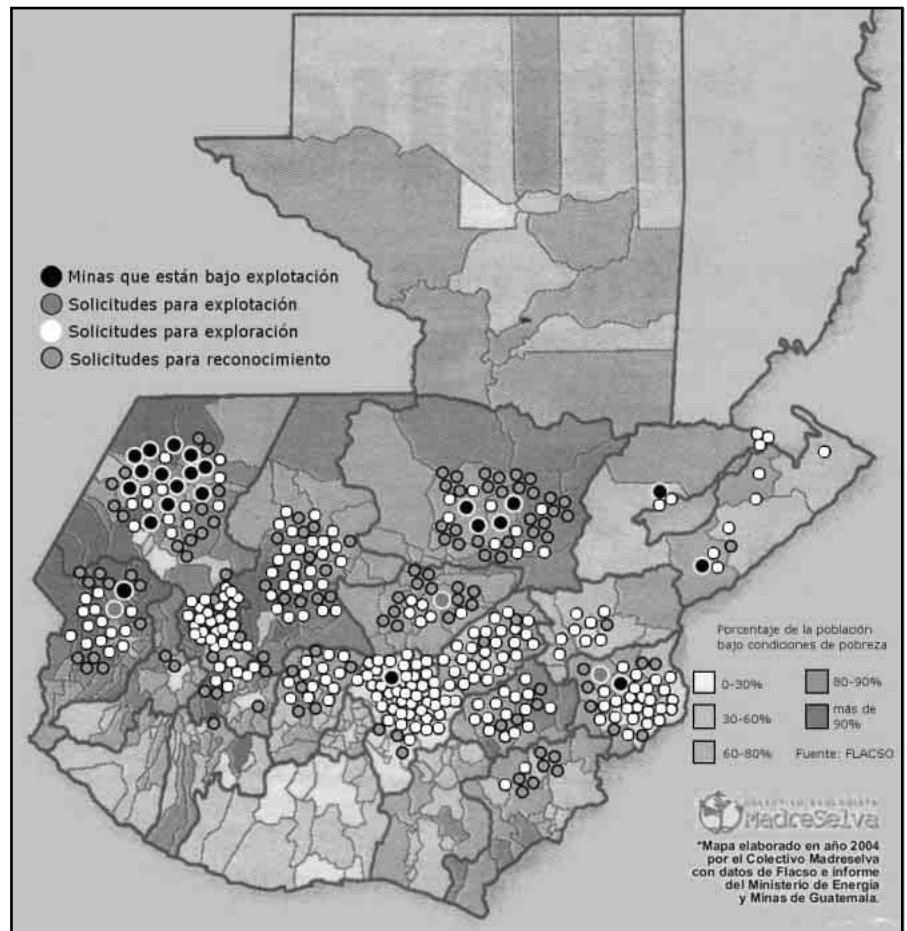
However, when comparing the state's profits with those of the company, opponents note that there is a significant balance in favor of the latter. In the case of Marlin, the 1% royalty received by Guatemala from Montana's profits will be US\$9 million, while the company will earn approx. US\$890 million. Msgr. Ramazzini finds the proportion to be outrageous. "The profits are incredibly high, but what the company will leave for the country is very little.⁹⁸"

Regarding taxes, Montana Exploradora de Guatemala is said to be exempt for two to three years, depending on the source of the information. Ramazzini remarked that, exempt from taxes in 2006 and 2007, "Glamis Gold may import and export whatever it wants without paying taxes.⁹⁹"

d) Reinvestment of the contributions

The government and the company insist that the Marlin project will have a positive impact on the local economy. Regarding these statements, the Human Rights Ombudsman's Office questions whether there are any official documents to back them up. "Neither the Guatemalan government nor the mining company have submitted formal studies on the impact the mining activities will have on the local economy.¹⁰⁰" The Ministry of Energy and Mines said the law does not require these documents, and he therefore regards them as unnecessary¹⁰¹.

Meanwhile, an Integral Community Development Program (PIDECA) has been implemented by Sierra Madre, which is referred to as Montana's "social wing." With this program, the company intends to promote development in fields not directly connected to mining, i.e. agricultural-forestry projects, health care, and diverse trade skills (baker, tailor). Sipakapa community leader Mario Tema says the results of these programs are not very convincing. He sees the social works of the company as a manipulation to "gain the trust of the people" instead of "offering a real development alternative to mining"¹⁰². Rossana Gómez, a professor at the University of San Carlos, feels that the company is using social investment as a means of



Areas of poverty and mining concessions. Courtesy of Madre Selva

- Black dots: Mines being exploited
- Gray dots: Applications for exploitation permits
- White dots: Applications for exploration permits
- Transparent dots: Applications for reconnaissance permits.
- Percentage of the population living in poverty

appeasing residents¹⁰³.

Meanwhile, residents of Sipakapa have initiated other types of development programs on their own, based on local knowledge. On 17 February 2006, an alternative development project was presented in Sipakapa. The program is focused on agriculture and caring for the environment, and offers training programs in agroforestry for residents¹⁰⁴.

In this way, Sipakapa residents have expressed a will to active participants instead bystanders in their own development. The people continue to claim the right to be consulted and to give their opinion on what they consider to be appropriate or not for their town.

98. Interview with Msgr. Ramazzini, Bishop of San Marcos and President of the Conference of Catholic Bishops of Guatemala) 27 January 2006.

99. Ibidem.

100. Op cit. PDH, 2005

101. Ibidem.

102. Interview with Mario Tema (Association of Indigenous Nations of Sipakapa), 20 November 2005.

103. Op cit, Gómez, 2005.

104. Cit. interview Mario Tema.

105. Prensa Libre, 20 June 2004.

3.3. Reactions in the social, popular and indigenous movement.

3.3.1. Indigenous mobilization

Social and environmental organizations and grassroots leaders of the northwest created the National Front Against Opencast Metal Mining (FNMM in Spanish) on 19 June 2004¹⁰⁵. The group's objective was to alert the public to the damage caused by strip mining, and to defend the rights of the affected population.

However, since the potential mining areas are found in areas of mostly indigenous peoples, Mayan leaders consider it important to include indigenous factors as part of the damage caused by metal mining in Guatemala.

In early 2005, people from six departments¹⁰⁷ created the Western Front against Mining in order to represent the concerns of indigenous populations regarding metal mining.

Afterwards, indigenous representatives, such as the Indigenous Mayor of Sololá, organized regional meetings, conferences and workshops with the goal, according to Carlos Guarquez, of "reaffirming their rejection of mining,"

but also to "inform the public about the economic, social and environmental impact of mining projects in the exploitation areas¹⁰⁸.

Large events were organized, such as the First Regional Conference of Indigenous Authorities of the Western Highlands (30 March and 1 April 2005), and the Regional Mayan Legislative Meeting (9 August 2005). At these events, people overwhelmingly rejected metal mining and demand respect for indigenous peoples via compliance with their land rights, as well as respect for their right to define their own path to development, as established in Convention 169 of the ILO.

According to Martín Sacalxot, Defender of Indigenous Peoples for the Human Rights Ombudsman's Office, this indigenous mobilization shows there is a solid organization within the Mayan community against mining. He said a movement is emerging that is sustained by the organization of community authorities (authorities coordinated by representatives of different departments), and by the demand for respect for indigenous practices and Mayan world view.

3.3.2. Another concept for land use

The opposition of the Mayan peoples of Guatemala to strip mining is related in part to the eviction from their lands that they have suffered for centuries. From Spanish colonial times to the armed conflict, in which they were forcibly displaced, indigenous people have seen the land they occupy steadily reduced¹⁰⁹.

Despite that fact that mining companies are no longer evicting peasants from their land and buying the land instead, Mario Tema says these purchases are not generally very transparent¹¹⁰. In the case of Montana Exploradora in Sipacapa, Tema has documented cases of peasants whose land was purchased without the company informing them of the mineral resources under them. When the same peasants learn that the purpose of buying the land was for mining, they declare that they would not have sold it if they had been informed¹¹¹.

Moreover, the spiritual dimension of land, or "mother earth" for the Mayan people should not be overlooked. The Mayan people consider human beings and nature as one. This entity has a balance of which human beings are the guarantor.

Carlos Guarquez explains that the Mayans see the use of "mother earth" as useful and beneficial for human beings.¹¹²



Glamis Gold mines and price per ounce

- Marigold Mine, Nevada: US\$180
- Corporate Office, Reno
- Rand Mine, Calif: US\$270
- El Sauzal Mine, Mexico: US\$110
- Marlin Mine, Guatemala: US\$90
- San Martín Mine, Honduras: US\$106 US\$

106. This is the case in the departments of Totonicapán (98.3% indigenous), Huehuetenango (65.12%), Sololá (96.44%), Alta Verapaz (92.85%), and a small part of the department of Izabal (23.27%) (in *Prensa Libre*, 12 February 2006). According to Martín Sacalxot, of the Human Rights Ombudsman's Office, these departments were strongly affected by conflicts in the region, which explains why mining permits are only now being sought in these areas (Interview with Martín Sacalxot, Advocate for Indigenous Peoples, PDH, 7 December 2005).

107. San Marcos, Huehuetenango, Totonicapán, Quetzaltenango, Quiché and

Sololá.

108. Cit. Interview with Carlos Guarquez.

109. Castellanos Cambranes, July 1992, 500 años de lucha por la tierra. Estudios sobre propiedad rural y reforma agraria en Guatemala, vol 1 et 2, Guatemala, FLACSO.

110. Cit. Interview with Mario Tema.

111. Ibidem.

112. Cit. Interview with Carlos Guarquez.

Protest by indigenous people against metal mining.

PBI photo.



Respect for nature is imposed on any act that may affect it, and forgiveness is sought from the same for any damaged caused. According to Carlos Guarquez, the problem with mining activities is two-fold, since they are not only useful but are carried out for profit. For the Mayans, the mining company uses methods that destroy nature instead of making use of it. In this respect, the presence of a mining company can create an imbalance because of the removal of a significant volume of rock, the use of explosives and the use of toxic chemicals.

Martín Sacalxot underscored the difficulty of indigenous people to understand and accept the concept of private property. According to Sacalxot, the indigenous people do not understand the division or the ownership of the soil and subsoil,¹¹³ which leads to the repeated confrontation between populations seeking to protect the sanctity of nature and mining companies who seek to exploit the land they have appropriated. It is a confrontation between two very different ways of seeing the world.

3.3.3. Informing and consulting the population

The other important factor that explains the opposition of various indigenous peoples to mining projects is the lack of information and the failure to consult the affected population. An examination of Guatemalan legislation in early 2006 confirms that the population living around any mining project must be consulted before it can be approved. Convention 169 of the ILO on Indigenous Peoples and Tribes establishes that the viewpoint of the indigenous population must be respected with regard to the initiation of any project that may affect it. Moreover, according to Article 15, Section 2, of the Convention, the Guatemalan state, as owner of the country's subsoil (per Art. 121 of the Constitution), must consult the population to analyze how the activity will affect it¹¹⁴.

The Marlin Project: Information and Consultation in the town of Sipakapa (San Marcos).

Guatemalan legislation establishes that the Guatemalan state is responsible for consulting the affected population before granting an exploitation permit to the Montana company. Moreover, prior to this consultation, there must be campaign to adequately inform the population on the matter.

113.Cit. Interview with Martín Sacalxot.

114.Convention 169 ILO. Article 15, subsection 2: "In cases in which the State retains the ownership of mineral or sub-surface resources (...) 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."



An editorial cartoon showing a fist representing the results of mining referendums. The figure confronted by the fist represents the mining companies. Courtesy Filochofo (José Manuel Chacón)

In Sipakapa, Mario Tema does not recall the population receiving appropriate information from the state or the company. “Until the work began in January 2004, we were never informed about the intentions of the company to mine metals in the area,¹¹⁵” he said. He added that when the company began setting up in 2005, it informed people of its exploration activities without mentioning that this was a preliminary phase prior to the subsoil exploitation phases, a much longer phase that would have a greater impact on the environment, health and the local economy¹¹⁶. Tema wonders why the population was not informed about the Environmental Impact Study (EIS) of the Marlin project at that time.

The company claims to have distributed the EIS in the area, including a version in the regional language of Mam¹¹⁷. However, after a visit to the town in April 2005, researchers from FIAN and Misereor reported that “none of the regional groups in San Marcos or the NGOs working on the issue had a copy of this document, and residents stated that they never received this information in their native language¹¹⁸.”

a) Consultation of Sipacapa

Regarding the consultation of the population, the Ministry of Energy and Mines (MEM) stated that there were several consultations on various occasions before the Marlin

project received the ministry’s endorsement. MEM Vice-Minister Jorge García insisted that this procedure was respected and was carried out through local authorities¹¹⁹.

However, representatives of the Sipakapa people such as Mario Tema do not recall having been consulted¹²⁰.

In light of this situation, the Human Rights Ombudsman’s Office investigated and found that no consultation took place. Martin Sacalxot, who was a member of the investigating commission, said only a few people were approached in town in a questionable manner. “There are some people who say there were invited to coffee to learn about the project. They went and their information was taken down. According to them, they were required to sign, and this appears to be the document that was presented as proof of the town’s approval.” “No consultation appears to have taken place,” he concluded.

The Mining Act obliges the MEM to publish a decree before granting any permit in order to encourage the population to give its opinions on the matter, and even state its opposition in writing. In fact, a decree was published in one of the widest-circulating dailies in the country, but this daily is not available in Sipakapa. MEM Vice-Minister García acknowledged that “perhaps the best channels of communications were not used”¹²⁴ in the case of the Marlin mine decree. It should be noted that both the decree and the granting of the permit for the Marlin project were approved by the previous government.

b) The decision of Sipaka residents

Ill-informed and not consulted about the mining project, the Sipakapa people decided to make their own declaration on the matter and make their position known. Despite the fact that the mining project had already begun, Sipakapa organized a referendum so that Sipakapa residents could declare themselves for or against mining in their territory. The referendum, backed by Convention 169 of the ILO (consultation of the indigenous peoples) and the Municipal Code (consultation of residents) took place on 18 June 2005, despite an appeal for a temporary injunction against the referendum filed by the Montana company (and denied by the Constitutional Court), and a campaign to confuse the population just days before the vote¹²⁵. The referendum took place under the eyes of the Guatemalan and foreign press, and approximately 70 national and international observers. Voter participation was estimated at 45% of the town’s registered residents, and the result was 98% against the mining operation¹²⁶.

115.Cit. Interview with Mario Tema.

116.Ibidem.

117.McBain-Haas, Brigitte and Bickel, Ulrike, September 2005, *Strip Gold Mining. Human Rights Violations and Environmental Destruction. – The Case of the Marlin Gold Mine-*, San Marcos, Guatemala, Misereor and FIAN International.

118.Ibidem

119.Cit. Interview with Jorge García.

120.Cit. Interview Mario Tema

121.Cit. Interview with Martin Sacalxot.

122.Ibidem

123.Op cit. FIAN and Misereor, 2005.

124.Cit. Interview with Jorge García.

125.A few days before the referendum, some flyers were distributed in town, which read: “Appeals Court No 7 resolved on 13 June 2005 to “suspend the public referendum scheduled by the Municipality of Sipakapa.” On Saturday, 18 June, there will be NO Public Referendum in Sipakapa” (anonymous).

126. See *Prensa Libre* and *El Periódico*, 19 June 2005.

Referendum in the village of Poj, Sipacapa, San Marcos. Voters raise their hands in opposition to opposing mining activities.



c) Validity and legality of the referendum

After the results, the question was whether the referendum was binding. Guatemalan legislation offered little help in clearing up the issue. Oddly, the Municipal code is contradictory on the question of minimum voter participation required to make the referendum binding. Article 64 establishes it at 20%, while Article 66 states that participation must be 50% or more¹²⁷. In this context, taking into account that 45% of Sipaka residents¹²⁸ participated, if the law is applied according to Article 64, the referendum is binding, but if applied according to Article 66, it is not. Everything hinged on how the law was interpreted.

According to lawyer Amilcar Pop¹²⁹, Convention 169 of the ILO prevails in this case¹³⁰. This is because, he said, Guatemala's Constitution states that any international

treaty or convention to which Guatemala is a signatory takes precedence over national laws¹³¹. However, it is still not clear to the courts whether the Guatemalan Constitution or the Convention prevails in this case¹³². Yuri Mellini said that national law has no legal framework for enforcing Convention 169 locally¹³³. In light of this, the Constitution would prevail and, thus, the state is entitled to allow the national interest to prevail on the question of mining, as the Constitution states in Article 125¹³⁴.

In view of the above, Mario Tema considers it unlikely that Montana Exploradora's permit will be revoked, and even less likely that the company will leave Sipaka territory. However, since Glamis Gold has other concessions in the town of Sipakapa, Tema hopes that the people's opinion will be taken into account so that at least the mining operation will not be expanded in their town¹³⁵.

127. *Código Municipal. Artículo 66. Decreto 12-2002* "The results will be binding if at least fifty (50) percent of registered residents and the majority vote to approve the referendum question."

128. According to the Supreme Electoral Council, Sipakapa had 5,720 registered residents in 2005 with a total of around 14,000. Approximately 2,600, or around 45% of registered residents participated in the referendum (see *Prensa Libre*, 19 June 2005).

129. Amilcar de Jesús Pop Ac is president of the Association of Mayan Lawyers and Notary Publics (ANMAG), and lecturer at the universities of San Carlos and Landívar.

130. Statement of Amilcar de Jesús Pop Ac at the forum of the National Front Against Metal Mining (FNRMM) on 23 February 2006.

131. *Guatemdan Constitution Art. 46.- Preeminence of International Law.* "The general principle is hereby established that treaties and conventions

approved and ratified by Guatemala prevail in matters of human rights."

132. See interview with Rodolfo Rohmoser, magistrate of the Constitutional Court, *Siglo Veintiuno*, 10 July 2005.

133. Cit. Interview Yuri Mellini

134. *Guatemdan Constitution Art. 125 Exploitation of non-renewable natural resources.* "The expert and rational exploitation of hydrocarbons, minerals and other non-renewable natural resources is hereby declared to be necessary and in the public interest. The State shall establish and favor the appropriate conditions for their exploration, exploitation and sale."

135. Cit. Interview Mario Tema

4- The Mining Issue and the Current Government.

4.1. Government policy and the role of the World Bank

Although the exploitation permit for the Marlin project was granted by the government of Alfonso Portillo, the government of Oscar Berger has supported it since taking power. In view of this situation, several opponents, such as environmentalist and newspaper columnist Magali Rey Rosa have raised the issue of why the current government has not questioned this project, as it has so many others approved the Portillo's Guatemalan Republican Front (FRG)¹³⁶.

Other commentators, such as Juan Ramón Durán, also questioned the role of the World Bank in financing the Marlin project, and the institution's influence over domestic policy¹³⁷.

According to Luis Solano, possible links were discovered between members of Berger's government and the Montana company. Solano cites the relationship between the General Manager of Montana¹³⁸, Milton Saravia, and the president's family. Although it has not been substantiated, there is a rumor that the president's son, Oscar Berger Widmann, holds stocks in the company¹³⁹. The controversy also involves the Sierra Madre Foundation, the so-called "social wing" of Montana. According to *Inforpress Centroamericana*, Sierra Madre Foundation director Arturo Melvilla is the stepbrother of the country's vice-president, Eduardo Steini¹⁴⁰. This has led to speculation that the government's support of the company may involve the personal interests. None of this has been confirmed or denied, however.

With respect to the World Bank, some observers believe that its loan to Glamis Gold may have influenced the governments mining policy. Eric Holt-Giménez of the Bank Information Center¹⁴¹ (BIC) said Glamis Gold did not need the US\$45million IFC loan.

Instead, this involved an investment of the World Bank in

the project¹⁴², since the organization has been moving toward support for the mining sector since the 1996 Peace Accords. Holt-Giménez said there is no doubt that this is the first of several investments the organization will make in metal mining in the country, and Marlin is just the pilot project.

Holt-Giménez noted that all World Bank investment is accompanied by a territorial reorganization plan. Therefore, in the region where the investment is to be made, the objective of the plan is to establish favorable legislation, ensure the support of the community, and guarantee adequate infrastructure¹⁴³.

In Guatemala, it was the government of Álvaro Arzú that proposed filed new legislation in Congress in 1997. The Mining Act (Decree 48-97) reduced the percentage of royalties to the government from 6% to 1%¹⁴⁴. This legislation benefited both the mining companies and, by extension, their financiers.

Meanwhile, the World Bank financed a health and education infrastructure project in the San Marcos region with US\$30 million, including the towns of San Miguel Ixtahuacán and Sipakapa¹⁴⁵. In 1997, the World Bank also approved a loan to the Guatemalan government for US\$66 million to finance the construction of a highway between San Marcos and Tacaná (northwest of the department)¹⁴⁶. This highway passes by the towns of Sipakapa and San Miguel Ixtahuacán, thus facilitating access to the Marlin mine.

Between 1997 and 2003, the concession passed from Montana Gold Corp. to Glamis Gold Ltd¹⁴⁷. According to Magali Rey Rosa, although the potential of the gold mine is known, the prices were too low, and it appeared that it would be difficult to recover the investment¹⁴⁸. The environmentalist believes that the strong increase in gold prices in 2003¹⁴⁹ speeded up the initiation of the Marlin project¹⁵⁰.

136. *Prensa Libre*, 25 February 2005.

137. Juan Ramón Durán, 16 July 2004, "El Banco Mundial y el gusto para los proyectos polémicos," *Inforpress Centroamericana*.

138. Op cit. Solano, 2005.

139. In 1993, Saravia was appointed executive secretary of the National Commission on Protected Areas (CONAP). There was speculation that the appointment was the result of pressure from María Novella Wyld de Berger, a major contributor to the presidential campaign of then President Serrano Elías (1991-1993) and the wife of the cousin of the current Guatemalan president. Milton Saravia was also advisor and coordinator of the Administrative Unit for Environmental Control and official of the Nuclear Energy Department, both of which are part of the MEM. (in op cit. Solano, 2005).

140. Girón, *Inforpress* No. 1603, 15 April 2005.

141. BIC (Bank Information Center) describes itself as "an independent, non-profit, non-governmental organization that provides strategic support and

information to NGOs and social movements everywhere on the projects, politics and practices of the World Bank Group and other multi-lateral development banks" (see <http://www.bicusa.org/>). Eric Holt-Giménez is director of BIC's Latin America Program.

142. Statements of Eric Holt-Giménez at the forum of the National Front Against Metal Mining (FNRMM) on 23 February 2006.

143. *Ibidem*.

144. By comparison, in 1935 the royalties reached 9% (op cit. PDH, 2005).

145. Lassalle, 2005.

146. *Ibidem*.

147. See parte 1.3.1. The Marlin project

148. Cit. Interview with Magali Rey Rosa.

149. Increase in price of gold from US\$309 to US\$369 per ounce (in op cit. Solano, 2005).

150. Cit. Interview with Magali Rey Rosa.

Magali Rey Rosa said gold prices in 2003 promised profits for the project, opened the door to gold in Guatemala and prompted the companies and institutions involved to take advantage of the situation to mine the gold before prices fell¹⁵¹.

4.1.1. The use of force in the name of the rule of law

The political and economic climate seemed favorable for the development of the Marlin project. However, throughout 2004 and 2005, civil society and the indigenous and popular movement raise various questions about the activity and stage protests, such as the blockade mentioned earlier to prevent passage of the cylinder in the village of Los Encuentros¹⁵². Opponents also organized referendums so that the voices of the people would be heard. Opposition to mining, according to Martin Sacalxot, led the government to respond with force in the name of the rule of law, without considering the people's opinion¹⁵³.

After the confrontation in Sololá in January 2005, Minister of the Interior Carlos Viemann stated that "all efforts will be made to ensure that the rule of law is upheld with any number of police officers that may be necessary."¹⁵⁴ Martín Sacalxot said the state revealed its concept of the rule of law in Sololá: "Send in the police, mop up, and that's it."¹⁵⁵

Several indigenous leaders in Sololá, recalling the brute police force used against peasants at the Nueva Linda plantation (Retalhuleu) in August 2004, said the police action in Sololá was part of a pattern of repression against social movements in the country¹⁵⁶. The police action was followed up by legal complaints filed by the governor of the department of Sololá against major community leaders, and they were publicly accused by the Minister of the Interior and the Guatemalan President of having incited the blockade of the cylinder. Among the 16 officials accused by the government were Dominga Vásquez, indigenous mayor of Sololá at the time, and Carlos Guarquez, advisor to the mayor's office¹⁵⁷.

4.1.2. The High Commission on Mining

Regarding the conflict between Cardinal Quezada Toruño and the President of Guatemala, Msgr. Ramazzini believes

the public clash has significantly damaged Berger¹⁵⁸.

Since this situation affects the governability of the country, Ramazzini believes Berger has proposed a dialogue to reduce tensions with the church¹⁵⁹. In early, 2005, the president met with the various parties to the conflict to work out possible reforms to current laws, giving priority to reform of the Mining Act.

The meeting resulted in the creation of the High Commission on Mining in February 2005. The commission is made up of members of the government, Catholic and Evangelical church representatives, academics, experts and members of civil society¹⁶⁰. Considering the amount of criticism from civil society and the government itself of the mining legislation, as well as institutional weaknesses in regulating the activity, the Commission, in its resolution "Mining Policy Proposals," proposed legislative changes to achieve the following:

- Conservation of the environment
- Transparency of mining project information, as well the participation and consultation of the towns involved, and a clear explanation of the benefits
- Follow-up and control of mining activities by the responsible authorities (MEM and the Ministry of the Environment and Natural Resources)
- Penalties against companies that breach the legal, environmental and/or social requirements¹⁶¹.

Beforehand, MEM began pushing reforms of the Law on the Promotion and Development of Export Activities and Offshore Production of Decree No. 29-89 to amend the part referring to tax exemptions so that mining companies are not beneficiaries¹⁶². Moreover, MEM has undertaken to draft a proposal to reform the current Mining Act¹⁶³.

In addition, MEM pledged to propose a "transitory article" which, once approved, would grant the ministry the authority to suspend recent metal mining permit concessions until the new Mining Act is passed¹⁶⁴.

However, the ministry has still not submitted this

151.Ibidem.

152.In the department of San Marcos alone, various referendums were held at the instance of indigenous authorities in Sibinal, Comitancillo and Sipakapa. Voters in all of these referendums rejected mining (in cit

Interview with Mario Tema)

153.Cit. Interview with Martin Sacalxot.

154.*Prensa Libre*, 12 January 2005.

155.Cit. Interview with Martin Sacalxot.

156.Open letter to the President of Guatemala, the Secretary General of the United Nations from the Kakchikel, Tzutuhil and K'iché communities of the department of Sololá, 11 January 2005.

157.*El Periódico*, 12 January 2005.

158.Cit. Interview with Msgr. Ramazzini

159.Ibidem

160.Participants from the church were: Cardinal Quezada Toruño, with Msgr. Ramazzini taking his place later; Representing the Guatemalan government: the Minister of Energy and Mines and the Minister of the Environment and Natural Resources. Other participants were: Raquel Zelaya of the Social Studies Research Association (ASIES); Magalí Rey Rosa of Madre Selva, Vitalino Similox and Dr. José Barnoya. Other participants were from the Association of Geologists of the University of San Carlos (USAC) and the National Association of Non-Governmental Organizations for National Resources and the Environment (ASOREMA).

161.Summary of the High Commission on Mining.

162.Ibidem

163.This proposal was debated and reviewed by the High Commission on Mining before being submitted to the National Congress.

164.High Commission on Mining, "Lineamientos de la política minera," Guatemala, 2005

document to Congress, as it awaits the signature of the President. Madre Selva believes that Berger is delaying the process to keep his pro-mining policy intact. "I believe the government proposed the dialogue in order to placate the opposition," Magali Rey Rosa said.

According to Yuri Mellini, in order to create the conditions necessary to implement the legal changes, the executive branch must first demonstrate the political will to do so.

What the country needs, according to Mellini, is not just a strong legal system, but also strong institutions to ensure monitoring and follow-up of metal mining operations, so that companies do not treat Guatemala as "a paradise of environmental and legal impunity,¹⁶⁵"

Mellini said the Ministry of the Environment and Natural Resources is unable to act due to a weak budget and under-qualified experts¹⁶⁶. It is the executive branch, Mellini said, which is responsible for providing the technical tools and the budget to Guatemalan institutions so that the law is upheld.

On 2 March 2006, a paid-ad signed by Msgr. Ramazzini expressed frustration that the proposal for amendments to the Mining Act sent to Congress by the Ministry of Energy and Mines did not correspond to the "Mining Policy Guidelines" agreed to between members of the High Commission in August of last year¹⁶⁸.

Magali Rey Rosa severely criticized the document as well. "These reforms betray the agreement on the guidelines approved by the Commission," she said. "They maintain intact the spirit of acting only in the interests of the mining companies and ease the procedures for the companies even more. "While we were negotiating here in good faith, in the international media it was announced that two permits were granted for the search for uranium and various other metals. This confirms one of our greatest fears: The government intends to continue surrendering Guatemalan territory to transnational mining companies under the worst terms imaginable for Guatemala¹⁶⁸.

After this, several members of civil society and the church decided to suspend the talks and abandon the Commission¹⁶⁹.

Protest in Guatemala City against mining. Photo: PBI



165. Interview with Yuri Mellini, 6 February 2006.

166. Ibidem

167. Monsignor Alvaro Ramazzini, 2 March 2006, "Ante la propuesta de reformas de la Ley de minería", Paid-ad space, Guatemala.

168. Rey Rosa, Magali, 2 March 2006, "Diálogo inservible", *Prensa Libre*, Guatemala.

169. Cit. Page-ad space.

5. Mining and Human Rights: A few cases of human rights defenders.

5.1. Indigenous mayor of Sololá and the Maya Foundation.

The Indigenous Mayor of Sololá is a non-governmental representative of the indigenous population in the town. The purpose of the post is to strengthen Mayan law. The auxiliary mayors of the town answer to this authority. The Mayan Foundation (Fundación Maya) is an indigenous organization that provides technical skills to Sololá residents, promotes the participation of women, defends natural resources, and advises the Indigenous Mayor's Office.

Since 2004, the Indigenous Mayor, as well as the Mayan Foundation, have had an active roles in opposing metal mining activities.

Dominga Vásquez, Indigenous Mayor of Sololá in 2005, and Carlos Humberto Guarquez, coordinator of the Foundation's Municipal Empowerment Program, have suffered threats, accusations and intimidation for their opposition to mining.

After the incident in the village of Los Encuentros in early January 2005, both were accused by the governor of the department of Sololá of inciting the protests by town residents. Legally, they were found guilty of 10 offenses, including violation of the Constitution, involvement with armed groups and terrorism.

In January 2005, Dominga Vásquez received several intimidating telephone calls. On 29 January, the Human Rights Ombudsman's Office sought an injunction from the Inter-American Human Rights Court (IHRIC) in favor of Vásquez and Carlos Guarquez.

On 25 March 2005, in the village of Tablón, Sololá, several unidentified persons poured gasoline on the car used by Carlos Guarquez and set it afire. Flyers were scattered around the vehicle containing death threats against Guarquez and Vásquez, as well as her husband, Alfonso Guarquez, brother of Carlos Guarquez. After the incident, Amnesty International issued an urgent action.

Carlos Guarquez sees a direct relation between the work of the Indigenous Mayor of Sololá and the Mayan Foundation to oppose metal mining and the acts of intimidation.

PBI has been providing protective accompaniment to representatives of the Indigenous Mayor of Sololá and the Mayan Foundation since February 2005.

5.2. Mario and Juan Tema, Sipakapa community leaders

Mario Perfecto Tema Bautista is President of the Association of Indigenous Peoples of America¹⁷⁰, program coordinator of the Sipakapa Linguistic Community (he was president between 2000 and 2004), and former Mayor of Sipakapa (1996-2000).

His brother, Juan Humberto Tema Bautista, is Vice-President of the Association for Integrated Rural Development of Sipakapa and professor at Sipakapa College. Their father, who was assassinated during the armed conflict, was a catechist, social activist and community leader.

Like their father, Mario and Juan Tema are community leaders. Both are well known for their opposition to mining activities in their town, and both actively participated in organizing and promoting the popular referendum in Sipakapa.

Their active role in mobilizing the people and preparing the referendum earned them enemies within the town.

During the entire process of preparing the referendum, as well as after the event, i.e. between April and August 2005, the two brothers received death threats. "They told us we needn't protest anything, and that we deserve death just like our papa," Mario said. Mario Tema said the purpose of the threats against them was to "unnerve us, to wear us down."

5.3. Msgr. Álvaro Ramazzini Imeri, Bishop of the San Marcos Diocese and President of the Conference of Catholic Bishops of Guatemala

Msgr. Álvaro Ramazzini, Bishop of the San Marcos Diocese and President of the Conference of Catholic Bishops of Guatemala, is a member of the High Commission on Mining.

¹⁷⁰ Association of indigenous leaders from several countries of the Americas (Mexico, Belize, Honduras, El Salvador, Peru, Bolivia, Colombia, Chile, Argentina). Founded in 2004, it began working in Guatemala as the result

of various linguistic and cultural encounters between the indigenous peoples of the Americas.

He works for the poor and marginalized of Guatemala. After the signing of the peace accords in 1996, he took part in establishing the inter-diocesan project "Recovery of Historical Memory (REMHI)"¹⁷¹.

He was a member of the project's Advisory Board and promoted the project within his department. In San Marcos, Msgr. Ramazzini has defended small farmers in agrarian conflicts. When Montana Exploradora de Guatemala arrived in Guatemala, given the debate over metal mining, Msgr. Ramazzini actively question the activity in his department.

At the end of January 2005, Guatemala's intelligence services uncovered a plot to assassinate Msgr. Ramazzini¹⁷². They revealed a video in which a woman offered US\$50,000 to an ex-member of state intelligence to assassinate the bishop¹⁷².

The plot came to light a week after President Berger accused Ramazzini of inciting the peasant movement in the village of Los Encuentros, Sololá, on 11 January 2005.

According to Ramazzini, it may be that the plot against his life is not directly related to the mining issue, but to his position on the land problem in San Marcos. However, the bishop acknowledges that, within the conflictive environment resulting from the national mining debate at that time, his confrontation with Berger provided an excuse to "hurt him, and hurt the government."¹⁷³

After the assassination plot was revealed, Berger provided the bishop with bodyguards from the Presidential Security Service (SAAS), which he accepted on a temporary basis.

5.4. Madre Selva

Madre Selva is an environmental organization founded in 1996. The organization arranges workshops, and lobbies in favor of respect for and protection of natural resources. One of their main areas of work is raising awareness about the environmental impact of strip mining.

The organizations principal leaders, Magalí Rey Rosa and José Manuel Chacón, have had an active role within the organization in opposing metal mining.

In addition to their duties with Madre Selva, Magalí Rey Rosa writes a column for the daily *Prensa Libre*, and José Manuel Chacón is a political cartoonist known as

"Filochofo," which has given them a high profile in the mining debate. Both have been targets of severe criticism, accused of being "eco-hysterics" and of opposing the country's development¹⁷⁴.

As a result, both received death threats by e-mail in late March and early April 2005.

Members of Madre Selva say the connection between their work to oppose mining and the threats they have received in recent years is obvious. PBI has been accompanying Madre Selva since June 2004.

5.5. Association of the Friends of Lake Izabal (ASALI)

ASALI works for the conservation and protection of Lake Izabal and its hydrobiological resources. ASALI's work focuses on raising the awareness of residents living around the lake and its rivers about the serious environmental consequences that mining companies would bring to the area (previously EXMIBAL, and now the Compañía Guatemalteca de Níquel (CGN), a subsidiary of Skye Resources INC, of Canada).

Since EXMIBAL's announcement in 2000 that it would start operating again in Izabal, ASALI has been opposing the reopening of the mine.

On 18 February 2003, about 100 people interrupted a forum organized by ASALI at the town hall in El Estor.

The forum was held to inform residents of the area of the environmental impact of mining activities. The assailants threatened members of ASALI, and in particular its president and legal representative Eloyda Mejía, saying "we want your head."

According to Eloyda Mejía, the intruders were used and paid by a group seeking to further the interests of the mining company EXMIBAL. ASALI filed a complaint with the Public Prosecutor.

The accused went to court in El Estor, and evidenced based on the complaint filed with the Public Prosecutor was presented.

After the incident, Amnesty International issued an urgent action. PBI has been accompanying ASALI since March 2004.

171.The Inter-Diocesan project "Recovery of Historical Memory" gathered testimony from victims and witnesses on human rights violations during Guatemala's 36-year armed conflict to document the violent acts committed by both sides and honor the victims. Its report, *Guatemala Nunca Más* (Guatemala, Never Again) was presented on 24 April 1998.

172.Press release of the Organization to Monitor the Protection of Human Rights Defenders, 3 February 2005, *Llamado Urgente, el Observatorio: hostigamientos / graves amenazas de muerte*, World Organization Against Torture and the International Human Rights Federation.

173.Interview with Msgr. Ramazzini, 27 January 2006.

174.Cit. Interview with Magali Rey Rosa

Conclusions

As the testimony cited in this report shows, regulation of mining in Guatemala is a complicated task. Despite attempts to negotiate via the High Commission on Mining, the two opposing blocs for and against mining have been unable to reach agreement.

Legally, since the Guatemalan Constitution considers the “expert” and “rational” exploitation of minerals to be in the national interest, it would be difficult to demand the abolition of mining in Guatemala without getting involved in a long and uncertain battle to reform the Constitution.

Therefore, faced with the significant legal obstacles and policies that regulate the activity, civil society organizations, the popular movement and the church insist that, as a minimum, the relevant laws should be changed to promote and guarantee human rights.

Changes to current legislation

Several proposals to reform the Mining Act have been submitted by civil society, universities, and the government itself. There has been an exhaustive debate about increasing the percentage of royalties so that the state and municipalities receive benefits more proportional to the profits of mining companies. The draft bill proposed by the Ministry of Energy and Mines would raise the royalties from 1% to 2%.

However, there are also other proposals for reforms. These include imposing a tax on water consumption by the company that is proportional to its use; increasing environmental requirements by toughening the rules for environmental impact studies: eliminating tax exemptions for mining companies; increasing the final deposit required of companies to restore the mining areas after the mine closes and to cover any ecological damage, etc.

In addition, there are civil society and popular movement organizations that demand that the responsible state institutions (primarily the Ministry of the Environment and Natural Resources and the Ministry of Energy and Mines) be given the necessary legal tools and budgets to exercise control over mining activities and monitor the projects from the exploration phase to the restoration of the site after the mine closes¹⁷⁵.

The active role of the population in its own development

A major issue in the debate over mining has been the role that the affected population plays.

Regarding the future of metal mining in Guatemala, there is an evident need to examine how the population can best be consulted about and benefit from mining activities. Currently, there are several legal tools that guarantee the affected population the power to participate in decisions regarding the initiation of a project that will have repercussions in their area.

Consulting the population

Consultation with the affected populations appears to be the most appropriate mechanism for citizen participation. The information provided shows that current legislation in Guatemala offers an incomplete legal framework for participation of the local population in decisions affecting the development of their territory. The state should guarantee that the people are consulted before a project is begun. However, there have been problems with meeting this requirement so far.

These problems have led to situations like the one in Sipakapa, where residents organized their own referendum on the issue after they were not properly informed or consulted about the Marlin project. This referendum occurred after (instead of before) the granting of the exploitation permit for the project and its initiation. According to current legislation, the state must carry out and organize such referendums when necessary. Beforehand, the state must guarantee that the people are properly informed so that they may give their opinion on the issue.

In this regard, the state should also respect the decision process of the indigenous population, as established in Convention 169 of the ILO. The Municipal Code, which contradicts itself in its own articles, should be reformed to take a clear position on the matter.

The range of popular referendums

If mining is a matter of national interest, the state should define its position on acknowledging the results of popular referendums. Guatemalan lawyer Amilcar Pop says that it should be clarified whether the voice of the people, as expressed in referendums, is merely an opinion, or a binding decision¹⁷⁶. Which is to say that it should be decided whether the Guatemalan people, as some of their representatives demand, will have the opportunity to play a role in their own development.

If the results of a popular referendum is binding, then the government should respect those results, whatever the economic interests involved in the project in question.

175. *Prensa Libre*, Saturday, 4 March 2006.

176. Cit. Statements of Amilcar Pop.

ANNEXES

Annex I: Types of metals in Guatemala and their industrial use

METAL	LOCATION	INDUSTRIAL USE
Antimony	Huehuetenango, Chiquimula	Accumulator plates, printing types, paints and lacquers, matches, and alloys for motors.
Zinc	Huehuetenango, Chiquimula, Baja Verapaz	Galvanized aluminum sheets and tubes, casting moulds, rechargeable batteries, silver and lead separation, gold and cyanide separation, sodium hydrosulphate production, soap bleaching, fading, wood preservation, brazing flux, steel bluing, cotton mercerization, textile preparation, vulcanization, zinc sulfates, mordants, paints, paper bleaches, galvanic plating, zinc sulfur, paint, linoleum and leather pigments. Zinc oxide: pigment for white paint, cosmetics and dental cements, porcelain, tires, white glue, matches, printer ink.
Cobalt	Izabal, Alta Verapaz	Steel alloys, magnets, soldering rods, pigments, glass and porcelain paints, hygrometers and barometers, absorbents for toxic gases, glazes for ceramics.
Copper	Chiquimula, Alta Verapaz, Izabal	Electrical and telephone wire, numerous alloys, paints and pigments for paper, boilers, coils, insecticides and extermination agents, pyrotechnics, gilding wax, artificial flowers, mordants, artificial silk materials, embossing, stained glass, electrodes.
Chrome	Izabal, Alta Verapaz, Jalapa	Stainless steel, heat-resistant steel, wire for electrical resistance.
Iron	Chiquimula	Steel production, iron alloys for magnets, wire and rods for construction, iron plates, laminated sheets.
Magnesium	Izabal, El Progreso	Additives to increase resistance of aluminum. Dies and moulds, illuminated signs, heat insulation, pigments, dental powders, polish, rubber fill, magnesium glues, fire extinguishers, textile primers, dryers for gases, de-scaling for boilers, leather tanners, fertilizers, matches, paper embroidery, paper pulp
Manganese	El Progreso, Zacapa	Essential steel compounds, depolarization of disposal batteries, production of enamels and paints, mordants, fertilizers, tannery, disinfectants, steel bluing, mordants for fabrics
Mercury	Huehuetenango	Medicinal products and pharmaceuticals, dental preparations, blasting caps and detonators for explosives, agriculture, anti-barnacle paints for boats, catalyst for chlorine, caustic soda and acetic acid, mercury arc lamps, amalgam for extracting gold and silver, mirrors, galvanic plating, iron and steeling bluing, wood preservatives, fabric embossing, leather tanning, mordants for leather, disinfectants, fire gilding, porcelain paints, brass shading, extraction of gold from sand, thermometers, amalgam for dental fillings.

METAL	LOCATION	INDUSTRIAL USE
Nickel	Izabal, Alta Verapaz	Stainless steel, heat- and acid-resistant steel, nickel silver, nickel and chrome wire for electrical resistance, Monel metal (copper, iron, nickel and manganese), nickel plating, coins, electrotypes, accumulators, magnets, lightning rod tips, electrodes, spark plugs, bushes and bearings, catalyst in the hardening of oil and lubricants, ceramic lacquers, pigments resistant to sunlight, mordant for dyes and embossing, medicinal products and pharmaceuticals.
Silver	Huehuetenango, Chiquimula, Baja Verapaz, San Marcos	Monetary uses, photography, electrical equipment, engine bearings, bronzing alloys, silverware and jewelry, mirrors, medical and dental products, ivory silver plating.
Lead	Huehuetenango, Chiquimula, Baja Verapaz	Anti-friction metals, projectiles, cable coating, metal moulding, folding tubes, soldering, accumulators, rust-proofing pigments, insecticides, oil refining, cork, varnish, galvanic plates, printing types, flux, battery electrodes, pyrotechnics.
Gold	Chiquimula, Izabal, Quiché, San Marcos	Jewelry, coins, electric conductors, metal gilding.
Titanium	Costa Sur, San Marcos	Alloys, mordants for cotton and leather, coating for soldering rod, paint pigments, deoxidant and flux for steel, linoleum and artificial leather manufacturing, shoe polish, facial creams.
Tungsten	Huehuetenango	Alloys for high-speed burins, filaments for lamps, phonograph needles, alloys for magnets, fire-proof fabrics, TV screens, chemical reagents.
Uranium	Volcanic strip	Nuclear uses, manufacture of projectiles, photography.

Source: MEM, 2004

Annex 2: Gold per ounce: Prices on the international market, 1980-2005.

	Price in USD		Price in USD
1980	616.00	1993	359.80
1981	460.00	1995	384.20
1982	376.00	1996	387.70
1983	424.00	1997	331.00
1984	361.00	1998	294.20
1985	317.00	1999	278.80
1986	368.00	2000	279.10
1987	447.00	2001	277.90
1988	437.00	2002	309.70
1989	381.00	2003	363.70
1990	383.50	2004	409.70
1991	362.10	2005	423.10
1992	343.80	2006 (to 22 March)	550.00

Source: www.kitco.com

Glossary

- ALMG:** Academia de Lenguas Mayas de Guatemala (Academy of Mayan Languages of Guatemala)
- ANMAG:** Asociación de Abogados y Notarios Mayas de Guatemala (Association of Lawyers and Notary Publics of Guatemala)
- AMR:** Annual Monitoring Report
- ASALI:** Asociación Amigos del Lago Izabal (Friends of Lake Izabal Association)
- ASIES:** Asociación de Investigación y Estudios Sociales (Research and Social Studies Association)
- ASOREMA:** Asociación Nacional de Organizaciones No Gubernamentales de los Recursos Naturales y el Medio Ambiente (National Association of NGOs for Protecting the Environment and Natural Resources)
- BIC:** Bank Information Center
- WB:** World Bank
- MDB:** Multilateral Development Bank
- CALAS:** Centro de Acción Legal Ambiental y Social de Guatemala (Center for Legal, Environmental and Social Action of Guatemala)
- CHRLA:** Center for Human Rights Legal Action
- CCBG:** Conference of Catholic Bishops in Guatemala
- HCC:** Historical Clarification Commission
- CEPRENAC:** Centro de Coordinación para la Prevención de los Desastres Naturales en América Central (Coordination Center for the Prevention of Natural Disasters in Central America)
- CERIGUA:** Center of Informational Reports on Guatemala
- CFI:** International Finance Corporation (IFC)
- IHRC:** Inter-American Human Rights Commission
- CIDEG:** Conferencia de Iglesias Evangélicas de Guatemala (Conference of Evangelical Churches in Guatemala)
- CONALFA:** Comité Nacional de Alfabetización (National Literacy Committee)
- CONAP:** Comisión Nacional de Áreas Protegidas (National Commission for Protected Areas)
- CONAVIGUA:** Coordinadora Nacional de Viudas de Guatemala (National Coordinating Body of Guatemalan Widows)
- COSAM:** Colectivo de Organizaciones Sociales de San Marcos (Association of Social Organizations of San Marcos)
- EIS:** Environmental Impact Study
- EGP:** Ejército Guerrillero de los Pobres (Guerilla Army of the Poor)
- ELI:** Environmental Law Institute
- EXMIBAL:** Exploraciones y Explotaciones Metálicas de Izabal, S.A
- FIAN:** FoodFirst Information and Action Network
- FIDH:** International Human Rights Federation
- FLACSO:** Facultad Latinoamericana de Ciencias Sociales (Latin American Faculty of Social Sciences)
- FNRMM:** Frente Nacional de Resistencia contra la Minería de Metales (National Front Against Metal Mining)
- FRG:** Frente Republicano Guatemalteco (National Republican Front)
- FUNDAMAYA:** Fundación Maya (Mayan Foundation)
- IIES:** Instituto de Investigaciones Económicas y Sociales de la Universidad de San Carlos (University of San Carlos Institute for Economic and Social Research)
- ILO:** International Labor Organization
- INCO:** International Nickel Company
- MEM:** Ministry of Energy and Mines
- WOAT:** World Organization Against Torture
- UNOPS:** United Nations Office for Project Services
- PDH:** Procuraduría de los Derechos Humanos (Human Rights Ombudsman's Office)
- PIDEC:** Programa de Desarrollo Integral Comunitario (Integral Community Development Program)
- PNC:** Policía Nacional Civil (National Civil Police)
- REMHI:** "Recuperación de la Memoria Histórica" (Recovery of Historical Memory)
- SAAS:** Secretaría de Asuntos de Seguridad de la Presidencia (Secretary to the Presidency for Security Matters)
- USAC:** University of San Carlos

Bibliography

Academia de Lenguas Mayas de Guatemala, 2001, *Toponimias Mayas Sipakapenses*, Guatemala, ALMG.

Asociación Amigos del Lago Izabal, 2004, *Estudio sobre Industrias extractivas con enfoque en extracción minera y petróleo*, Guatemala, Oxfam América.

Caracol Producciones, 2005, *Sipakapa no se vende*, Video-Documental, Guatemala, Caracol Producciones.

Castellanos Cambranes, Julio (bajo la dirección de), 1992, *500 años de lucha por la tierra. Estudios sobre propiedad rural y reforma agraria en Guatemala*, vol I et 2, Guatemala, FLACSO.

Colectivo Madre Selva, 2005, *Minería de Metales en Guatemala*, www.madreselva.com.gt (Power Point presentation).

High Commission on Mining, 2005, "Lineamientos de la política minera", Guatemala.

Historical Clarification Commission (CEH), 1999, *Guatemala, Memoria del Silencio*, Guatemala, UNOPS.

Congress of the Republic of Guatemala, 17 July 1997, *Mining Act (Decree 48-97)*, Guatemala.

Congress of the Republic of Guatemala, 20 November 1986, *Environmental Protection and Improvement Act*, Guatemala.

Congress of the Republic of Guatemala, 2 April 2002, *Municipal Code (Decree 12-2002)*, Guatemala.

Congress of the Republic of Guatemala, 12 March 2002, *Law on Urban and Rural Development Councils*, Guatemala.

Congress of the Republic of Guatemala, 11 April 2002, *General Law on Decentralization*, Guatemala.

International Finance Corporation, March 2005, *Environmental and Social Compliance, Annual Monitoring Report (AMR) – Montana Exploradora de Guatemala, S.A., Proyecto Marlin*, CFI (en www.web.worldbank.org).

Constitutional Court, August 2002, *The Constitution of the Republic of Guatemala*, Guatemala.

Cuffe, Sandra, 2005, *A Backwards Upside-Down Kind of Development; Global Actors, Mining and Community-Based Resistance in Honduras and Guatemala*, Rights Action.

Environmental Law Institute (ELI), 2004, *Prior Informed Consent and Mining. Promoting the Sustainable Development of Local Communities*, (cf. FIAN 2005)

Glamis Gold Ltd, 2002, *Building the Future*, Annual Report (en www.glamisgold.com).

Gómez, Rossana, 2005, *Explotación de oro y plata, una veta para la inversión extranjera*, Guatemala, USAC.

Holt-Giménez, Eric; Sprang, Lyra, *Glamis Gold, the IFC and the news media: a review of the EIS on the Marlin Mine* BIC-USA Bulletin, 13 September 2005

Instituto de Investigaciones Económicas y Sociales de la Universidad de San Carlos (IIES), 1979, *Exmibd contra Guatemala*, Guatemala, Serie Defensa del Patrimonio Nacional, 2ª ed., Vol I, USAC.

McBain-Haas, Brigitte and Bickel, Ulrike, September 2005, *Opencast Gold Mining. Human Rights Violations and Environmental Destruction. – The Case of the Marlin Gold Mine*, San Marcos, Guatemala, Misereor and FIAN International.

Ministry of Energy and Mines, 2004, *Caracterización de la Minería en Guatemala*, Guatemala, MEM.

Moran, Robert E., 2004, *New Country, Same Story: Review of the EIS of the Glamis Gold Marlin Project*, Guatemala.

Observatorio para la Protección de los Defensores de Derechos Humanos, 3 February 2005, *Llamado Urgente, el Observatorio: hostigamientos / graves amenazas de muerte*, World Organization Against Torture (WOAT) and the International Human Rights Federation (IHRF).

International Labor Organization (ILO), 27 June 1989, *Convention (N. 169) on Indigenous Peoples and Tribes in Independent Countries*, Switzerland, ILO.

Procurador de los Derechos Humanos de Guatemala, 2005, *La Actividad Minera y los Derechos Humanos en Guatemala*, Guatemala, PDH.

Solano, Luis, 2005, *Guatemala: petróleo y minería en las entrañas del poder*, Guatemala, Inforpress Centroamérica.

Articles

Botello, Rebeca, 10 December 2004, "Minería, debate sin debate", *Inforpress Centroamericana*, No. 1589, Guatemala.

Beltrán Harvey, 5 October 2005, "Government Urges Communities to Accept Mining", *BNamericas.com*.

Durán, Juan Ramón, 16 July 2004, "El Banco Mundial y el gusto por los proyectos polémicos", *Inforpress Centroamericana*, No. 1568, Guatemala.

Lassalle, Grégory, "La Banque Mondiale doit arrêter d'appuyer l'exploitation minière dans les territoires indigènes", *Solidarité Guatemala*, No. 166 y 167, France, Collectif Guatemala.

Vásquez, Edgar, 11 March 2005, "TLC ratificado", *Inforpress Centroamericana*, Guatemala, No. 1599.

El Periódico:

Castillo Eddy, Wednesday, 12 January 2005, "Destrozos y saqueo en trayecto de 20 kilómetros", *El Periódico*, Guatemala.

Castro, Claudia, 26 December 2003, "El Tesoro de Ixtahuacán", *El Periódico*, Guatemala.

Castro, Claudia, 18 March 2004, "Anuncian proyectos de información minera en todo el país", *El Periódico*, Guatemala.

Herrera, Óscar F., Saturday, 8 January 2005, "Impiden de nuevo el paso de maquinaria en Sololá", *El Periódico*, Guatemala.

Palacios, Patricia, Sunday, 5 December 2004, "En Sololá, impiden paso de maquinaria", *El Periódico*, Guatemala.

El Periódico (editorial), 12 December 2005, "Vielmann denuncia a 16 dirigentes de Sololá", *El Periódico*, Guatemala.

Prensa Libre:

Maza, Mariana, 6 April 2004, "Avanza actividad minera en el país", *Prensa Libre*, Guatemala.

Marroquín, Aroldo, Saturday, 21 February 2004, "Se oponen a exploración", *Prensa Libre*, Guatemala.

Menocal, Carlos, Sunday, 12 February 2006, "Sin acceso al Poder", *Prensa Libre*, Guatemala.

Munaiz Caludia, Ramírez Alberto, domingo 20 de junio de 2004, "Se unen contra actividad minera", *Prensa Libre*, Guatemala.

Palencia, Gema, Wednesday, 21 January 2004, "Exigen cancelar extracción de oro", *Prensa Libre*, Guatemala.

Palencia Gema, Marroquín Aroldo, 19 June 2005, "Dicen 'No' a la minería", *Prensa Libre*, Guatemala.

Ramírez Espada, Alberto, 4 November 2004, "Rechazan actividad minera en San Marcos", *Prensa Libre*, Guatemala.

Ramírez Espada, Alberto, Blas Ana Lucía y Peer Cristian, 3 December 2004, "Debate por extracción de oro", *Prensa Libre*, Guatemala.

Rey Rosa, Magali, 3 September 2004, "Las 'bendiciones' de la minería", *Prensa Libre*, Guatemala.

Rey Rosa, Magali, 25 February 2005, "Un apoyo inexplicable", *Prensa Libre*, Guatemala.

Rey Rosa, Magali, 2 March 2006, "Diálogo inservible", *Prensa Libre*, Guatemala.

Rodríguez Quiroa, Luisa F., 2 March 2006, "Ejecutivo promueve nueva ley para minería", *Prensa Libre*, Guatemala.

Rodríguez Quiroa, Luisa F., 4 March 2006, "Comisión rechaza propuesta", *Prensa Libre*, Guatemala.

Seijo, Lorena, Sábado 1 May 2004, "Indígenas adversan concesiones mineras", *Prensa Libre*, Guatemala.

Siglo Veintiuno:

Lix Beatriz, 2 July 2004, "Guatemala explotará oro a partir de 2006", *Siglo XXI*, Guatemala.

Pérez, R., 30 August 2004, "Iglesia preocupada por concesiones", *Siglo Veintiuno*, Guatemala.

Portillo, F. y Pérez, R., 26 September 2004, "Cardenal da sermón a Berger", *Siglo Veintiuno*, Guatemala.

Rodrigo Pérez, Otto N. Angel, 31 August 2004, "Gobierno tiene 169 pedidos de concesión", *Siglo Veintiuno*, Guatemala.

Rosales Edgar, 2 October 2004, "Conflicto declarado a cielo abierto", *Siglo Veintiuno*, Guatemala.

Press Releases

“Memorial de la I Conferencia Regional de Autoridades Indígenas del altiplano Occidental”, 5 April 2005, *Prensa Libre*, paid-ad space, Guatemala.

Main Internet Sources

- www.BNAmericas.com
- www.c.net.gt/ceg
- www.bicusa.org
- www.glamisgold.com
- www.revistazo.com
- www.web.worldbank.org
- www.ceprendenac.org
- www.mem.gob.gt
- www.cerigua.org

